

Concept Note
for
Local Government Support Activity (LGSA)
USAID/Bosnia-Herzegovina
Working Draft – July, 2013

1. Introduction:

The purpose of this concept paper is to describe parameters for design of a new joint Local Government Support Activity (LGSA) between USAID/Bosnia-Herzegovina (USAID/BiH) and other donors (TBC). This activity will build on the successes of the Governance Accountability Project (GAP), which closed in December 2012, and help implement locally developed strategies on local self-governance, which are already in place and have informed its design.

2. Problem Statement and Major Issues:

The problems with government capacity, efficiency and integrity have been well documented over the years in Bosnia-Herzegovina (BiH). USAID/BiH's *Country Development Cooperation Strategy for 2012-2016* (CDCS) discusses the historical, political, constitutional, and institutional constraints under which the various governing institutions in BiH operate.

Development Hypothesis: Simultaneously addressing deficiencies in each entity's legislative framework and local government performance and supporting increased citizen participation in local governance systems and processes will strengthen local governments' ability to provide improved public services to all BiH citizens.

Both municipal associations of BiH and select municipalities will be key partners in the implementation of this activity.

The activity will address issues that contribute to the main development problem, as follows:

1. Unclear specification of functional assignments across levels of sub-national government.
Law reforms characterized by a top-down approach have often resulted in incomplete, overlapping, and even conflicting laws related to structures of government. Some laws lack sufficient implementing regulations, and implementation systems are often incomplete, ineffective, or both. The Law on Principles of Local Self-Governance gives broad authority to municipalities on all issues of local interest and clarifies competencies between cantons and municipalities. The law's implementation in the fractured system of government in FBiH, however, has proven to be excessively complex and numerous deficiencies have emerged. Failure to implement the law has stalled further progress in clarifying responsibility and authority among levels of government.
2. Significant mismatch between expenditure responsibilities and revenue assignments among various levels of sub-national governments has resulted in duplication, under-provision and deterioration of essential public services, as well as a proliferation of unfunded mandates.
The fiscal context for local government responsibilities and resources is framed but unstable. A significant portion of local government revenues comes from higher-level governments, either from indirect or direct taxes. However, there is little correlation between a municipality's

responsibilities and its revenue base. This negatively affects municipalities' ability to provide public goods and services for which they are responsible.

3. Intergovernmental communication, coordination and cooperation between municipalities and higher levels of government, especially cantons, remains deficient and underdeveloped.
Information exchange and mutual consultations between the local-level government and cantonal parliaments are scarce. As a result, FBiH municipalities and the FBiH municipal association are unable to voice their opinions on important aspects of their functioning and continue to be disregarded in the policy-making process.
4. Lack of domestic ownership in policy-making.
Municipalities and municipal associations are often in a reactive mode regarding upcoming policy or fiscal shifts and do not drive policy debates.
5. Inadequate performance of local governments is a result of insufficient autonomy, lack of resources, and the inability to exercise the authority they currently hold.
Local governments are not fully aware of their roles and responsibilities because they lack sufficient information on the new and amended laws affecting the regulatory environment within which local government must operate. A lack of education and training on these new responsibilities, authorities, and procedures is also hampering local government's ability to successfully implement adopted legislation.
6. Deficiencies in municipal internal management to transparently, effectively and efficiently provide public services, manage their finances and local development, and build stronger communities.
This issue mainly refers to procurement of goods and services, urban /spatial planning and asset management, treasury and performance-based budgeting, non-administrative service management and delivery, vulnerability to corruption, and gender and youth policy implementation.
7. Weak formal and informal mechanisms of local social accountability (i.e., municipal council capacity and engagement for service delivery, lack of citizen's awareness, distrust of government, etc.)
This issue refers to public and other local stakeholder involvement in and oversight of planning and decision-making processes. Interaction between citizens and local government is limited. One often hears that BiH citizens simply want to receive services; they do not want to engage with local officials in a productive manner (such as town hall meetings) or otherwise organize to seek responsive governance. There are numerous reports of municipal councils standing in the way of administrative or business-friendly municipal reforms, in great part because the municipal councilors have little understanding of the consequences of their decisions, or government decision-making is overly influenced by political party motives. Councilors also do not properly exercise their positions, which should involve providing oversight, drafting ordinances and representing their constituents.
8. Inefficient human resource patterns (in terms of both quantity and quality) result in disparities in skills/knowledge at the municipal level that are not addressed systematically.
Development of internal personnel policies associated with professional development of local government employees requires significant technical assistance and training, as well as procedures for institutionalizing this training into handbooks, curricula, and alike.

