



# ANALYSIS OF STATE PROCUREMENT OF SOCIAL SERVICES IN THE KYRGYZ REPUBLIC AND RECOMMENDATIONS FOR ITS IMPROVEMENT

**Bishkek 2013**

This analysis was made possible by the support of the American people through the United States Agency for International Development (USAID). The contents are the sole responsibility of the International Center for Not-for-Profit Law and do not necessarily reflect the views of USAID or the United States Government.

# Analysis of State Procurement of Social Services in the Kyrgyz Republic and Recommendations for its Improvement

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## Acronyms

|          |  |
|----------|--|
| ADS      | Automated Directives Systems   |
| APPR     | Annual professional performance reviews                                    |
| CDS      | City Department of Social Development                                      |
| CDS      | City Department of Social Development                                      |
| CDS      | City Department of Social Protection                                       |
| CDS      | City Department of Social Protection                                       |
| CFR      | Code of Federal Regulations  |
| CSO      | Civil society organization   |
| DAB      | Departmental Appeals Board of the Department of Health and Human Services  |
| DB       | Database   |
| DDSD     | District Department of Social Development                                  |
| DDSP     | District Department of Social Protection                                   |
| DED      | District Education Department  |
| DPD      | District Police Department   |
| ECHR     | European Court of Human Rights   |
| ECPHRFF  | European Convention on Protection of Human Rights and Fundamental Freedoms |
| EIC      | Environmental Investment Center  |
| EKAK     | Estonian Civil Society Development Concept                                 |
| EKO      | Estonian Council of Environmental NGOs                                     |
| FMC      | Family Medicine Center   |
| GFP      | Group of Family Physicians   |
| HHS      | Department of Health and Human Services                                    |
| HIV/AIDS | Human Immunodeficiency Virus   |
| ICNL     | International Center for Not-for-Profit Law                                |
| IO       | International organizations  |
| JK KR    | Jogorku Kenesh of the Kyrgyz Republic                                      |

|        |  |
|--------|--|
| LSG    | Local Self-Government  |
| MLMY   | Ministry of Labor, Migration and Youth of the Kyrgyz Republic  |
| MSD    | Ministry of Social Development of the Kyrgyz Republic  |
| NCO    | Noncommercial organizations  |
| NENO   | Network of Estonian Nongovernmental Organizations  |
| NFCS   | The National Foundation for Civil Society  |
| NGO    | Nongovernmental organizations  |
| OTRK   | Public Television and Radio Company  |
| SDSP   | Strategy for Development of Social Protection of the population of the Kyrgyz Republic for 2012-2014 |
| SED    | Commissioner of the State Education Department   |
| SF     | Social Fund of the Kyrgyz Republic   |
| SPSS   | State Procurement of Social Services   |
| UNICEF | United Nations International Children's Emergency Fund   |
| USAID  | United States Agency for International Development   |
| VA     | Village Administration   |

## Introduction

In 2008, the Law of the Kyrgyz Republic on State Procurement of Social Services (hereinafter – the Law on SPSS) was enacted to create the legal framework for the delivery of social services to the population by noncommercial organizations (NCOs) using grants provided by the state budget.

In the five years since the adoption of the Law on SPSS, this mechanism has been utilized only by the Ministry of Social Development of the Kyrgyz Republic (hereinafter – the MSD). This suggests that at the moment the mechanism of state procurement of social services (SPSS) is not yet fully operational in the Kyrgyz Republic. Given that NCOs in the Kyrgyz Republic are strategic partners of the state in dealing with social problems faced by the state, the development of SPSS is one of the priority areas for improvement of providing social services to the population. The authors hope that this analysis of legislation and practice of SPSS and recommendations on further improvement of SPSS will contribute to productive reforms.

The present analysis was prepared by the International Center for Not-for-Profit Law (ICNL) within the framework of Collaborative Governance Program, funded by the U.S. Agency for International Development (USAID).

This analysis includes the findings of study of legislation and practice on SPSS in the Kyrgyz Republic, positive foreign experience in this area, as well as recommendations for improving the SPSS system in the Kyrgyz Republic. ICNL's experts from Kyrgyzstan, Bulgaria, the United States, and Azerbaijan contributed to the analysis.

The analysis consists of 11 chapters divided into 3 parts.

Part I of the analysis describes SPSS legislation in the Kyrgyz Republic and the implementation practices of the SPSS in the five years since enactment of the Law on SPSS, including successes and failures.

In particular, in Chapter 1, there is an analysis of the national strategy and policy for development of the social protection of the population and an examination of the key trends and elements of the reform in the sphere of social protection of the population, in which SPSS is regarded as one of the priority areas.

In Chapter 2 analyzes the current legislation in the Kyrgyz Republic governing SPSS issues. In particular, it discusses the concept of SPSS and how it differs from state procurement; provides a complete overview of SPSS legislation, including the main provisions of the Law on SPSS, the bylaws and others; considers the state budget planning procedures to finance social projects; and analyzes problems regarding SPSS implementation by local self-governments (LSG).

Chapter 3 discusses the role of SPSS in the general system of state and municipal services to the population.

Chapter 4 combines two studies:

- 1) The study on "Improving the system of state procurement of social services," conducted in 2012 by UNICEF; and
- 2) Study of the practices implementing legislation on the state procurement of social services, conducted in 2013 within the framework of the Collaborative Governance Program, financed by USAID.

During the study, the authors interviewed state bodies, LSG bodies, and international organizations that have knowledge of SPSS practices, as well as NCOs with experience in the implementation of SPSS and NCOs who participated and did not participate in SPSS competitions in order to determine their opinions on some problematic issues of SPSS.

Part II of the analysis describes foreign experience of SPSS and the provision of state grants for financing public benefit projects. In particular, there is an overview of the legislation and the implementation practices of SPSS in Bulgaria, Netherlands, Estonia, the USA, as well as an overview of the legislation and experience of provision of state grants in the USA, Azerbaijan and Estonia.

Part III of the analysis covers the shortcomings of SPSS system in the Kyrgyz Republic as identified in the course of study and contains practical recommendations to improve the SPSS system in the Kyrgyz Republic.

The analysis is important because it informs society about SPSS in the Kyrgyz Republic, and thus promotes the involvement of specialists and stakeholders into the process of reforming SPSS. Moreover, conclusions and recommendations stated in the analysis will be useful in further improvement of legislation and practice on SPSS in the Kyrgyz Republic.

# Part I.

## Experience of the Kyrgyz Republic in state procurement of social services

### Chapter 1. The Strategy for development of social protection of the population of the Kyrgyz Republic for period 2012 – 2014

#### 1.1 Social policy of the Kyrgyz Republic

As a sovereign, democratic, and welfare state, the Kyrgyz Republic seeks to use its state social policy to create effective mechanisms in order to meet the vital needs of its people and to improve living conditions and quality of life. Article 9 of the Constitution states that the Kyrgyz Republic seeks to: develop social programs aimed at creating decent living conditions and the free development of personality, provide support to socially vulnerable groups of citizens, and develop social services.<sup>1</sup>

*Social policy* may be defined as a state activity to address social issues and to spur social development aimed at improving public welfare and the population's quality and standard of living. The main objective of social policy, in terms of the market economy, is to create the conditions that will allow every citizen to work and to ensure their own welfare by increasing targeted social support from the state to the vulnerable groups within the population.

The social sphere is the main priority for public policy in the Kyrgyz Republic; more than half of the state budget is directed to its needs. In 2014, the state plans to spend 59,565 million KG Soms for social and cultural sphere (education, health, social protection, housing and utilities, recreation, cultural and religious activities, protection of the environment), which will be 53.7% of the total expenditures of the republican budget (this figure does not include local level funding).<sup>2</sup>

In the more than 20 years of independence, Kyrgyzstan has failed to develop an effective social policy based on the active participation of the business community and civil society. As observed in recent years, the political instability and fluctuation in society is due, to a great extent, to the inefficiency of the existing social policies. Insufficient levels of budget support for the social sphere means that the state cannot adequately ensure social protection even for the most vulnerable groups of population.

Today, along with the search for political solutions, the new model of public administration, and developing and strengthening the country's economy, the issue of adequate social policies remains a mission-critical. Without this, it is difficult to imagine the further development of the country.

Prospects for the development of state social policy of the Kyrgyz Republic are reflected in the relevant program and forecasting documents. In January 2013, the Decree of the President of the Kyrgyz Republic approved the "National Strategy for Sustainable Development of the Kyrgyz Republic for the period 2013-2017" (hereinafter - the Strategy).<sup>3</sup> One of the goals of the Strategy is the restoration of public trust in government institutions, as well as improving its credibility among the population through the development of partnership programs between government and civil society institutions. State bodies and LSG bodies should carry out their activities under the close supervision of civil society. To develop these partnerships and ensure communication and

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<sup>1</sup> "Constitution of Kyrgyz Republic", adopted in referendum (nationwide vote) on July 27, 2010.

