

SCOPE OF WORK (SOW) - INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION in BOSNIA & HERZEGOVINA

I. INTRODUCTION

The goal of the IPR Protection project is to stimulate private sector development and economic growth by improving and strengthening intellectual property rights protection aligned with EU standards.

The IPR Protection project will devote resources to assist the Institute for Intellectual Property the Bosnia and Herzegovina's (BiH). This assistance will focus on capacity building, IT systems development, development of associations that can enforce intellectual property rights protection, and raising public awareness on IPR issues. All these actions will lead to stronger IPR protection, which will eventually bring more foreign and domestic investments to the country and lay the grounds for innovation and technical application that generate economic growth. Finally, the project will devote resources to a public awareness and education campaign surrounding IPR and creating a Bosnian national brand strategy for key local goods.

Development challenge

Political processes in Bosnia and Herzegovina (BiH) and the functioning of the state institutions are complicated and often marked by ethnic tensions. The OHR was scheduled to leave the country in 2009 letting the EU to take the lead international role and local politicians to take responsibility for the future of the BiH. Unfortunately, the entity governments and national parties continue to follow the ethnic tendencies and little progress has been made towards completing the state building that began after the war. Today elected leaders have opposite attitudes about the future of BiH, and as a result of media campaigning charged with nationalistic rhetoric, from both sides, many compare today's situation to that of spring 1992 when war broke.

While BiH has made significant progress in economic reforms over the past several years, substantial reforms are still needed to meet the EU accession criteria (or Copenhagen Criteria) for economic readiness: "existence of a functioning market economy and the capacity to cope with competitive pressure and market forces within the Union."

The pre-accession process for BiH is guided by the SAA which was signed in June 2008 and the Interim Agreement that has been in force since July 2008. The Interim Agreement (IA) focuses mainly on trade-related areas. BiH has developed an action plan and established joint bodies between state and entity institutions for implementation of the IA and SAA.

BiH's constitution establishes a complex web of institutions and policies. The administrative structures are cumbersome, in some cases fragmented and prone to duplication with unclear division of powers, both between institutions at the same level, and between different levels of government. The constitution gives the state powers in the following areas: foreign policy, foreign trade policy, customs policy, financing of state institutions to meet international obligations of BiH, immigration, refugee and asylum policy and regulation, international and inter-entity criminal law enforcement, establishment and operation of common and international communication facilities, regulation of inter-entity transportation, and air traffic control.

Intellectual Property Rights Protection¹

¹ **Intellectual Property Rights (IPRs)** means right to possess and use intellectual property, conferred by means of patents, trademarks, and copyrights.

Patent means the grant of an exclusive right to manufacture and market an invention for a specified time, based on a novel idea that provides a solution to a specific technological problem.

Copyright means the exclusive right of authors, composers, playwrights, artists, publishers, or distributors to publish and dispose of their work for a specified time.

Trademark means a name or a symbol used by a manufacturer or merchant to distinguish goods from those made or sold by others. Trademarks and designs are very similar and sometimes it's difficult to distinguish one from the other.

Bosnia and Herzegovina enjoys WTO observer status and is estimated to become a member of the WTO in September 2009. In order to meet the accession target BiH will have to intensify market access negotiations and continue to bring its legislation in compliance with WTO. BiH has already ratified the Washington Agreement on Intellectual Property and Integrated Circuits, the Hague Agreement concerning the Intellectual Patent Classification, the Convention for the Protection of Producers of Phonograms against Unauthorized Duplication, the protocol to the Madrid Agreement concerning International Registration of Marks, and the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting organizations. However, BiH's IPR legislation is not compliant with provisions of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, a pre-requisite for WTO and EU accession. The Institute for Intellectual Property (IIP) is drafting new legislation to make it compliant with TRIPS (with assistance from the EU). This is expected to be completed with a legal framework in place by the end of 2009.

The legal framework for establishment of the Institute for Intellectual Property (IIP) was adopted and published in 2004. It took two years for IIP to become operational, and it now has staff working in the Mostar headquarters and the Sarajevo and Banja Luka branch offices. A number of measures have been taken to improve IIP's operation such as: enhancement of existing databases (on patents, trademarks and industrial designs); creation of a new database on geographical indications; and set up of a complaint commission.