3. Activity Objectives:

The overall goal of the Local Government Support Activity (LGSA) is to strengthen local government's ability to deliver public services. To realize this goal, the LGSA will focus on achieving the USAID's principle objective of "Improved local government performance and intergovernmental functional and

fiscal framework in both entities in order to develop more accountable local institutions and actors that meet citizens' needs." This will be achieved through the following two inter-related objectives:

Objective One: Improved policy and legal framework for coordinated functional and fiscal decentralization in both BiH entities, based on their Local Self-Governance strategies.

The purpose of this objective is to put in place an appropriate legal framework to support decentralized local governments and better define roles and responsibilities for all municipalities in BiH, which will create a more accountable, efficient governance structure.

Objective Two: Strengthened local government accountability and management capacity to effectively and efficiently plan for and manage municipal services and development that corresponds to evolving decentralized authorities and responsibilities.

The purpose of this objective is to improve the lives of citizens and build the case that local governments are capable of wielding more power responsibly, with a focus on the workings of local government itself and on services that generally lie within the autonomy of municipalities.

Development Objective One of USAID/BiH's CDCS for 2012-2016 includes development of "more functional and accountable institutions and actors that meet citizens' needs." The project will contribute to the attainment of the following intermediate results under Development Objective One:

Intermediate Result 1.1: More effective judicial, executive and legislative branches of government.

Intermediate Result 1.1.1: Government processes improved and capabilities of actors strengthened.

Intermediate Result 1.2: Increased citizen participation in governance.

As part of the U.S. Government's Strategic Framework for Foreign Assistance, the activities outlined in this concept paper support the following program objective, area and elements:

Program Objective 2: *Governing Justly and Democratically*

Program Area 2.2: *Good Governance*

Program Element 2.2.1: *Legislative Function and Processes*

Program Element 2.2.2: *Public Sector Executive Function*

Program Element 2.2.4: *Anti-Corruption Reforms*

Program Element 2.4.1: *Civic Engagement*

4. Activity Components:

This LGSA will use a two-pronged approach that (1) works at the sub-national level to put in place an appropriate legal framework to support decentralized local governments, and (2) directs assistance for bottom-up support to municipalities. The activity will also identify and foster nascent local capacities, preferably those that are able to transfer their knowledge and skills to other local governments in BiH, such as legacy GAP municipalities. The multiplier effect from previous programs (such as GAP) has already shown results on its own and can be utilized further.

The activity will develop a package of reforms from which top priorities will be selected for individual municipalities. Municipal-level assistance will be tailored to each municipality according to individual needs. The activity will be designed so that activities under Objective Two and crosscutting initiatives are not dependent on adoption of new decentralization legislation. As legislation is passed, however, additional activities may be required to help local administrations adapt to new regulations.

The LGSA will include the following programmatic components (See also Logical Framework in Annex 1):

Component One: Improved policy and legal framework for functional and fiscal decentralization in both BiH entities based on their Local Self-Governance strategies.

The focus of this component will be to work with mayors, municipal associations and ministries toward a more accountable, efficient governance structure. Policy activities will focus on key statutory and policy reforms that better define roles and responsibilities for all BiH municipalities, and with financial mechanisms that support decentralized provision of services. This effort must be understood as “process management,” in which USAID carefully aligns its human and technical resources behind activities that will directly lead to policy change.