<sup>2</sup> The draft law of the Kyrgyz Republic On Republican Budget of the Kyrgyz Republic for 2014 and plans for 2015-2016.

<sup>3</sup> National Strategy for Sustainable Development of the Kyrgyz Republic for the period 2013-2017, approved by the Decree of the President of the Kyrgyz Republic as of January 21, 2013 #11.

feedback, the state should introduce methods of citizen participation in the evaluation of the quality of public and municipal services by using the best international and national practices.

According to the Strategy, delivery of municipal services is one of the most important tasks that need to be addressed on the way toward formation of a state that adheres to the rule of law. To optimize municipal services, the state should seek to establish a unified registry of municipal services as well as standards for service delivery and regulations for their provision, as well as allowing NCOs and the business sector to provide some of the social services.

## **1.2 The main provisions of the Strategy for development of social protection of the population and the role of NCOs in its implementation**

The Universal Declaration of Human Rights proclaimed that every person has: (1) the right to a standard of living, including food, clothing, housing and medical care and necessary social services, which are essential for the health and well-being of himself and of his family, and (2) the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood for reasons beyond his control.<sup>4</sup> Accordingly, creation of reliable *system of social protection of the population*, capable of providing assistance to citizens during difficult economic times, should be the obligation of any state joining the Universal Declaration of Human Rights.

The Law “On the basis of social services to the population in the Kyrgyz Republic” stipulates that the provision of social services to the population is carried out in accordance with the normative legal acts that establish requirements for the scope and quality of social services and the procedure and conditions of their provision. The state also guarantees every citizen of the Kyrgyz Republic the right to basic types of social services within the public system of social services.<sup>5</sup> The social protection system includes a range of activities on identification, study, and prevention of social problems and the provision of various social services to senior citizens, people with disabilities, children and low-income families.

To date, the existing system of social protection in the Kyrgyz Republic consists of service providers who provide in-kind services for certain categories of the population and certain types of social services to vulnerable groups of populations in exchange for social benefits and financial compensation.

Unfortunately, the current system of social protection and social guarantees in the Kyrgyz Republic does not solve all existing social problems; it is not flexible enough and needs transformation. The modern socio-economic situation necessitates a more efficient social policy that focuses on the most pressing social problems and develops new and more effective mechanisms for implementing social policies that ensure, along with the high quality of social services to population, rational use of state financial and material resources.

The state’s comprehensive vision of the future of the system of social protection of the population is reflected in the *Strategy for Development of Social Protection of the population of the Kyrgyz Republic for 2012-2014* (hereinafter – SDSP).<sup>6</sup> This strategic document is critical to building an effective and fair system of social protection in the country.

The SDSP notes that the state recognizes human right to social security as one of the highest values and will implement policies to establish social justice in the society. For this purpose, the state will implement programs to support socially vulnerable groups of population. SDSP says that

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<sup>4</sup> Article 25 of the Universal Declaration of Human Rights adopted by the Resolution 217 A (III) of United Nations General Assembly on 10 December 1948.

<sup>5</sup> The Law of the Kyrgyz Republic “On the basis of social services to the population in the Kyrgyz Republic” as of December 19, 2001 #111.

<sup>6</sup> Strategy for Development of Social Protection of the population of the Kyrgyz Republic for 2012-2014, approved by the resolution of the Prime Minister’s office of the Kyrgyz Republic as of December 2011 #755.

the state prioritizes the social protection of the population and ensures certain level of material well-being for citizens and the development of social cohesion and solidarity in the society. It visualizes a future in which every person in need is covered by the social protection system. According to SDSP, the primary mission of the state, represented by the authorized state body in the sphere of social protection, is to provide effective social protection and the provision of affordable and quality social services to families (citizens) and children in difficult situations.

One of the most important prerequisites for the successful implementation of the reforms is to improve the legislation in the field of social protection, as well as the mechanisms of interaction between state bodies, LSG bodies and NCOs in the implementation of SDSP. Developing the capacity of civil society to provide social services and participate in the monitoring of the sector. One way to do this is to use the lessons provided international experience to develop innovative approaches in the field of social protection. The civil society can participate in the improvement of legislation in the field of social protection by introducing citizen initiatives directly through ongoing collaboration with government agencies, involvement in the development of draft normative legal acts on social protection, conducting research related to using a scientific approach to the preparation of programs and projects, and independent monitoring and control of effectiveness of SDSP implementation.

The law permits NCO's to provide social services, however, it is difficult to assess the effectiveness and quality of these services. There are no minimum social standards in the country, mechanisms of accreditation are not developed, and cost value of social services is not defined. In this regard, the state plans to introduce a system of monitoring and control through accreditation and licensing of NCOs that provide social services.

Accountability, transparency of activities of governmental and municipal agencies which provide these services, i.e. good governance in the area of social service delivery play an important role in the reform of social services.

To ensure transparency in the system of social protection and the reduction of corruption in the administration of public finances, the state plans to:

- conduct an analysis of work processes in the social sector to identify areas of corruption;
- improve the internal system of evaluation and monitoring of effectiveness of the social protection system;
- streamline inspections carried out in the system of social protection by regulatory and fiscal authorities;
- rotate (move) workers within the social protection system;
- introduce a system of professional development for staff involved in the social protection system;
- implement and integrate informational databases of state agencies, LSG bodies and NCOs that provide services to the public;
- publish report on implementation of budgets of all levels, as well as audit reports;
- hold regular public hearings for formation of program budgets and effectiveness of their usage at all levels; and
- regularly cover of issues of services provided by state bodies and anti-corruption measures (benches, helpline) in media.

SDSP implementation will make possible creation of a comprehensive system of social protection by:

- improving the regulatory framework;
- launching system of social support for children in difficult situations;
- integrating people with disabilities into society;

- creating conditions for socialization and integration of senior citizens into society;
- strengthening the targeting of and access to social assistance to other vulnerable categories of citizens; and
- improving the system of informing the public.

SDSP will be carried out in accordance with the approved action plan for its implementation. Also, there has been developed a system of indicators for monitoring and evaluation of progress in implementing SDSP. Representatives of civil society will take an active part in monitoring process.

At the end of implementation of the SDSP, there will be held the final assessment of the SDSP, the results of which are expected to identify further areas for improvement of social protection system along with the construction of a conceptual vision of the social security system for a longer period.

### **1.3 SPSS as one of the priorities in reforming social policy**

One of the priorities of the state in implementation of the SPSS is development of alternative systems of social services and creation of conditions for emergence of network of nongovernmental institutions providing such services. The collaboration of state agencies with nongovernmental sector in the provision of social services is a new and promising direction which should be further developed as one of the tools.

Increased choice of citizens and diversification of social services on the basis of active involvement of NCOs is an important task in reforming the social protection system of the Kyrgyz Republic. Development of the SPSS mechanism will undoubtedly enhance the capacity of NCOs and ensure their close collaboration and cooperation with state bodies and LSG bodies.

With the adoption of the Law on SPSS, the mechanism for state social procurement was created for the provision of social services to the population on the basis of constructive citizen initiatives. The state's role is to determine the priorities of social policy, identify the social programs that will be implemented through the SPSS mechanism and determine a competitive process through which funding will be distributed NCOs and a system to monitor the quality and success of SPSS projects. When the SPSS mechanism is fully operational, some of the functions of the state in the social sphere will be transferred to "the third sector" (NCO sector), which will reduce administrative costs and allow for a more economical use of resources. Efficiency, as confirmed by many years of experience in using SPSS in the developed countries, is the main argument for promoting widespread implementation of SPSS mechanism.

In addition to the efficiency argument, there are other arguments for including NCOs in the provision of social services to NCOs. NCOs are able to better serve the public than government agencies, as they are more responsive to emerging issues in the community. NCOs are adept at attracting additional resources for social projects which leverages the impact of the public funds and magnifies the reach of the project. Also, because of their connections to the public, NCOs can better detect the presence of real social problems than government agencies.

The usage of SPSS can be considered part of the modernization of the system of social services in order to support the most vulnerable groups of population. SPSS as a public-private partnership demonstrates the commitment of the Government of the Kyrgyz Republic to the creation of an open market for the provision of services to citizens in need.<sup>7</sup>

SDSP emphasizes the need to increase the responsibility of local state administrations and LSGs for development of social services in their territories, and it also encourages LSG bodies to annually allocate funds for SPSS programs (projects) in the local budget. For examples, as one of the tasks for development of social protection, SDSP envisages the "necessity to develop mechanisms for

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<sup>7</sup> State informative agency Kabar: [www.kabar.kg](http://www.kabar.kg), August 20, 2013.

delegation of provision of some services to elderly people to civil sector through SPSS system.”<sup>8</sup> LSG bodies should be interested in using this mechanism because they have the best knowledge of local problems and can develop real social programs that correspond to the social orders will be placed among NCOs.