While progress has been made, there are many areas where there has been no significant development. The administrative procedure for granting industrial property rights ("patents" under current legislation) is such that the IIP grants patents without prior substantive examination of the application. This shifts some of the burden of proof of validity on to the patent holder who may lack the capacity or resources to validate his request. Implementation of this operational method is also hampered by deficiencies in legislation and a lack of capacity in the IIP. As a result, a total of 1660 patent applications are in queue to be processed, and the wait time for patent issuance is almost five years. Trademarks and design rights are granted on the basis of substantive examination of applications rather than a longer more detailed patent method. Due to the limited capacity of IIP, the wait time for a trademark approval is about four years. (Wait time for designs is only one year only because of the relatively small number of applications).

The procedures for obtaining copyrights and related rights are simpler than those for patents and trademarks. However, for successful enforcement of these rights, it is necessary to have an effective IPR management system that cooperates effectively with civil society collective management organizations and different government institutions/agencies and stakeholders. The regulatory framework for collective management organizations operating in BiH is inadequate and needs to be improved, brought in line with experience and best practices in the region and in the EU. Government institutions/agencies that have authorities over enforcement of IPR are fragmented between several cross competing agencies and levels of government. At the state level, IPR enforcement resides solely with the Indirect Tax Authority, which has responsibility for implementation of border measures, for which it lacks expertise and for which there is deficient legislation. Additionally, stakeholders' and users' awareness of IPR laws and regulations is very low, and no unified tracking of enforcement measures is being kept. As a result, BiH currently has high levels of piracy and counterfeiting.

IPR laws are enacted and enforced on a strictly national basis, but once a patent or copyright has been granted in one country and disclosure of an invention or creative work has been made, information technology makes it available throughout the world. As a result, cross-country differences in patent and copyright laws can result in inadequate IPR protection. In the field of intellectual property rights protection it is necessary for BiH to develop a comprehensive IPR strategy at the state level, to strengthen the capacity of IIP and law enforcement agencies, provide training to various stakeholders, and implement a broad public awareness campaign. By expanding IPR and meeting regulations for WTO and EU accession, BiH's economy will increase opportunities for expansion, as barriers to creativity and innovation are removed through the enforcement of IPR standards.

Design means the appearance of the whole or part of a product resulting from features such as colour, shape, texture or pattern. A design is new if no identical (or similar) design has been published or publicly is disclosed in the UK or the European Economic Area (EEA).

II. IPR PROTECTION OBJECTIVES AND EXPECTED RESULTS

Objectives

The project will have two main objectives: 1) to increase the ability of the Institute for Intellectual Property of Bosnia and Herzegovina (IIP) to meet and enforce World Trade Organization (WTO) and European Union (EU) standards; and 2) to raise public awareness regarding the importance of IPR.

The outcome of this effort will be a world-class intellectual property system that meets the requirements of the World Trade Organization and the European Union² and supported by an educated populace.

Component 1. Increase the ability of the Institute for Intellectual Property of Bosnia and Herzegovina to meet and enforce WTO and EU standards.

The Contractor will partner with the IIP, providing technical assistance and capacity development to the agency, including the possibility of a consultant based within the IIP. The IIP has expressed a strong interest in housing the project and a willingness to develop and implement a memorandum of understanding with USAID for assistance.

IPR protection assistance will include:

- 1.a. Strengthening the capacity of the IIP to function and support IPR granting in BiH.
- 1.b. Assisting the IIP with drafting rules and regulations on licensing private enforcement associations,
- 1.c. Assisting with the development of private enforcement associations that are capable of enforcing trademarks and copyright royalties,
- 1.d. Raising the capacity and understanding of IIP staff on how to provide quality customer service, perform supervision and regulatory duties, and initiate new IPR efforts,
- 1.e. Developing proper coordination mechanisms among all relevant government institutions, ministries and agencies,
- 1.f. Developing a new integrated IT system along with document-sharing protocols for government ministries and the IIP that will improve coordination with all relevant government authorities,
- 1.g. Developing an information dissemination and communication strategy,
- 1.h. Supporting the development of copyright and patent library in Banja Luka, and
- 1.i. Assist development of suppliers for “print on demand concept” for local publications.