Illustrative activities:

Technical assistance and capacity building for new policy interventions or refinement of GAP achievements, in cooperation with municipal associations and/or specialized administrative and parliamentary working groups at the cantonal or entity level. Interventions might include the following:

1. Implement Code of Inter-Governmental Relations and develop relevant annexes (fiscal policy and municipal resources) in both entities.
2. Lobby for adoption of pending draft laws in the entity parliaments (e.g., Laws on E-documents, Real Rights, Cadaster, Forests, Concessions, and Employees);
3. Enter at least six amended/new draft laws into parliamentary procedure and lobby for their adoption (laws on financing of local governments, program budgeting, public-private partnership, spatial planning, construction land, inspections, etc.);
4. Educate and train local governments on their new responsibilities, authorities, and procedures that are important for successful implementation of adopted laws;
5. Define the multi-type model of local government units, reflecting the different conditions and needs and different capacity levels of the local communities; ensure that the level of responsibility is harmonized with the level of resources to fulfill these responsibilities (basic model, simulations, applicative model).
6. Work with the municipal associations to promote their views and exert power within the political forum, especially regarding monitoring and analysis of the effects of new legislation;
7. In FBiH, convene regular Coordination Group sessions to develop a participatory dialogue needed to advance concrete reform proposals. (Many stakeholders will have a place at the table with representatives of entity, cantonal and municipal-level governments, members of parliament, local experts and representatives of civil society.)
8. In Republika Srpska (RS), convene regular strategy sessions that bring partners together to share experiences, explore opportunities for collaboration, identify core issues and reform agendas to target stakeholders for engagement.

Expected results:

1. Legislation introduced (at least six laws are drafted/amended and entered into parliamentary procedure) that:
 - harmonizes, clarifies and effectively devolves sectorial competencies to local authorities and
 - strengthens fiscal decentralization (more rational and realistic financing of the decentralized and devolved functions of government);
2. Increased fiscal authority for local governments' self-sourced revenues;
3. Increased total public sector revenue (excluding health and pension funds, since local governments are not involved) accrued to the municipal sector by at least one percent in each entity;
4. Development of a participatory policy dialogue and development process based on real data and evidence-based research as an effective means of building consensus on key policy issues;
5. Municipal associations in both entities become credible and strong counterparts in the policy making process vis-à-vis higher levels of government;
6. Increased implementation of newly adopted/existing legislation in both entities in cooperation with the two municipal associations.

Component Two: Strengthened local government accountability and management capacity to effectively and efficiently plan for and manage municipal services and

development that corresponds to evolving decentralized authorities and responsibilities.

Assistance will be provided to improve local capacity to plan for and manage municipal services that correspond to evolving decentralized authorities and responsibilities, strengthen public accountability at the municipal level, and improve the ability of municipalities to better serve their citizens.

Illustrative activities:

1. Targeted capacity building and limited material assistance to selected municipalities in program budgeting and expenditure management, local revenue raising, treasury, advanced urban/spatial planning, HR performance management, communal services management (utilities, street cleaning, etc.), strategic planning for local economic development (LED) and implementation, (closely coordinating with GOLD and other donor projects to avoid overlap), delegating of public jobs to NGO/private sector, and gender and youth policy implementation;
2. Introducing uniformed local level good governance standards for performance measurement and rating in the key principles such as user orientation, effectiveness, efficiency, quality, e-governance, (including benchmarking models, index, etc.) through the Municipal Associations;
3. Improving communal (non-administrative) services quality by building on GAP achievements (standards for local government communal services, user-oriented approach, benchmarking and performance measurements, better municipal management of utilities, etc.);
4. Introducing and establishing practices and mechanisms for civic monitoring of public services management;
5. Developing and promoting tools for monitoring and valuing citizens participation in local decision making, and creating an avenue that will allow local communes to have an active and formal role in managing local affairs and development;
6. Establishing balanced and active executive-legislative coordination in targeted local governments (e.g., oversight procedures, improved reporting, selected commissions procedures);
7. Introducing practices to strengthen elected representatives' responsibility/accountability towards citizens (e.g., NGO analysis and reports on municipal service delivery);
8. Improving and regularizing communication and information flow internally within local governments and toward the public;
9. Establishing peer-mentoring practices among partner municipalities (legacy GAP and non-GAP municipalities) to encourage and ensure knowledge and skill transfer.