## Chapter 2. The state procurement of social services

### 2.1 The definition of SPSS and how it is different from state procurement

#### *The state procurement of social services*

**SPSS** is a form of implementing social programs (projects) and individual measures to address socio-economic tasks and the provision of services at the expense of the state budget. The Law on SPSS regulates general principles, legal and organizational basis for the determination, distribution and implementation of social programs. The law is aimed at improving efficiency in the use of state budget funds allocated to address socio-economic problems and improving the quality of social services to the population.

The objectives of SPSS are to:

- Solve significant social problems that are not covered or insufficiently covered by state bodies;
- Attract additional human, material and financial resources from nongovernmental sources into the social sector;
- Increase the responsibility of the social service provider;
- Ensure the appropriate disbursement of allocated funds;
- Better target social protection measures;
- Create a legal mechanism for the efficient and continuous provision of social services to the population;
- Promote competition between providers of the social services and the quality of social services;
- Use state funds efficiently; and
- Create a market for the provision of social services.

SPSS is a new approach for the solution of social problems in the country. Previously, the state was only able to approach social problems in the traditional way, through the creation of a state institutions (with staff, premises, ongoing funding from the state budget, etc.). Since the introduction of SPSS mechanism, the state has the ability to solve social problems in an alternative way - without creating permanent institutions - through the provision of grants on a competitive basis to NCOs. Within SPSS framework, the state determines the most pressing social problems for the population, allocates funds to develop solutions to these problems and announces competition among NCOs, which, in turn, develop their project proposals to address these social problems and submit them to the Competition Commission. In determining the winners, the decisive factors include the effectiveness of the proposed methods for achieving the objectives of the competition program and the ability of NCOs to implement the projects they propose. The competition commission considers the proposals received and determines the winners of the competition. Then the state body concludes contracts with the winner to implement social projects. The contract describes the terms of the project which shall be implemented by NCO and terms of financing of the project by the state body. In order to ensure that the relationship between the parties remains a partnership, the terms of the contract on social services procurement are discussed by both parties

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<sup>8</sup> Item 45 of SDSP.

and not imposed upon the competition winner without its consent.<sup>9</sup> State social services procurement is also one of the new mechanisms of mutually beneficial cooperation between government agencies and civil society organizations for public benefit.

### *State Procurement*

**State procurement** is the purchase by the procuring organization of goods, works and services, using methods established in the Law of the Kyrgyz Republic on State Procurement, funded in whole or in part by state funds.<sup>10</sup>

The Law of the Kyrgyz Republic on State Procurement, adopted on May 24, 2004 #69 (hereinafter - the Law on State Procurement), sets the general legal, economic and technical principles of procurement of goods, works and services by state authorities, LSG bodies, state and municipal institutions and enterprises, state services, and foundations, as well as joint-stock companies, which have state or municipal share.

The objectives of the Law on State Procurement are:

- ensuring maximum economy and efficiency of procurement;
- extension of participation and encouraging competition between suppliers (contractors) in the procurement process;
- ensuring equitable treatment for all suppliers (contractors); and
- ensuring transparency of procurement procedures.

In state procurement, the procuring organization already knows the name, quantity, and other characteristics of what it wants to buy and announces a tender (competition) among suppliers and contractors. Providers offer a certain price and quality of goods, works and services. In determining the winner of the tender the main criteria is ratio between price and quality of goods, works and services.

### *Differences of SPSS from the "state procurement"*

There are a lot of differences between state procurement and SPSS. Below are the most significant differences.

- **Differences in the subject procurement.** State procurement focuses on the purchase of goods, works and services for any needs of the procuring entity, regardless of their nature. The SPSS focuses on social services in the areas listed in Article 5 of the Law on SPSS.
- **Differences in the method of procurement.** During the state procurement process, the procuring entity knows in advance what it wants to buy. In SPSS, the state or municipal body knows only goals that it wants to achieve, but it is the NCO-contestants that suggest the methods to achieve the goals.
- **Differences in the method for determining the winners of competitions/tenders.** In state procurement, the main criterion for determining the winner of the tender is the ratio between price and quality of offered goods, works and services. In SPSS, the decisive factors in determining the winners are the effectiveness of the proposed activities to achieve the objectives of the competition

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<sup>9</sup> Article 14 of the Law on SPSS.

<sup>10</sup> Article 1 of the Law of the Kyrgyz Republic on State Procurement as of May 24, 2004 #69.

program and the ability of NCOs to implement the proposed project, among other factors.

## 2.2 Overview of legislation on SPSS

### *Legal framework for SPSS*

SPSS is regulated by the following normative legal acts:

- 1) The Law on SPSS;
- 2) Regulation on the procedure for conducting competition for social programs (projects), approved by the Resolution of the Government of the Kyrgyz Republic as of January 24, 2009 #41;
- 3) Methodological guidelines for organization and conduct of the competition of social projects" approved by the order of the Ministry of Social Development of the Kyrgyz Republic as of October 13, 2011 #175;
- 4) Instructions for monitoring the quality of social services provided by NCOs in framework of state procurement of social services, approved by the order of the Ministry of Social Development of the Kyrgyz Republic as of July 29, 2009 #98; and
- 5) Order of the Ministry of Social Development as of June 30, 2011 #127 on Approval of the Contract for Implementation of the State Procurement of Social Services.

In addition, there are a number of legal documents, substantially related to the state social services procurement:

- 1) Law of the Kyrgyz Republic "On the basis of social services in the Kyrgyz Republic" as of 19.12.2001 #111;
- 2) Law of the Kyrgyz Republic "On the guaranteed minimum state social standards" as of 26.05.2009 #170;
- 3) A list of guaranteed social services to the population of the Kyrgyz Republic (approved by the Government of the Kyrgyz Republic as of 27.05. 2011 #255);
- 4) Strategy for the development of social protection of the population of the Kyrgyz Republic for 2012-2014 (approved by the Prime Minister's office of the Kyrgyz Republic as of 13.12. 2011 #755); and
- 5) Regulation on the assessment of needs of the population in social services at the local level (approved by the Government of the Kyrgyz Republic as of 2.08. 2012 #535).

### *The main provisions of the Law on SPSS*

The Law on SPSS regulates the general principles and the legal and organizational basis for the formation, distribution and execution of SPSS to implement social programs. It aims to improve the use of state budget funds allocated to address socio-economic problems and improve the quality of social services to the population.

Article 5 of the Law on SPSS provides at least 14 areas for the implementation of SPSS:

- 1) achieving goals in education, science, information, physical culture and sports;
- 2) protection of public health, the promotion of healthy lifestyles;
- 3) protection of the environment;
- 4) support for youth policy and children's initiatives;
- 5) solution to the problems of demography;
- 6) gender issues;

- 7) support for socially vulnerable segments of the population;
- 8) support to orphans and children from single-parent families and large families;
- 9) promotion of employment of citizens;
- 10) protection of the rights and interests of citizens and organizations;
- 11) development of culture and art;
- 12) protection of historical and cultural heritage;
- 13) strengthening of social cohesion; and
- 14) other socially important areas that do not contradict the legislation of the Kyrgyz Republic.

Funding for social programs (projects) implemented under SPSS comes from the republican and local budgets of the Kyrgyz Republic in the form of grants.

According to the Law on SPSS, there shall be provided sums for funding programs (projects) through the SPSS mechanism on an annual basis in the state budget of the Kyrgyz Republic. LSG bodies have right to annually fund SPSS projects from local budgets.

SPSS distribution is conducted in the form of open public competitions. The procedure of competition is determined by the Regulation approved by the Government of the Kyrgyz Republic. To organize and conduct the competition for social projects, a Competition Commission is created and its composition is approved by state body or LSG body that implements the appropriate social program. The Competition Commission shall consist of representatives of the state or LSG body and independent external experts. Independent external experts should compose at least 50 percent of the total number of members of the Competition Commission. Independent external experts are proposed by NCOs.

Participants of the competition must be NCOs that operate in the areas referred to in Article 5 of the Law on SPSS and have at least one year of experience in the area declared by the competitive program.

Participants of the competition submit to the Competition Commission their project proposals in which they describe how they plan to achieve the declared objectives of the competition program and provide a draft budget for the proposed project. The Competition Commission evaluates the project proposals and determines the winners.