Component 2. Raise public awareness regarding the importance of IPR through a) increasing public awareness on the importance of IPR, b) increasing government capacity to communicate their strategies, goals, and areas of responsibility related to IPR, and c) promote national pride through the development of a national branding strategy for key products.

The project will support the development of “national pride” surrounding traditionally produced goods, for example, travnički cheese or plum brandy from Gradačac. Additionally, the project will raise awareness and concerns about substandard counterfeit goods, given that such imports pose potential health hazards and exploit “national pride” products without benefiting Bosnian producers or the local economy. The Contractor will find champions among the stakeholders in IPR protection, such as the Foreign Trade Chamber and/or other associations involved with private enforcement of IPR, and assist them to become advocates for change.

Proposed interventions include:

- 2.a. Raising general public/consumer awareness on the importance of IPR by:
 - i) Developing education materials for schools,
 - ii) Implementing consumer awareness campaigns, and
 - iii) Raising the capacity of local groups to be advocates for change.

² <http://www.europa.ba/?akcija=clanak&CID=20&jezik=2&LID=35#1>

- 2.b. Raising the capacity of State agencies to effectively communicate by:
 - i) Creating communication strategies and training staff in effective PR tools to effectively communicate IPR standards, and
 - ii) Increasing the ability of agencies to respond to private sector demands for information.
- 2.c. Develop a set of promotions aimed to create national pride/product brands for products produced in BiH.
 - i) Assist producer groups, cooperatives, and/or other trade associations/groups in developing and marketing a national pride/product brand for key local commodities, and

To create a lasting and sustainable impact, the Contractor will partner with a local counterpart institution, such as the BiH Agency for Civil Servants, to provide “train-the-trainer” programs for all training topics instituted under this program. In doing so, the Contractor will leave a legacy of training modules and qualified instructors for the next generation.

Optional Component 3. Increase the capacity of state agencies to facilitate trade.

In June 2008, the European Commission did “Value Chain Mapping Analysis” that surveyed and analyzed SMEs in selected sectors in BiH with the aim to determine obstacles to SME growth. The major problem that was common for SMEs from all sectors was the absence of standardization and certification in accordance to international standards. Additionally, during the preparation of this SOW, sources indicated that many of the state agencies responsible for various aspects of trade regulation lacked sufficient capacity to properly enforce and monitor goods entering and exiting BiH. While there is an apparent need to address trade issues and a willingness of USAID/BiH to consider a trade activity, USAID/BiH has determined that at this time the political conditions conducive to helping to strengthen the trade regime are weak at this time. As a result, USAID/BiH has decided that at this time it will not provide TA directed towards trade capacity building.

However, USAID/BiH is about to launch two projects, FIRMA and FARMA, worth approximately 40 millions, that will assist SMEs in targeted sectors (agriculture, tourism, wood products, and light manufacturing) to assist firms in increasing their competitiveness and gaining access to both domestic and international markets. As such, USAID/BiH considers trade capacity building to be an issue that may increase in importance as these two projects begin implementation. Therefore, as part of this SOW, USAID/BiH has included a third “optional” component that, if exercised, will provide targeted assistance to state agencies.

Prior to exercising this option, the COTR in consultation with the CO will request the contractor to conduct an assessment of needs related to trade capacity. This assessment will examine the trade related measures needed to support products receiving assistance under FRIMA and FARMA and the capacity of relevant state agencies to support and implement appropriate polices and regulations. This assessment will also explore the political context at the time to determine the ability of BiH officials to commit to and sustain proposed trade reforms. The contractor will then recommend the type and level of assistance to those state agencies. Upon completion of this assessment the COTR will make a determination on funding and exercising this option.

If exercised, Component 3 has a ceiling of \$2 million. This option will not exceed the duration of the original contract unless otherwise determined by the COTR and CO.