Expected results:

1. Introduction of uniform good governance standards for measuring performance and rating key principles, such as user orientation, effectiveness, efficiency, quality, e-governance (including benchmarking models, index, etc.) through the municipal associations;
2. Substantial improvements in local government systems, services, procedures (e.g., financial, human resources, communal services management, urban/spatial planning and controls on development and land use, participatory local economic development planning, administration of regulatory requirements, procedures, and taxes/fees relating to business licensing and permits, citizen/business participation in decision making and monitoring of municipal service delivery) based on comprehensive good governance index;
3. Established efficient employee-based evaluation systems in target local governments;
4. Increased municipal budgeted revenue through better use of fees and alternate revenue sources, ensuring sustainable and equitable financing of local services and investments;
5. Alternative ways of providing municipal services introduced (delegation of some public jobs to private service provider/competitive NGOs);
6. Increased civic activism and trust between citizens and the municipality;
7. Improved implementation of gender policies in partner municipalities;
8. Improved implementation of youth policies in partner municipalities;

9. Measureable, improved capacity of local authorities and service companies to understand and use more effective service delivery systems.

Crosscutting Themes

A. Gender Issues

Working in close coordination or cooperation with the BiH Gender Agency, the FBiH and RS Gender Centers, municipal gender offices and relevant civil society actors, the activity will raise awareness among municipal officials and elected representatives of gender issues within the policy development, budgetary and law-making processes.

Illustrative activities:

- Further compliance of local governments with the Law on Gender Equality and in building on GAP achievements in municipal governance.

Expected results:

- Improved implementation of gender policies in partner municipalities (good governance municipal capacity index).

B. Enhancing the Role of Youth

It is expected that the activity will, to the extent possible, assist local authorities in more fully engaging youth in the strategic planning and community development process.

Illustrative activities:

- By building on GAP achievements, further assist selected local governments to implement existing youth strategies/policies;
- Integrate youth issues into LGSA training and other programmatic activities.

Expected results:

- Improved implementation of youth policies in partner municipalities (good governance municipal capacity index).

C. Anti-corruption

Fighting corruption is fundamental to advancing U.S. Government foreign policy interests. USAID projects and programs recognize the pervasive nature of corruption and the need to incorporate anti-corruption efforts whenever possible, both minimizing opportunities for corruption and actively fighting it.

The LGSA will emphasize the need for greater transparency in government operations and broader civic participation and will strengthen the capacity of local governments to identify and ensure concerted efforts to fight corruption. The LGSA will directly work toward improving budget and expenditure planning and implementation on program budgeting principles. It will also strengthen interaction between citizens and local governments and emphasize the importance of increased monitoring of public service management and delivery.

Illustrative activities:

- Introducing a participatory approach for prevention, detection, and correction of corruption in local government (diagnosis, corruption vulnerability index, strategy for preventing corruption, action plan development);
- Support municipalities in implementation of the municipal action plans devised from the municipal anti-corruption strategies (e.g., installing/streamlining management controls, management environment, etc.).

Expected results:

- Increased municipal awareness of vulnerability to corruption through a participatory approach;
- Strengthened municipal capacity and systems for prevention, detection and correction of corruptive practices;
- Increase in corruption vulnerability index for selected municipalities compared to baseline survey.

5. Analytical Requirements

Assessments/Analysis: Prior to developing its CDCS for 2012-2016, USAID/BiH conducted assessments and internal reviews in several topics, including: youth, gender, financial sector reporting, biodiversity analysis, tax and labor, political processes, civil society, rule of law, conflict resolution, tolerance and local governance, all of which have informed the LPGA design. More information on recommendations and lessons learned from these assessments are available in Appendix B of the CDCS. The activity design was also informed by other donors' reports/assessments related to local government development (e.g., Sida, UN Development Program (UNDP), Swiss Development Cooperation (SDC), Council of Europe (CoE), World Bank (WB), Organization for Security and Cooperation in Europe (OSCE) and host country strategic documents for local self-governance development.