The state or LSG body concludes with the winners of the competition a contract for implementing the social project and, in accordance with the terms of the contract, transfers funding to the NCO in the form of a grant. Under the contract, the NCO implements the social project by providing services to groups of people specified in the contract. NCOs submit reports on the implementation of social projects to state or LSG body in the manner prescribed in the contract.

#### *Bylaws on SPSS*

There are a number of bylaws adopted on the basis of the Law on SPSS that clarify certain provisions of SPSS.

**"Regulation on the procedure for conducting of competition for social programs (projects),"** approved by the resolution of the Government of the Kyrgyz Republic as of January 24, 2009 #41, designed in accordance with Articles 9 and 19 of the Law on SPSS, determines the procedure for conducting the competition for social projects by the state and LSG bodies. It regulates relations arising from the formation, distribution and implementation of SPSS. It spells out the procedure for forming the Competition Commission, the requirements for participants of the competition, the necessary documents to participate in the competition, procedures for admission and registration of

project proposals, the evaluation method for the project proposals, as well as issues of financing and monitoring of the implementation of social projects. The Regulation is the second normative legal act in order of importance after the Law on SPSS.

**“Methodological guidelines for the organization and conduct of the competition of social projects”** approved by the order Ministry of Social Development of the Kyrgyz Republic as of October 13, 2011 #175, are designed to facilitate the work of the members of the Competition Commission and the Ministry of Social Development in assessing applications and provide a detailed description of roles and responsibilities of the Competition Commission members and employees of the Ministry.

**“Instructions for monitoring the quality of social services provided by NCOs in framework of the state procurement of social services,”** approved by the order of Ministry of Social Development of the Kyrgyz Republic as of July 29, 2009 #98, defines the procedure for monitoring the quality of social services provided by NCOs within the SPSS framework. Monitoring is conducted to obtain information and subsequently evaluate the effectiveness of implementation of the social programs (projects). The Instructions describe in detail process of monitoring by the evaluator and contains a questionnaire to recipients of social services and employees of the NCO that is providing social services.

**Order of the Ministry of Social Development as of June 30, 2011 #127 “On approval of the Contract for implementation of the state procurement of social services.”** This order approves a sample contract for SPSS implementation. The sample contains the rights and obligations of the project implementer and the state body that is subject to the contract, the terms and the order of transfer of funds, provisions for reporting and monitoring, provisions on liabilities of the parties, terms of validity of the agreement and ways of resolving disputes. In addition, the contract contains the following annexes: 1) Plan for implementation of SPSS by the project implementer, 2) Estimated cost for the project, and 3) Justification of the cost estimates for the project, 4) Schedule of financing and 5) Quarterly report, a template on the implementation of the project.

### 2.3 State budget and planning SPSS

One of the most important issues related to the provision of social services is their funding. The main questions are - who pays for the provision of social services, from what sources, and what is the mechanism of such financing. Additionally, successful implementation of state policy largely depends on the effective operation of the budget system, which in turn indicates the integrity of the state and the stability of the state of society.

The basic legal act governing the formation and execution of budgets of all levels is the Law on Basic Principles of Budget Law of the Kyrgyz Republic.<sup>11</sup> This Law defines the basic principles and procedures for formation and execution of the republican and local budgets, the composition of the budget system and the independence of the budgets at all levels. It determines the budget process and the sequence of its steps, the powers and functions of the participants at each stage of the formation and the execution of budgets of all levels.

The budget system of the Kyrgyz Republic consists of the republican and local budgets.

The republican budget is the budget of the central authorities, that is, the Prime Minister’s office, and local budgets are the budgets of local communities. The republican budget and local budgets are drawn and approved for a period of three years - the next fiscal year and projected two subsequent years.

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<sup>11</sup> *Law on Basic Principles of Budget Law of the Kyrgyz Republic as of June 11, 1998 #78.*

The republican budget is developed by the Government and approved by the Jogorku Kenesh of the Kyrgyz Republic (Parliament). After approval by Parliament and signing by the President, the republican budget becomes a compulsory law. The republican budget finances expenditures for the maintenance of the central authorities.

Local budgets are one of the components of the budget system of Kyrgyzstan and are the most effective instrument for implementing social and economic policies through local authorities. The Law on Financial and Economic Principles of Local Self-Governance" defines: "local budget - the budget of the local community village, town, city, county, approval and execution of which is carried out by LSG bodies".<sup>12</sup>

Budget management is carried out in accordance with established procedures, which are called the budget process. It includes the development (drafting), review, approval, execution of budgets and control over their execution.

Article 8 of the Law on SPSS determines that the funding of programs (projects) implemented under SPSS is conducted at the expense of the republican and local budgets of the Kyrgyz Republic in the form of provision of grants.

The Law on SPSS states that the republican budget of the Kyrgyz Republic shall annually envisage funding for programs (projects) on SPSS. Taking advantage of this provision, the ministries involved in social issues should plan for such programs (which will be funded through the SPSS mechanism), make timely request for funds from the state budget in the prescribed manner, justify to the Government the need for these social programs, and strive to make available funding from the budget. Unfortunately, at present, only the Ministry of Social Development of the Kyrgyz Republic (the MSD) receives funding for social programs through the SPSS mechanism. In order to maximize public welfare, the Ministry of Education and Science, the Ministry of Health, the Ministry of Culture and other ministries and departments of the Kyrgyz Republic should introduce SPSS into their activities as an effective mechanism for achieving public benefit goals through implementing social projects.

LSG bodies also have the right to envisage funds for funding SPSS programs (projects) in local budget.

The purpose of the policy of public spending in years 2014-2016, in accordance with the Budget resolution of the Kyrgyz Republic for 2014 and forecast for 2015-2016, will be to maintain the social orientation of public spending, along with the reduction of inefficient and non-priority spending. According to the mid-term budget for 2014-2016, the share of social sector occupies more than 50 percent of the total expenses of the state budget. Annual increase in social sector expenditure (annual average) is expected: in health care - 108.5%, in education - 112.6%, in social protection - 108.3%, in culture - 112.3%.

The draft state budget for 2014 also provides 8 million KG Soms in funding for procurement of social services under the framework of the Law on SPSS. Unfortunately, it is more than 5 million KG Soms less than in 2013.<sup>13</sup> In 2014, SPSS will be implemented in four areas: addressing the issues of children, people with disabilities, senior citizens and at-risk groups in difficult life situations.

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<sup>12</sup> *The Law on Financial and Economic Principles of Local Self-governance as of 25.09. 2003 #215.*

<sup>13</sup> *In 2013, 13,9 mln. KG Soms were allocated for SPSS.*

## **2.4 Normative legal acts regulating grants and other competitive mechanisms of state funding of programs and projects in ministries and agencies**

### Other legal acts allowing utilization of the mechanism of SPSS

In addition to the Law on SPSS, a number of other legal acts permit the use of the SPSS mechanism by various state bodies.

According to Article 3 of the Law of the Kyrgyz Republic on Basis for State Youth Policy as of July 31, 2009 #256, one of the basic principles of state youth policy is targeted financial support of youth organizations by state agencies and local governments. Part 2 of Article 13 of the Law states: "Funding for youth initiatives in the framework of the national youth policy can be implemented through SPSS in accordance with the legislation of the Kyrgyz Republic." Part 2 of Article 18 of the same Law states: "Specialized organizations carry out activities on social support, provision of domestic, medical, psychological, educational, legal services, to promote the social, psychological adjustment and social rehabilitation of young people who are in a difficult reality situation, as the results of the competition on state social procurement."

The regulations of the Ministry of Labor, Migration and Youth of the Kyrgyz Republic (MLMY), approved by the Government of the Kyrgyz Republic as of February 20, 2012 #122, relate to the functions of the Ministry and include: "attracting investments and grants for financial support for programs, projects, and the implementation of the state social procurement for the implementation of state policy in the sphere of labor, migration and youth; conducting state social procurement for procuring scientific researches and developments in the field of its activities.

The abovementioned legal acts contain direct reference to the possibility of funding youth organizations from the state budget through the SPSS mechanism to implement projects in the field of state youth policy. Unfortunately, according to the current language, the MLMY is not specifically directed to use the SPSS mechanism but instead purchases services on the basis of the Law on State Procurement.

According to Article 16 of the Law of the Kyrgyz Republic on Culture as of April 7, 2009 #119, the authorized state body in the sphere of culture has the right to place targeted creative orders (including competitive) for legal entities and individuals for creation of new works of art (theater, music, dance, visual, monumental, decorative, film, architecture, literature, concerts, etc.) and the provision of cultural services.

On May 3, 2013, "Regulations of the Ministry of Culture, Information and Tourism of the Kyrgyz Republic" #236 was approved; it reads as follows: "The Ministry formulates a targeted creative orders (including competitive) for legal entities and individuals to create new works of art (theater, music, dance, visual, monumental, crafts, film, architecture, literature, concerts, etc.) and the provision of cultural services."