Expected Results

This program will primarily contribute the U.S. Foreign Assistance Framework Objective 4 for Economic Growth and the 4.2 Trade and Investment Program Area. In addition, it will contribute to following Program Areas: 4.1) Macroeconomic Foundation for Growth, 4.6) Private Sector Competitiveness and 4.7) Economic Opportunity.

The outcome of this effort will be a world-class intellectual property system that meets the requirements of the WTO and EU³ that is efficient and responsive to private sector demands.

³ <http://www.europa.ba/?akcija=clanak&CID=20&jezik=2&LID=35#1>

The Contractor will be responsible for developing additional indicators that will accurately reflect the proposed interventions. These indicators may include, but not limited to, the following:

1. Number of government employees trained in new policies and standards.
2. Number of people in the private sector who are trained in IPR related measures.
3. Percentage change in attitude of the public towards counterfeited products.
4. Number of patents and trademarks granted.
5. Increased membership in IPR private enforcement associations.
6. Increased collection of royalties by IPR private enforcement associations.
7. Increased sales of national brand goods.

Additionally, the Contractor will be asked to develop a model or methodology for tracking foreign and domestic investment that is attributable to the project. As part of this effort, the Contractor will be tasked with determining the economic impact of specific policy reforms undertaken. This methodology will be presented to USAID for final approval.

The Contractor will develop a comprehensive Performance Monitoring Plan (PMP) to generate quantifiable and verifiable data on the impact of interventions and tie these to the overall goal of the IPR Protection. This PMP will, at a minimum, include the above indicators; the Foreign Assistance Standardized Program Structure Element Indicators will also be monitored within the PMP framework. The PMP must be reviewed and approved by USAID's Contracting Officer Technical Representative (COTR).

Although the IPR Protection project does not focus on democracy building or good governance, strengthening state institutions will involve enacting policies and increasing advocacy efforts, thereby contributing to increased government transparency. In this respect, the IPR Protection project is expected to have a positive impact on better governance and legislation in BiH.

III. IPR PROTECTION MANAGEMENT AND IMPLEMENTATION

Project Management

The Contractor is expected to propose a core in-country team, preferably staffed by Bosnian nationals, to oversee major areas of the project. This team will provide the needed depth to the project through their long-term on-the-ground presence to manage and monitor counterpart needs, other donor activities, and coordinate and monitor the effectiveness and impacts of the short-term technical assistance and training events. The Contractor is expected to work throughout BiH and have a main office in Sarajevo with possible satellite office in Mostar.

The Contractor will pursue a rigorous program of short-term technical assistance for targeted high-impact interventions in the area of IPR protection. A strategic mix of local and international experts should be utilized to maximize project impact and cost-effectiveness while building capacity of local professionals. The length of each short-term technical assistance intervention will depend upon the nature and needs of the counterparts. Some interventions will require relatively longer-term consultants (6 month assignments) while others will only require 1-2 month assignments or even 1-2 weeks for highly specialized tasks or trainings.

Interventions will focus on harmonization with requirements for EU accession, in particular with the SAA and IA, and as such, project experts have to be familiar with implementation of EU standards and regulations and related reforms.

Project Implementation

USAID plans to award a cost reimbursement level of effort -type contract for an initial period of two years, with an option for an additional two year period. The total estimated cost for all four years is \$5 million covering, subject to availability of funds. The initial contract will be for a two-year period. After 18 months, USAID/Bosnia will internally assess the value of exercising the two-year contract option. The decision to proceed with the contract option will be based in large part upon the significance of results achieved during the first 18 months and the expected value of proceeding with the option period.

A detailed **performance monitoring plan** (PMP) will be developed by the implementing partner to track activities and results and measure client satisfaction through surveys of counterparts/participants. The PMP will develop specific annual benchmarks and track standard USAID indicators.

