

EBRD GPA

Technical Cooperation Facility



Procurement for governmental purposes constitutes a significant share of public expenditure, approximately 10-15 per cent of the GDP of an economy. As such, governments are expected to conduct procurement following high standards that ensure open competition, transparency and the integrity of the process. Government procurement can also serve as an instrument for internal policy reform with a view to improving good governance in the procurement system.

The Legal Transition Programme (LTP) of the European Bank for Reconstruction and Development (EBRD) focuses on the development of legal rules and the establishment of legal institutions that create a transparent and predictable investment climate in the economies the Bank operates. A key focus of the LTP activities is helping governments improve the way they manage public contracting, making procurement systems more transparent, efficient and competitive so that taxpayers get better value for money. The fundamental aim of the

GPA is to mutually open government procurement markets among its Parties, while ensuring open, fair and transparent conditions of competition.

The renegotiation and subsequent adoption of the revised text of the GPA in 2012 motivated a gradual broadening of its membership as a number of governments considered accession to the Agreement as a step in their internal reform process. As such, the growing interest in GPA accession in the EBRD's economies of operation demanded a more structured and ongoing cooperation

between the EBRD and the WTO Secretariat.

The EBRD GPA TC Facility provides significant support to governments seeking accession to the agreement by providing (1) capacity building activities, (2) country-specific technical cooperation projects and (3) accession negotiation assistance to countries wishing to accede to the Agreement. Moreover, the Facility supports governments in overcoming any institutional, legal and/or trade challenges related to GPA accession they may face.

What is the GPA?

The GPA is a plurilateral agreement within the framework of the WTO, meaning that not all WTO members are Parties to the Agreement, only those who have voluntarily decided to become one. In March 2012, the GPA Parties completed a comprehensive revision of the Agreement, encompassing both its text and coverage (market access commitments). The Agreement establishes rules requiring that open, fair and transparent conditions of competition be ensured in government procurement. However, these rules do not automatically apply to all procurement activities of each Party. Rather, the coverage schedules play a critical role in determining whether a procurement activity is covered by the Agreement or not. Only those procurement activities that are carried out by covered entities purchasing listed goods, services or construction services of a value exceeding specified threshold values are covered by the Agreement. As a binding international treaty, the GPA is administered by the Committee on Government Procurement which is composed of representatives of all its Parties.

Access the text of the revised **GPA** and WTO related legal instruments and e-GPA market access **portal**.

Why join the GPA?

The GPA's successful renegotiation, the continuing growth of its membership and its role as an instrument of good governance has attracted a wide range of economies looking to become Parties to the Agreement, or an Observer, at a minimum.

The GPA is, first and foremost, a trade instrument designed to open government procurement markets among its Parties, around the same core principles of non-discrimination and transparency that underlie all WTO Agreements. Additionally, the GPA is widely regarded as a modern instrument embracing and

incentivising the use of best practices in government procurement internationally. As such, the Agreement has gained an important role in guiding policy reforms, particularly in transition economies. The revised GPA text crystallises current best practices in government procurement agreed upon by and acceptable to all GPA Parties and is harmonised with other applicable international instruments, including the latest EU directives on public procurement and the UNCITRAL Model Law on Public Procurement. It therefore complements other efforts by some developing economies to reform their procurement systems.





Building on success

Out of the six countries that have become GPA Parties in the last decade, three gained accession with assistance from the EBRD: Montenegro in 2015, and Moldova and Ukraine in 2016. In addition, Armenia ratified the revised agreement in 2016 with support from the Bank. Currently, the EBRD GPA TC Facility is supporting the governments of North Macedonia, the Kyrgyz Republic and Tajikistan in preparing, negotiating and submitting to the Government Procurement Committee an accession offer acceptable to all GPA Parties.

The EBRD, in cooperation with the WTO Secretariat, develops country-specific technical cooperation projects, upon request of the interested governments, in alignment with the GPA standards. Separately, the Bank's experts provide non-binding legal assessments, including advice on compliance of the national procurement legislation with the GPA mandatory requirements as well as assistance with regulatory capacity building. The Bank has also helped countries negotiate the terms of their GPA accession by identifying acceptable market access coverage offers,

determining procurement activities and/or entities to be covered by the Agreement and the possibility of implementing special and differential treatment provisions (S&D) available to developing and least developed economies acceding to the GPA, subject to negotiations with the GPA Parties.

The EBRD GPA TC Facility is available to all economies in the Bank's region of operation, wishing to join the GPA. The Bank has and/or is currently assisting Azerbaijan, Belarus, North Macedonia, Georgia, Jordan, Kazakhstan, the Kyrgyz

Republic, Tajikistan and Turkey with their observers or accession requests and corresponding negotiations as per the status of each economy. The Facility continues its operation in over ten countries and is expanding its geographical reach. In addition to the work under the Facility, the EBRD helps governments update their procurement legislation in line with the Model Law on Public Procurement of the United Nations Commission on International Trade Law (UNCITRAL), designed to be consistent with the GPA.

How to become a GPA Party

All WTO members are eligible to accede to the GPA. Countries must submit an application for accession and later conduct accession negotiations with Parties of the GPA considering the following aspects: consensus between the GPA Parties and the acceding country on the extent and modalities of the proposed market access coverage offer and compliance of the procurement legislation of the acceding country with the GPA's mandatory requirements.

Besides providing its initial market access offer, in order to facilitate consultations relating to accession, negotiating economies also provide a description of the government's procurement regime by replying to a standardised checklist of issues.

Market access negotiations and discussions on possible necessary amendments of the procurement legislation and/or institutional system of an acceding country may be conducted in parallel in order to save time and decrease overall time of negotiations. Additionally, in line with Article V of the GPA, special and differential treatment for developing economies can be negotiated by developing and least developed economies. These options are subject to the agreement of the other GPA Parties and the acceding WTO member's development needs.

Once the terms of accession have been agreed between the GPA Parties and the acceding WTO Member, the Committee on Government Procurement adopts a

decision inviting the member to accede to the GPA. The decision specifies the agreed terms and provides a timeframe – typically, three to six months – for the acceding member to deposit its instrument of accession with the WTO Director-General.



How to become an observer to the Committee on Government Procurement?

According to Article XXI of the revised GPA, any WTO Member that is not a Party to the Agreement may be accorded observer status by the Committee by submitting a written notice addressed to the Chairman of the Committee. WTO Observers may also submit a written request to the Committee to participate in an observer capacity. The Committee shall decide on the conditions of observership, including with respect to the provision of information by Observers.

The Observer status in the Committee on Government Procurement provides an opportunity for the observer to participate in the Committee's discussions, gain access to circulated documents, and become acquainted with the operation and administration of the Agreement, without undertaking any obligations with regard to accession to the GPA. Though observers may participate in the Committee, however, decisions shall be taken only by Parties. International organisations may also participate in the Committee meetings as observers.



About the EBRD

The European Bank for Reconstruction and Development is an international financial institution that promotes transition to a well-functioning market economy. The Bank, active in 38 economies across three continents – from the Southern and Eastern Mediterranean, to Central and Eastern Europe, to Central Asia – helps economies develop commercial laws and institutions that create a sound investment climate and promote sustainable economic growth.

More information can be found at www.ebrd.com



About the WTO

The World Trade Organization is an intergovernmental organization whose primary purpose is to open trade, ensuring that it flows as smoothly, predictably and freely as possible. It acts as a forum for its Member governments to negotiate trade agreements while operating a system of trade rules. At its core are the WTO agreements, negotiated and signed by the bulk of the world's trading nations. These agreements provide the legal ground rules for international commerce.

More information can be found at www.wto.org



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