In the "Code of the Kyrgyz Republic on Children," as of July 10, 2012 #100, it is also clearly stated that the SPSS mechanism can be used in the area of juvenile justice. For example, part 4 of Article 91 of the Code states that "to attract extra-budgetary funds to finance activities of the juvenile justice system, mechanisms of social contracting, government grants and grants from international and foreign organizations can be used."

"Housing Code of the Kyrgyz Republic" #117 as of July 9, 2013 also contains a reference to SPSS. Part 8 of Article 68 of the Code states: "living quarters of specialized housing fund can be created within SPSS that provides for solution of social problems, as well as attraction into social services more human, material and financial resources from nongovernmental sources. The order of placement and use of SPSS is determined by legislation."

Taking into consideration the abovementioned provisions, it is clear that Kyrgyzstan has the regulatory framework for implementation of SPSS in many ministries, agencies and LSG bodies.

Grants of the Republican Foundation for protection of environment and development of forestry

The State Agency of Environment Protection and Forestry uses another mechanism to fund activities for conservation, restoration of losses in the natural environment, preserving biodiversity and forest ecosystems, forestry development and specially protected natural areas by the Republican Fund for Nature and Forestry Development.<sup>14</sup> The Fund's budget is formed by the proceeds from investments into environmental protection measures, grants, voluntary contributions from legal entities and individuals, charges for the use of natural resources and for the emission of pollutants, funds collected for damage caused to the environment and natural resources in connection with violation of environmental legislation, and other sources which are not contrary to law.<sup>15</sup>

Environmental activities are conducted at the expenses of this Fund. The procedure for introduction and consideration of projects for financing environmental protection activities at the expense of the Fund is determined by the Instruction approved by Order of State Agency for protection of environment and forestry under the Government of the Kyrgyz Republic #01-13/307 as of October 19, 2012. Applicants may be legal entities and individuals who submitted projects on environmental measures for consideration by the Fund. Applications for project funding are considered by the Board of the Fund.<sup>16</sup>

Given that Article 5 of the Law on SPSS contains a direct reference to the use of the SPSS in the field of the environmental protection - funding for conservation, restoration of losses in the natural environment, biodiversity and forest ecosystems, forestry development and protected areas, the Fund could use the SPSS mechanism to finance project activities. The Fund would benefit from using the mechanism because it provides more transparent mechanisms for the selection of project proposals, in contrast to the current instructions guiding the procedure for introduction and consideration of projects on financing environmental activities at the expense of Fund.

## **2.5 Procedure of implementation of SPSS by LSG bodies**

The Law on the SPSS provides for full participation of the LSG bodies in the formation, financing, control, and execution of the SPSS mechanism.

In particular, the Law on SPSS:

- Defines contracting authority for SPSS contracts to include state agencies along with LSG bodies;
- Permits LSG bodies to dedicate local budget funds to finance projects for social procurement on an annual basis; and
- Empowers LSG bodies to provide implementers of SPSS with information, advisory, methodical, organizational and technical support.

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<sup>14</sup> Regulation on Republican Fund for Nature and Forestry Development of the State Agency of Environment Protection and Forestry under the Government of the Kyrgyz Republic (approved by the resolution of the Government of the Kyrgyz Republic as of June 12, 2012 #400).

<sup>15</sup> Regulation on creation and usage of funds of Republican and local funds for Nature and Forestry Development in the Kyrgyz Republic (approved by the resolution of the Government of the Kyrgyz Republic as of October 9, 2012 #696).

<sup>16</sup> Instruction on the procedure for introduction and consideration of projects on financing environmental activities from at the expense of Fund for Nature and Forestry Development of the State Agency of Environment Protection and Forestry under the Government of the Kyrgyz Republic (approved by the order of the State Agency of Environment Protection and Forestry under the Government of the Kyrgyz Republic # 01-13/307 as of October 2012).

According to provisions of the Law on SPSS, LSG bodies in particular play a decisive role in determining the need for local social services, therefore, can be effective customers, guides and controllers of SPSS implementation.

In practice, the situation is as follows: the local budgets are mostly subsidized from the republican budget and are so small that they do not have funding for social projects. LSG bodies cannot act as customers of services because they cannot provide funding for SPSS. The consequence of this situation is that LSG lack interest in the SPSS as a whole. However, even in the absence of their own funds, LSG bodies could play important role executing variety of functions to support social service providers, as well as determining the need for social services and monitoring the quality of services provided in the relevant territory. Thus, implementation of the Law on SPSS by LSG bodies is recognized as poor.<sup>17</sup> The lack of LSG involvement in the SPSS mechanism is a missed opportunity to improve the SPSS system.

Moreover, in accordance with the Law of the Kyrgyz Republic "On Local Self-Governance" as of July 15, 2011 #101 (hereinafter - the Law on LSG), it is within the competence of the local council to approve and monitor the implementation of social protection programs and the competence of city mayors and county administrations to develop of social protection programs and ensure their implementation after the approval of local councils.

Online research shows that there is no public information on the internet about social protection programs at the district and municipal levels. If any information exists, it may be an internal document.<sup>18</sup>

The MSD realizes that LSG bodies are an important partner and it is attempting to better involve LSG bodies in the SPSS process. In the 2013 announcement of the social projects contest funded through the SPSS, the advertisement text specified the following requirement for the participants of the contest - "working closely with the city/local social development departments, local government administration/local governments, inter-provincial and inter-district medical and social departments." This is an improvement over the 2012 advertisement which only mentions the LSG bodies in the context of making sure the project proposals focus on the challenges and needs of the target group in accordance with local social programs.

The introduction of requirements for NCOs to work closely with the district/city departments of social development (DDSD/CDS) and LSG bodies has not gone unnoticed to NCOs. Many of the existing NCOs involved in the project in 2013 requested letters of support from these structures and local governments. The letters of support came from the following organizations:

- DDSD/CDS;
- LSG bodies;
- local state administration;
- NCOs;
- international organizations (IO); and
- other organizations.

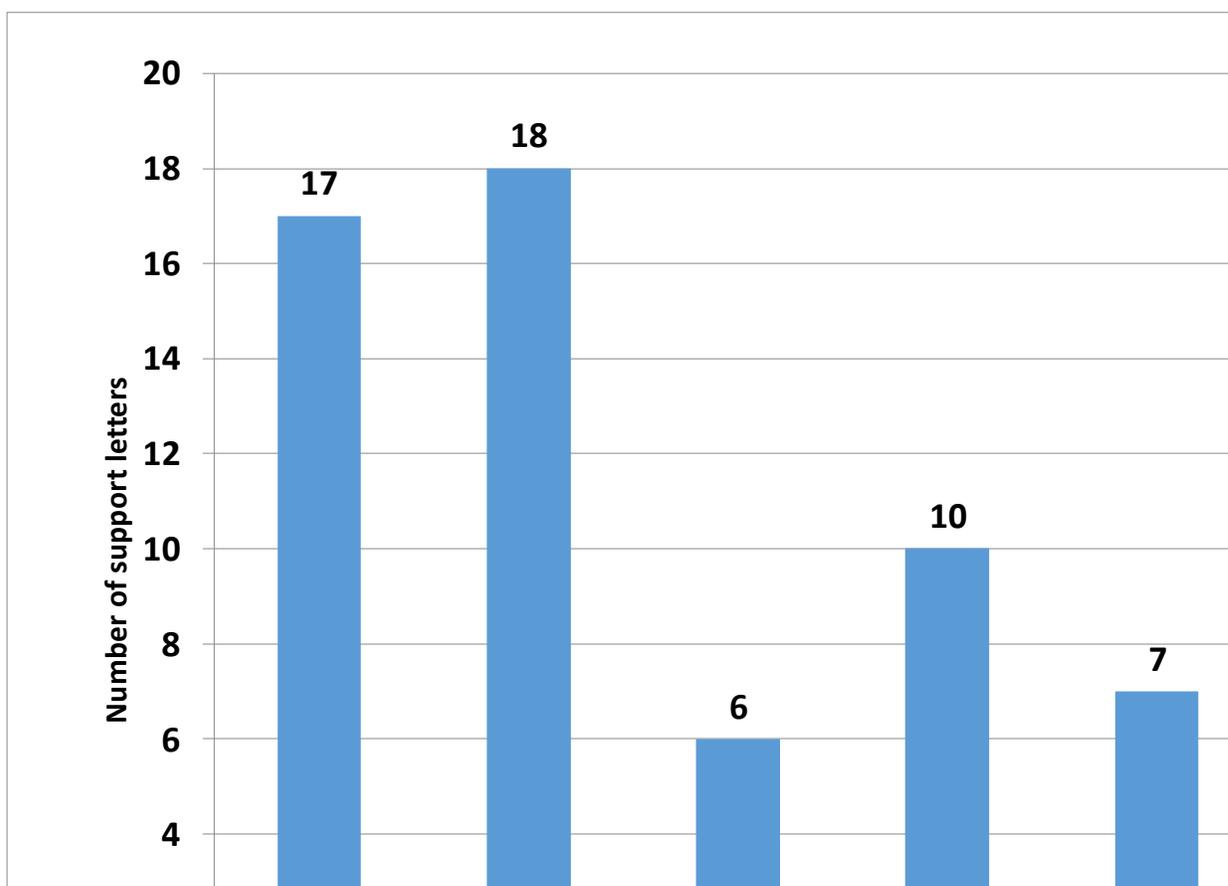
NCOs presented between 1 and 4 letters of support with their application.