IV. OTHER USAID PROGRAMS

Fostering Agricultural Markets Activity (FARMA): The goal of FARMA is rapid, sustainable and broad-based economic growth through demand-driven assistance aimed at improved competitiveness of BiH agricultural and food producers. The purpose of FARMA is to expand environmentally sustainable production, processing and sales of value-added agricultural products. The objective of FARMA is to achieve broad-based sustainable economic growth through improved productivity, efficiency, marketing and sales in the agriculture and agribusiness sectors. FARMA will assist BiH agricultural producers and processors to improve their ability to withstand competitive pressures coming from opening BiH market through CEFTA, SAA and IA, and to capture opportunities created through activation of CEFTA, SAA and IA in domestic, regional and EU markets. FARMA is expected to begin in fall of 2009.

Fostering Interventions for Rapid Market Advancement (FIRMA): The objective of FIRMA is to generate sustained economic growth (measured as increased sales and employment) and improved capacity of private enterprises to withstand competitive pressures coming from BiH market openness to a globalized economy. FIRMA will provide targeted, demand-driven assistance to SMEs in selected sectors to address critical constraints for growth such as: low productivity, poor quality/design of products, inadequate marketing and links to global markets, limited supply of skilled labor, and limited access to finance. Also, FIRMA will provide assistance in identifying policy constraints for private enterprise growth in targeted sectors. FARMA is expected to begin in fall of 2009.

The IPR Protection project will also support the efforts of the following two Democracy Office (DO) projects by further strengthening the NGO sector to be advocates for change as well as increasing public awareness on issues of good governance.

Civic Advocacy Partnership Program (CAPP II): This program aims to help local NGOs and civic organizations strengthen their advocacy, coalition building, and watch-dog capacities, and to address citizen needs through education, advocacy, and the provision of services. The project provides grants to local NGOs to advocate for policy changes and to monitor the commitment of elected leaders to implement promised policies and legislation.

Center for Civil Society Promotion (CCSP II): This activity aims to help modernize civil society in BiH by encouraging local NGOs to assume ownership of the agenda for civil society development. Specifically, it seeks to consensually craft strategies and programs to develop and regulate the sector, to introduce institutional mechanisms to provide for public/private partnerships, and to develop a lead NGO as an intermediary support organization to other NGOs.

Other USG agencies including the State Department and Department of Commerce have in the past provided small training programs on IPR issues. These programs have generally been one-off programs on enforcement issues. This project will coordinate and cooperate with both the State Department and the Department of Commerce to ensure that there is no duplication and to compliment trainings that have already occurred.

V. OTHER DONORS

The main donor working on IPR issues at this time is the EU. The World Bank, UNDP, and other bi-lateral donors have in the past targeted specific sectors for assistance. At this time, though, none have, or are currently planning, assistance programs on IPR.

The European Union program titled *Capacity Building in Protection of Intellectual Property Rights in Bosnia and Herzegovina* began in December 2007 and is expected to end in 2009. The program is being implemented through the Community Assistance for Reconstruction, Development and Stabilization (CARDS) program. Under this program, the EU partners with this paper's proposed counterpart on IPR, namely the Institute for Intellectual Property of Bosnia and Herzegovina, to produce a Development Strategy for the Institute from 2008-2015.

VI. WORK PLAN

Within 60 days of award, the Contractor shall provide to USAID for approval a work plan for the first year's activities, schedules, and targets. This work plan shall include a description of the principal tasks and assistance activities to be undertaken, a proposed schedule for such activities, a listing of the principal counterparts for each proposed activity, and a description and estimate of the amounts of short-term expertise, training and other support resources that would be required to provide the assistance proposed.

The work plan shall also include a description of what each assistance activity or combination of activities is expected to accomplish and its baseline data and will indicate how and to what extent those accomplishments will contribute to the achievement of the overall purpose of the project. It shall further include a detailed performance-monitoring plan including results indicators. As a part of the initial work plan, the Contractor shall provide a Performance-Based Monitoring System (PBMS) that allows for tracking and documenting implementation progress against specified performance indicators and related targets and benchmarks.

The work plan shall be updated at least annually within 30 days before the beginning of the succeeding year. Unexpected and unforeseen windows of opportunity shall be incorporated on a periodic basis.

The work plan will be approved by the COTR. Any significant change by the Contractor to the approved work plan will require CTO approval to take effect.