6. Sustainability Analysis

Sustainable capacity building is an explicit objective of every task in all components of the LGSA. The activity will consider how proposed activities will promote the improvement of local institutional frameworks and human resource skills to permit a greater level of effective management of municipal resources in the long-term--in spite of mayoral turnover. The LGSA will prepare local management partners and service providers with the understanding, skills and know-how needed to respond to the increasing demands of decentralization and be responsive public servants. Before any assistance is designed, the level of political will should be assessed as the lack thereof can present an insurmountable obstacle.

The Implementer will be expected to include a sustainability analysis within the first quarter of project activities to ensure that issues of sustainability are built in from the beginning of the project. This will ensure that sustainability is achieved and host country partners and beneficiaries are empowered to take ownership of development processes, including financing, and to maintain project results and impacts beyond the life of the activity.

This plan should demonstrate how sustainability can be achieved through the activity and how the activity will build in tools to ensure that local institutions and partners will have the ability to maintain program results and processes after USAID and other donors support has ended. Broader-based sustainability also requires the transfer of lessons learned to other municipalities, associations and government entities involved in the delivery of training and technical assistance.

Special focus should be placed on the ability of associations of municipalities/cities (AMCs) to continue providing municipalities with services developed under this contract, with an end goal to build the AMCs' ability to serve as a voice for local governments. The activity will adopt a strategy to gradually reduce the external technical and financial assistance to direct partners, and thus ensure that the partners will independently adopt and apply the newly created systems and procedures, knowledge and skills. The Implementer will be evaluated not only on meeting the expected results defined in each of the two stated objectives, but on progress towards ensuring sustainability as well.

7. Stakeholder/Strategic Partner Ownership and Demand

The activity shall work to achieve local ownership of reforms. All activities will be conducted in close cooperation and partnership with local counterparts to ensure their full ownership. The assistance will, whenever possible, be designed to favor long-term solutions that could be performed, or later taken over, by existing BiH institutions and organizations. Memoranda of Understanding with partner local governments will describe in detail the roles and obligations of parties.

The municipal associations will also be core actors for implementation in collaboration with other partners, such as entity and cantonal ministries with the specific responsibility for local development. Several stakeholder meetings/individual discussions involving public and private sector representatives took place during the design of the activity's logical framework and concept paper to avoid duplication and overlapping of efforts and activities. Throughout the multi-year period of the LGSA, consultations will continue with international partners, implementing partners and program beneficiaries.

8. Funding Requirements

The proposed total budget for this multi-year activity will be defined upon expressed commitment from other donors to partner with USAID in its implementation.

9. Project Guidelines and Implementation Mechanism

Based on successful results and experience in USAID local government projects in BiH and elsewhere, this activity will be guided by the following considerations:

- Focus efforts and funds on tasks with best chance of success and largest potential impacts.
- Structure decision making and implementation through existing government structures and institutions, and follow accepted institutional procedures in order to strengthen the institutions and develop sustainable local capacity.
- Match the pace of policy reform, with flexibility to support implementation of newly passed legislation or implementation regulations over the life of the project.
- Support formation and operations of a LGSA Advisory Board that will consist of Associations' and Entity Governments representatives (and potentially State Government representatives) to further ensure ownership over program implementation. The activity is not expected to provide operational funding for the Advisory Board.

a. Project Partner Selection Criteria

The municipal associations are pre-determined partners for this activity. Within one month of award, the activity will develop an overall solicitation/selection/assessment mechanism for municipalities. As political will is vital to program success, particular care should be taken to identify progressive, reform-minded municipalities that are willing to make fundamental changes for the betterment of citizens. Scale of intervention regarding the number of municipalities will depend on available funding. Additionally, for selection of the project beneficiaries, the implementation localities of other USAID/other donor joint programs would be considered. The project will also consult with relevant international organizations, as well as other donor-funded programs for necessary coordination and important reinforcement that may arise from that. This may be possible through MOUs upfront.

b. Implementation Mechanism(s)

There are several options for implementing this project:

(1) Contractual Agreement:

This would be the main implementation instrument for USAID and other interested donors. Procurement of a contractual agreement would be conducted through an open and competitive Request for Proposal (RFP) process.