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<sup>17</sup> *Strategy for Social Protection of the Kyrgyz Republic for 2012-2014 (approved by the Government of the Kyrgyz Republic of 13 December 2011 N 755).*

<sup>18</sup> *In two districts of Issyk-Kul region of Kyrgyzstan (Issyk-Kul and Ton) local governments does not have program for social and economic development. 06/05/13 10:53, Bishkek – IA "24.kg."*

Diagram 1. Support letters distribution by source of origin



An analysis of the letters shows that they generally support the application of the NCO, describe activities of NCOs, or given a positive recommendation for the NCO manager. In general, most of them do not have the specifics related to the needs of specific social services. However, there are several NCOs that submitted letters of support for the confirmation of needs, for example, one NCO submitted letters from the district administration, village council, district house of culture and DDS in which each of these organizations not only support the draft proposed by the NCO but also assumed certain obligations to support the NCO if it was successful.

According to the results of the contest in 2013, 29 projects were supported, 49 were rejected. 19 of the 29 supported projects provided a variety of letters of support including from the LSG bodies, DDS, NCOs and state administrations; the remaining 10 proposals did not have any support. According to experts from the MSD, those NCOs that have been working for many years in the provision of social services to the population and which are known to all do not need letters of support. Letters of support are generally provided only by new or little-known NCOs. Thus, it is difficult to say that letters of support from LSG bodies had any impact on the evaluation process.

There are NCOs whose projects were rejected, and which also provided letters of support. It should be noted that even if LSG bodies provide a letter of support with poorly developed content, it can be seen as a step forward in the difficult process of integrating LSG bodies into the SPSS procedure- LSG bodies are beginning to be responsible for the provision of the social services by the NCO.

To summarize, the effect of support letters from LSG bodies is undetermined. On one hand, to seek a letter of support, the NCO must cooperate with the LSG body and the LSG must subsequently be

involved in the implementation of the project. On the other hand, the letter of support has almost no effect on the results of the competition committee.

### **Chapter 3. The state procurement of social services within the system of state and municipal service provision for the population**

#### **3.1. Preconditions to reform the system of state and municipal services**

“Registry of state services to the population rendered by the executive authorities and their subdivisions” approved by the Resolution of the Prime Minister’s office as of December 28, 2000, #759 determined that there are 184 free services provided by the state and 248 paid services. In subsequent years, this registry was changed and supplemented 15 times; each time free public services were excluded from the registry and paid services were added.

An inventory of public services conducted in 2009-2010 showed there were more than 20,000 services, more than 19,700 of which were paid. The category of services referred not only to services, but also control, oversight, licensing and other miscellaneous functions of state bodies. Because they lacked guidance from the Prime Minister’s office, the authorities, in consultation with the anti-monopoly authority, designated a random set of "services" for which the public will be charged. In fact, the system of state services was commercialized in order to raise revenue for state bodies. The heads of state bodies, which received payments for services, are the administrators of these special accounts. In 2011 – 2012, the total amount of sums on special accounts of state bodies was about 6 billion KG Soms. Increasing the number of services for which citizens must pay a fee created a parallel system for financing state bodies that functions as an additional tax on the population.

In order to reform the existing system of state and municipal services, in 2009-2012, the Prime Minister’s office of the Kyrgyz Republic took significant steps to create a fundamentally new system of state and municipal services.

#### **3.2 Creation of a new system of state and municipal services**

On February 10, the Prime Minister’s office of the Kyrgyz Republic adopted Resolution #85 “On approving of unified registry (list) of state services to the population rendered by the executive authorities, their subdivisions and subordinate institutions.” The Registry lists the services that must be provided to the public. Starting on July 1, 2012, state bodies are prohibited from providing services that are not included in the Registry. This norm should stop the discretion of the state bodies from inventing and imposing the unnecessary services on the population. Currently the Registry includes 386 services, among them are 223 paid and 163 free services.

The new Registry of State Services is “demand-driven” and based on the needs of the people rather than a “proposal-driven” or based on the suggestions of the authorities, as it was in 2000-2011.

The Registry of State Services includes the following main types of state services:

- 1) Educational and cultural (122 services);
- 2) Medical (24 services);
- 3) Social (27 services);
- 4) Registration, issuance of statements, and other documents, as well as copies (90 services);
- 5) Research, analysis, assessment and expertise (40 services);
- 6) Providing information (57 services);
- 7) Printing, copying, publication (6 services);
- 8) Security and storage assurance (16 services); and

9) Other services (8 services).

The Resolution of the Prime Minister's office of the Kyrgyz Republic #603 as of September 3, 2012 "On model standards of state services" approved: (1) the model standard of state services and (2) instructions on development of standards of state services. The Resolution, among other things, describes the main parameters of services, cases where state bodies can refuse to provide services and an appeal procedure for citizens who are denied services.

By the end of 2013, all state bodies providing services to the population in the prescribed manner are required to develop and approve standards for services being provided to the population, as well as the administrative procedures of producing and rendering state services. For development of standards and administrative procedures in the ministries and agencies, there are corresponding commissions and groups, which shall include representatives of civil society.

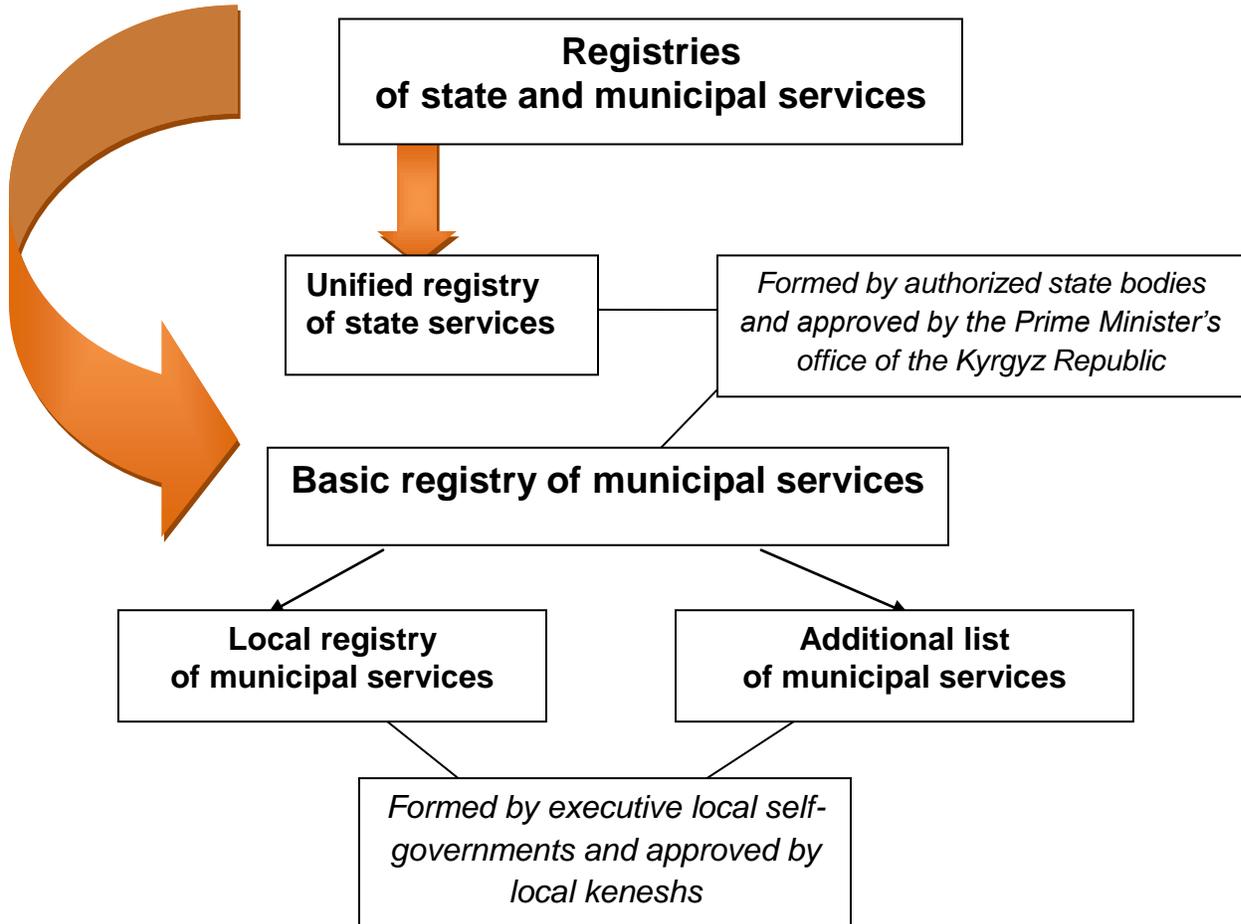
Together with the development of standards of state and municipal services, for the first time in the history of Kyrgyzstan, the issues of quality of services will be addressed on a practical level. Moreover, the population will have the opportunity to challenge in court the failure of state bodies to render required services.