VII REPORTING REQUIREMENTS

The cover page of all reports prepared by the Contractor, pursuant to AIDAR 754.242.70, shall include a descriptive title, the author's name(s), the activity name the activity number, the contract and the task order number, the Contractor's name, the name of the USAID activity office and the COTR, and the publication or issuance date of the report.

The Contractor shall be responsible for delivery of draft reports, schedules, plans, and other documents that are described below. Such documents as schedules or plans that do not readily conform to the forgoing format will be presented in a form to be agreed to by COTR.

All reports must be submitted in a hard and electronic copy to the following address:

U.S. Agency for International Development
Economic Restructuring Office
Hamdije Cemerlica 39
Sarajevo 71000
Bosnia and Herzegovina

Quarterly Performance Reports

Quarterly performance reports will present progress on all activities and will include the following information, at a minimum:

- Brief outline of project purpose and project approach;
- Brief description of significant events during the reporting period;
- Status of activities of each task as defined in the Work Plan;
- Status of overall project progress per impact indicators as defined in the Work Plan and the performance monitoring plan;
- List of reports/deliverables completed in the reporting period;
- Performance problems during the reporting period;
- Status of budget expenditures;
- List of major activities planned for next quarter including indicators and associated targets;
- Any relevant information that has affected or will affect project progress.

Demobilization Plan

Four months prior to the completion date of the contract, the Contractor shall submit a Demobilization Plan to the CTO. The Demobilization Plan shall include, at a minimum, an illustrative Property Disposition Plan; a plan for the phase out of in-country operations; a delivery schedule for all reports or other deliverables required under the contract; and a timeline for completing all required actions in the Demobilization Plan, including the submission date of the final Property Disposition Plan to the cognizant Contracting Officer. Both the illustrative and final Property Disposition Plans shall address all requirements under U.S. and Bosnian law for the transfer of property and shall include the inventory schedule required by FAR 52.245-5, a plan for the disposition of property to eligible parties and a timeline for disposition of such property. The Demobilization Plan shall be approved in writing by the Contracting Officer.

Completion Report

At the end of the contract, the Contractor shall prepare a completion report which highlights accomplishments against work plan, gives the final status of benchmarks and tangible results, addresses lessons learned during implementation and suggests ways to resolve constraints identified.

VII. KEY DOCUMENTS

The following key documents are attached to the RFTOP

EU BIH Trade Related Needs Assessment Report

Intellectual Property & Developing countries Briefing Paper

Commentary on the provisions of the agreement on amendment of and accession of the Central European Free Trade Agreement.

Piracy Study at <http://www.bsa.org/GlobalHome.aspx>

VIII. TECHNICAL PROPOSAL INSTRUCTIONS

The Technical Proposal is limited to 30 pages; any pages over the 30 page limit shall not be evaluated. The text shall be written in English and typed on standard 8 1/2" x 11" paper size, single spaced, one inch margins, Times New Roman, 12 point font, with each page numbered consecutively. Items such as cover pages, dividers, table of contents, and attachments are not included in the 30 page limitation. There is no page limit on attachments or the cost proposal.

USAID plans to award a cost reimbursement level of effort -type task order for a period of four years (2 + 2 years) with a total estimated cost of \$5 million, for performing tasks under components one and two, subject to availability of funds. The contractor will work on the IPR Protection and Public Awareness Components throughout the life of project.

Optional Component 3 as described in the SOW has a ceiling of \$2 million, subject to availability of funds. This option may be exercised at the determination of the COTR and CO in consultation with the winning bidder at a later date. At this time offerors are instructed to exclude Component 3 from their technical and financial proposal. Any information regarding their approach to or costs for assistance of Component 3 will not be evaluated and will not be considered during the evaluation process of this solicitation.

The Technical proposal should include a work plan and PMP targets/achievements for the initial base period as well as for the full-term of the contract (4-years). Additionally, the cost proposal should be divided for base and option periods.