(2) Partnering with host country governments

It is expected that there will be two mechanisms with the objective to directly partner with the host country local governments, each detailed below. It is expected that one of these mechanisms will be a USAID-managed Government-to-Government Reform-Enabling Fund. The second mechanism is expected to be a other-donor twinning program between selected public sector partners and selected BiH public sector partners. (It is anticipated that twinning will be largely focused on twinning between municipalities and cities, although other forms of twinning will also be explored as viable and sustainable mechanisms for transfer of best practices in local governance.)

2.1 Reform-Enabling Fund to be implemented as Government-to-Government (G2G) programming and/or local awards

In order to support the participation of BiH Government institutions in activities related to strengthening local governments' administrative capacity and delivery of public services and in addition to the activity's prime award for technical assistance, direct (material) assistance through a G2G/Reform-Enabling Fund is expected to be made available to local governments. Funding to local governmental entities could be used to train staff, purchase necessary equipment and software, fund capital improvements, hire experts on a short-term basis, etc. Payments would be made on a cost reimbursement basis and would be subject to audit by USAID/other donor. Funds should be leveraged by requiring municipal government cost share of at least 30 percent.

In the event that USAID cannot enter into a G2G agreement, USAID would apply another approach in implementing these types of activities as outlined below under Section d. In the event other donors choose to co-fund this activity, other donor could enter into a parallel arrangement with the Implementer to ensure delivery of direct assistance to municipalities under the same USAID contractual mechanism.

2.2 Twinning program between other donor and BiH partners

This component would consider partnerships (as defined in a broad sense, not limited to twinning; any "forms" that facilitate the transfer of knowledge and sharing of experiences) between BiH municipalities and municipalities/regions located in EU (new) member states and the Southeast Europe region. It is anticipated that formal twinning activities will be carried out by other donor if it co-funds this activity. The twinning program would be between selected other donor public sector partners and selected BiH public sector partners to facilitate development of sustainable mechanisms for transferring best practices in local governance development, with a focus on linkages and twinning between municipalities/cities.

The Implementer is not expected to lead these twinning activities, but rather play a facilitative role and, if applicable, integrate twinning activities in the portfolio of LGSA activities once the activities are identified and agreed. However, beyond the formal twinning program(s) that may be approved by other donor, the Implementer would also focus on other forms of linkages and twinning between municipalities/cities that facilitate knowledge transfers and experience sharing within the scope of LGSA.

(3) MOUs with other donors/projects on complementing and supporting modalities of joint/coordinated work during implementation.

(4) Reform-Enabling Material Assistance *(in case G2G modality is not an option when the RFP is issued or during project implementation)*

In order to support the participation of BiH governmental organizations in activities related to strengthening local governments' administrative capacity and public service delivery, the implementer will set aside a portion of funding to be made available for these purposes. The Implementer will administer a fund for material assistance to local governments to implement approved implementing partner recommendations that require capital outlays. (e.g., If the Implementer recommends purchase of computers/networking to increase transparency and accountability in a given municipality, these funds can be leveraged to implement recommendations quickly.) Funds should be leveraged by requiring municipal government cost share of at least 30 percent.

(5) Small Grant Fund (size of Fund to be determined once draft budget is prepared and approved)

Small direct grants to local NGOs and CSOs focused on strengthening local service delivery may be used for conducting a variety of tasks that may include playing a monitoring/watchdog role, conducting advocacy, training, research services, raising awareness, conducting polling or surveying, or facilitating community meetings. Any small grants to non-government entities must receive prior USAID/other donor approval.

The Implementer will be required to ensure clear, transparent and competitive procedures for grants funded from the Small Grant Fund with considerations to include but not limited to expected results, and cost share. The Implementer will be responsible for administering and overseeing the Small Grant Fund in accordance with the USAID/other donor approved manual.