According to the results of the work done to improve the system of state and municipal services, the Prime Minister's office of the Kyrgyz Republic developed and submitted to the Parliament a draft Law of Kyrgyz Republic "On State and Municipal Services," which included the abovementioned mechanisms to reform the system of state and municipal services.

The draft law was adopted by the Parliament in the first reading; in the near future Parliament will consider it in the second and third readings. The draft law includes basic concepts such as state and municipal services, standards for state and municipal services, criteria for provision of state and municipal services for free or on a fee basis, the procedure for formation of the unified registry of state services and local registries of municipal services, and the procedure for development and approval of administrative procedures for providing services.

The draft Law establishes a two-level classification of municipal services- the basic registry, which shall contain the list of unified services for all municipalities, and the additional registry, which will be formed by local self-governments proceeding from local demands and the corresponding resource capacity.

Picture 1. System of services in the Kyrgyz Republic envisaged in the draft Law

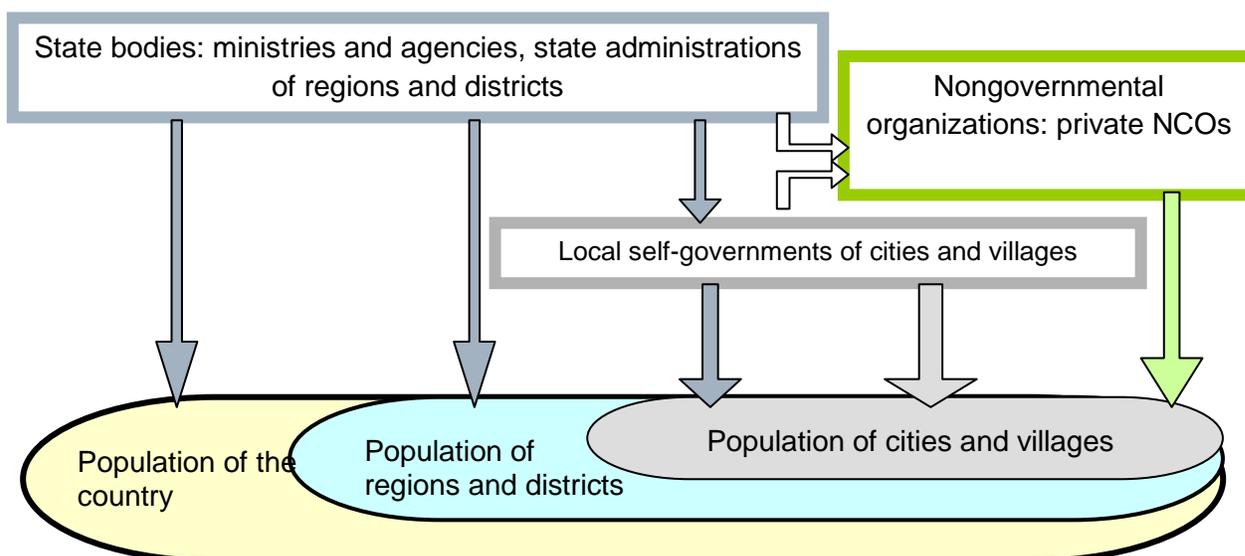


### 3.3 The role of SPSS within the state and municipal services delivery system

In Article 15 of the draft Law, there is an important provision that reads: "In order to improve the quality, accessibility and efficiency of rendering state and/or municipal services, state and municipal agencies can transmit state and municipal services to the performance of private legal entities and individuals with the transfer of assets and the sources of funding."

This provision creates a system of state and municipal services that is more flexible and creates conditions for a broad application of the SPSS mechanism.

Picture 2. Organizational chart of the provision of public services to the population of the Kyrgyz Republic



State administrations of the regions and districts mainly coordinate the activities of local offices of ministries, agencies and other state bodies that provide services in the corresponding territory. The following table illustrates the division of public service provision by different suppliers.

Table 1. Differentiation of provision of public services at the local level

| Types of services           | State bodies | Local self-governmental bodies of cities and villages | Nongovernmental organizations |
|-----------------------------|--------------|---|-------------------------------|
| <b>1. Education</b>         |              |   |                               |
| Preschool                   |              |   |                               |
| School                      |              |   |                               |
| Secondary professional      |              |   |                               |
| Higher professional         |              |   |                               |
| <b>2. Healthcare</b>        |              |   |                               |
| First aid                   |              |   |                               |
| Hospitals                   |              |   |                               |
| Pharmacy                    |              |   |                               |
| <b>3. Social protection</b> |              |   |                               |
| Shelters                    |              |   |                               |

|  |  |  |  |
|--|--|--|--|
| Pensions                                       |  |  |  |
| Allowances                                     |  |  |  |
| <b>4. Social and cultural service</b>          |  |  |  |
| Theaters and museums                           |  |  |  |
| Libraries                                      |  |  |  |
| Parks, clubs, stadiums                         |  |  |  |
| <b>5. Housing and utilities infrastructure</b> |  |  |  |
| Water system                                   |  |  |  |
| Canalization                                   |  |  |  |
| Electricity supply                             |  |  |  |
| Gas distribution                               |  |  |  |
| Heating supply                                 |  |  |  |
| <b>6. Environment, sanitation</b>              |  |  |  |
| Collection and disposition of garbage          |  |  |  |
| Street cleaning                                |  |  |  |
| Cemetery                                       |  |  |  |
| Environment protection                         |  |  |  |
| <b>7. Transportation and communication</b>     |  |  |  |
| Roads  |  |  |  |
| Street lighting                                |  |  |  |
| Public transportation                          |  |  |  |
| Telephone communication                        |  |  |  |
| <b>8. Other services</b>                       |  |  |  |
| Licensing functions                            |  |  |  |
| Public peace                                   |  |  |  |
| Civil defense                                  |  |  |  |

|                |  |  |  |
|----------------|--|--|--|
| Fire emergency |  |  |  |
|----------------|--|--|--|

This table reflects the current participation of nongovernmental (both commercial and noncommercial) organizations in providing services to the population at the local level. Most of them are commercial entities and do not receive any state budget funding. NCOs also have right to conduct business activity in these fields, but at the moment they do not take advantage of this ability.

## Chapter 4. Research<sup>19</sup> on implementation of legal acts on state procurement of social services

### 4.1. Organizational procedures for SPSS

The organizational procedures for formation, placement and execution of SPSS cover the following:

- Development of topics;
- Announcement of open public competition;
- Access to information;
- Collecting offers;
- Creating a Competition Commission;
- Evaluation of project proposals;
- Concluding the contract;
- Funding;
- Monitoring;
- Accountability; and
- Informing the public.

The research results below demonstrate the current practice of each SPSS procedure in the MSD.

#### *Topic development*

According to the Regulation on the procedure of the competition on social projects, the SPSS topics and the targeted categories of recipients of services are determined annually by state agencies and LSG bodies in accordance with the basic priorities of their activities. However, in practice, LSG bodies are not involved in any way in SPSS procedures. Targeted groups of citizens receiving social services are defined directly in the topics identified respectively by years of implementation of SPSS.