The Technical Proposal should, at a minimum, include the following four sections:

1. Technical Approach

Offerors should elaborate their technical approach for the most effective way to develop and realize the objectives of this project, including a reasonable course of action and tasks that are relevant to the current needs of Bosnia and Herzegovina. Offerors are expected to demonstrate knowledge of the political and economic context of BiH. They should present a convincing and compelling articulation of their technical approach that will permit USAID to distinguish and differentiate among proposals. The technical approach should include a work plan for the first year by component and results, with appropriate benchmarks, milestones and concrete deliverables. Although the Performance Monitoring Plan (PMP) will be developed at the beginning of the project, the Offeror should present a draft PMP for the project.

Within the Technical Approach, Offerors should also address the following items:

- Results and interventions they believe should be prioritized and why
- Interventions they intend to undertake first and why
- How they will incorporate any significant gender considerations into the design and implementation of their program
- Core principals and vision guiding their technical approach
- How resources will be used strategically to maximize impact of the project
- Approach to creating a national brand strategy for locally produced goods
- Methodology for public awareness and IPR education campaigns
- Description of the Performance Monitoring Plan (PMP)

2. Management Approach

Offerors shall describe their management approach along with a clear rationale for the proposed project management and organizational structure. Offerors shall describe the composition and organizational structure of the core professional project team including descriptions of the role, technical expertise, and estimated amount of time to be devoted to the activity for each position. Offerors shall also propose a mix of short-term technical advisors who will implement the full range of tasks and activities including their role, technical expertise and estimated amount of time to be devoted to the activity.

A summary chart shall be presented showing the estimated Level of Effort (LOE) for each position of the core professional team and for each of the planned short-term technical positions. This chart should also indicate whether the positions will be staffed by international (US and third country nationals) or Bosnian professionals.

The contract proposed by this solicitation includes a key personnel clause, and the quality of key personnel proposed shall be an evaluation factor. The Key Personnel position is the Chief of Party (COP)/IPR Lawyer.

Offerors should demonstrate:

- Utilization of Bosnian or EU professionals for core country project staff, including the Chief of Party and other key personnel
- Strategic combination of international and local experts for short-term technical assistance
- Professional development of local professionals and/or how skills will be transferred from international to local experts
- Utilization of local organizations, sub-contractors and/or grantees
- Ability to rapidly mobilize short-term technical assistance

3. Personnel Qualifications and Expertise

In its Technical Proposal, the Offeror shall describe the experience, education and additional qualifications of the proposed key personnel and other full-time technical staff, short-term consultants, and home office support personnel. Offerors shall provide a rationale for the choice and resumes of all proposed personnel (resumes shall indicate language abilities). Resumes of key personnel should include the name, telephone number, and e-mail of at least two references who do not work for the employee's current company. There is no exclusivity requirement: personnel may be proposed by more than one Offeror.

Chief of Party/IPR Expert desired qualifications:

- Experience in leading complex projects experience
- Working in countries with EU Accession Requirements
- Experience working in region on IPRs, business development, or branding issues
- Experience with international development projects
- Experience in training government officials on policy implementation and enforcement
- Experience in organization and strategic management issues.
- Knowledge of local language

Each resume shall be accompanied by a SIGNED letter of commitment from each candidate indicating his/her:

- (a) Availability to serve in the stated position, in terms of days after issuance of the award;
- (b) Intention to serve for a stated term of the service; and
- (c) Agreement to the compensation levels which corresponds to the levels set forth in the cost proposal.

For Local Long-Term Staff: The Offeror must include a signed certification from each of the proposed local long-term staff, confirming that no outside employment shall be accepted while working under this contract.

The contractor will provide a list of STTA experts and short discussion of their fields of expertise and how they relate to proposed interventions.

Note: All critical information from the appendices should be summarized in the text of the Technical Proposal. For example, a summary of the relevant experience of proposed key personnel could appear in the text while their detailed resumes would be appended.

4. Past Performance

Offerors shall describe their past performance for up to five similar projects (within the last four years) which best illustrate the Offeror's (and subcontractors') current qualifications, and the results achieved in directly related or similar contracts and subcontracts it has held within the last 4 years. It should be clear whether the work by the Offeror was done as a prime contractor or a subcontractor.

Offerors who describe similar contracts and subcontracts shall provide a detailed explanation demonstrating the similarity of the contracts to the requirements of this RFP. The Offeror (and/or subcontractors) shall provide the following information regarding past performance on up to five similar projects:

- a. Contract number(s) and type of contract;
- b. Procuring agency and name of reference point(s) of contract (not to exceed 3), telephone and fax numbers at entity for which the contract was performed;
- c. Dollar value of the contract;
- d. Period of performance;
- e. Detailed description of the work performed;
- f. Relevancy of the contract to this proposed requirement;
- g. Clear statements describing whether the contract was completed on time, with a quality product conforming to the contract, without any degradation in performance or customer satisfaction. Discuss any cost growth if the contract was not completed for the original contract amount; and
- h. The number, type, frequency, duration and impact of any quality, delivery or cost problems in performing the contract, the corrective action taken, if any, and the effectiveness of the corrective action.

USAID reserves the right to use past performance information obtained from sources other than those identified by the Offeror/subcontractor.

IX. EVALUATION CRITERIA

A technical evaluation committee, using the criteria shown in this section, will score the technical proposals. The criteria set forth will serve as the basis for evaluating the technical proposals. The various functional elements of the technical criteria are assigned weighted scores, so that the Offerors will know which areas require emphasis in the preparation of proposals. Where technical proposals are considered essentially equal, cost may be the determining factor.

Proposals will be evaluated using the criteria shown below. Offerors should note that these criteria:

- (1) Serve as the standard against which all proposals will be evaluated; and
- (2) Serve to identify the significant matters which Offerors should address in their proposals.

The evaluation criteria shown for this particular solicitation are as follows:

Technical Evaluation Criteria	Weight
Technical Approach	30 points
Management Approach	20 points
Personnel Qualifications and Experience	40 points
Past Performance	10 points
Total Possible Technical Evaluation Points	100

1. Technical Approach (30 points)

The technical approach will be evaluated based upon: demonstrated understanding of political and economic context in BiH, technical soundness, feasibility, ambitiousness, innovation and efficiency, results orientation, measurement of results, and strategic use of resources.

2. Management Approach (20 points)

The management approach will be evaluated based upon: feasibility and soundness in terms of achieving project purpose and results, strategic and efficient use of resources, use of local professionals (including transfer of skills and knowledge), use of local organizations, sub-contractors, and/or grantees, demonstrated capacity to rapidly mobilize short term technical assistance (including those that are not within planned component areas)

3. Personnel Qualifications and Experience (40 points)

The evaluation of personnel qualifications and experience will be based upon:

- Education, experience, capabilities and past performance of Chief of Party (20 points)
- Education, experience, capabilities and past performance of other in-country staff and home office support (10 points)
- Education, experience, capabilities and past performance of short-term technical advisors. Previous experience with EU accession reforms within the economic and financial sector will be considered highly desirable. (10 points)

4. Past Performance (10 points)

Past performance of Offerors will be evaluated based upon an assessment of their effectiveness to achieve successful implementation of similar projects. The past performance of any offeror that does not have any pertinent past performance history will not be favorably or unfavorably scored.

Cost will be evaluated separately and will consider factors including cost effectiveness, cost control and cost realism. There is no page limit for the cost proposal. Although cost is not being specifically scored, the award selection will be made on a best value (technical or non-cost versus cost tradeoff) basis, where all non-cost factors will be significantly more important than cost. Please be advised that a proposal with the lowest estimated cost may not be selected if award to a higher priced proposal affords the Government a greater overall benefit. Award of a Task Order resulting from this solicitation will be made to the Offeror that offers the greatest value to the Government from a technical and cost standpoint. Cost realism is an assessment of accuracy with which proposed costs represent the most probable cost of performance, within the Offeror's technical and management approach. Cost realism evaluation shall be performed as part of the evaluation process to: a) verify the Offeror's understanding of the requirements; b) assess the degree to which the cost/price proposal accurately reflects the approaches and/or risk assessments made in the technical and management approach as well as the risk that the Offeror will provide the supplies or services for the offered prices/cost; and c) assess the degree to which the cost included in the cost/price proposal accurately represents the work effort included in the technical proposal.