*Table 2. Topics and funding SPSS in 2009-2013 years*

| Year | Topics  | Amount of KG Soms funded |
|------|---|--------------------------|
| 2009 | <ul style="list-style-type: none"> <li>• Prevention of the worst forms of child labor, social adaptation of children with disabilities</li> </ul> | 4,32                     |

<sup>19</sup> This Chapter includes two research sections:

- 1) "Improvement of state social procurement system" research, conducted by UNICEF in 2012; and
- 2) Research on legal implementation practice of the state social procurement conducted in 2013 in the frame of Collaborative Governance Program of USAID.

| Year | Topics   | Amount of KG Soms funded |
|------|--|--------------------------|
| 2010 | <ul style="list-style-type: none"> <li>Developing rehabilitation facilities and services for persons with disabilities</li> </ul>  | 3,87                     |
| 2011 | <ul style="list-style-type: none"> <li>Development of social services for vulnerable elderly and disabled</li> <li>Prevention of child abandonment and child labor</li> </ul>  | 12.76                    |
| 2012 | <ul style="list-style-type: none"> <li>Development of habilitation and rehabilitation services for disabled</li> <li>Development of rehabilitation services for children who are in difficult situations</li> <li>Social adaptation and rehabilitation of persons at risk</li> <li>Rehabilitation of vulnerable senior citizens</li> </ul>   | 12,78                    |
| 2013 | <ul style="list-style-type: none"> <li>Support for day-care centers for children with disabilities.</li> <li>Support centers that provide social services to children and families in difficult situations.</li> <li>Opening of information - resource centers for adoption in the cities of Bishkek and Osh.</li> <li>Opening of the center of temporary residence for homeless persons in the city of Jalal-Abad.</li> <li>Support for associations of persons with disabilities and senior citizens.</li> <li>Development of social services in day centers for senior citizens.</li> <li>Return to school of children who don't go to school, refuse to study and involved in working.</li> <li>Support centers providing psycho-social services to men and families who find themselves in difficult situations.</li> <li>Information support during implementation of the Development Strategy of Social Protection for 2012-2014.<sup>20</sup></li> </ul> | 13,9                     |

The chart shows that from 2009 to 2013, the number of services provided by the SPSS mechanism increased.

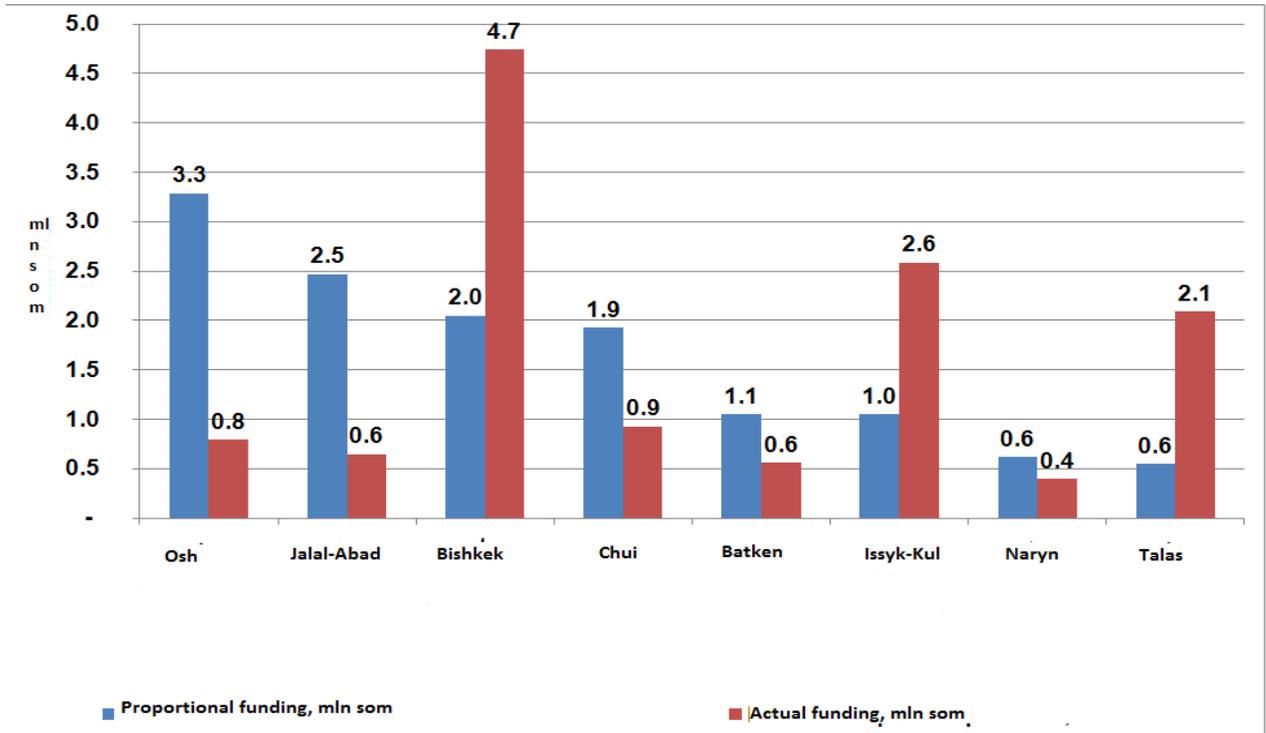
Beginning in 2012, selected topics of social services delivery competition are defined according to the Strategy of Social Protection of the Kyrgyz Republic for 2012-2014.

Another interesting aspect of the current SPSS practice is the geographic distribution of funds. Assuming that the number of people in need of social services is proportional to the population, the funds allocated to the state SPSS should be distributed according to the number of people in each administratively-defined area. The following diagram shows how the funding should be distributed in proportion to the population as opposed to the actual financing of SPSS in 2012-2013 in each region.<sup>21</sup>

<sup>20</sup> The last 4 themes articulated in the second round of the competition of social projects.

<sup>21</sup> At the time of writing, not all the data on the 2013 contest were final.

Diagram 2. The ratio of population to SPSS funding in the regions in 2012-2013



Source: MSD

As can be seen from Diagram 2, funding for the provision of social services is unevenly distributed by region. This is primarily due to the fact that according to the statistics, projects proposed by Bishkek NCOs are more likely to win than projects proposed by NCOs located in the regions. In general, Bishkek-based NCOs are able to produce better grant applications. Overall, project proposals from Bishkek, Issyk-Kul and Talas regions have a better chance of winning, while project proposals from Osh, Jalal -Abad, Batken and Chui are unreasonably likely to lose. It also should be noted that the most urgent need for social services is in the regions (as opposed to Bishkek).

The uniform distribution of SPSS resources in accordance with the size of the population is not only fair but it also creates conditions for the development of NCOs in the region and attracts local government to solve social problems.

#### *Announcement of open public competition*

In accordance with the regulation on the procedure for social projects competition:

- The award of funding through SPSS is done in the form of an open and public competition.
- The announcement of the competition of social projects is published in the media in the national and official languages. Publication in the media should alert possible candidates of the opportunity.
- The state body in charge of the particular competition provides the information, including the text of the competition advertisement which should contain:
  - The theme of the competition;

- Requirements for applicants and project proposals;
- Start and end dates for the competition. The competition deadline should not be less than 40 or more than 60 days from the date of announcement of the Competition;
- The maximum budget of the project;
- Address, phone number where project proposals can be submitted; and
- Invitations to nongovernmental organizations to submit their written proposals on the composition of the Competition Commission (nominations of independent external experts).

### **In practice**

The SPSS competition procedure<sup>22</sup> begins with the advertisement of an open public competition among NCOs for the provision of social services. Ads are placed on the MSD's website and in the newspapers "Erkin-Too"/"Kyrgyz Tuusu" and "Slovo Kyrgyzstana."

The content of the competition announcement has to be in accordance with the Law on SPSS, except in 2012, when announcement did not specify a maximum budget for the projects.

The application deadline,<sup>23</sup> between 40-60 days, is specified in the Regulations on the Procedure of the competition on social projects. It was accurate in 2009, 2011 and 2013.

*Table 3. Terms to submit applications*

| <b>Year</b> | <b>Terms to submit application, Days</b> |
|-------------|--|
| 2009        | 40                                       |
| 2010        | 87                                       |
| 2011        | 46                                       |
| 2012        | 36                                       |
| 2013        | 42                                       |

### *Access to information*

The competition announcement is accompanied by some procedures designed to alert a greater audience about the competition:

- Official letter sent by fax to all the district-level social protection administrations to inform the NCOs about the competition. In some districts there are no responses to the fax. In this case, it seems likely that the NCOs in that district were not informed about the competition or only those NCOs that have friends and relatives in district departments of social protection received the information; and
- Announcement of the SPSS competition is posted to the websites of some news agencies. Additionally, some organizations post the information at their own initiative.<sup>24</sup>

<sup>22</sup> In accordance with the order of the MSD on conduct of the competition of social projects.

<sup>23</sup> Includes the number of days from the moment of publication of the advertisement in the press until expiry of the deadline.

<sup>24</sup> [www.baldar.kg](http://www.baldar.kg), [www.24.kg](http://www.24.kg), [www.zm.kg](http://www.zm.kg).

It should be noted that after the placement of advertisements on the Ministry’s website and in media, NCOs that are involved in working with children, disabled persons, pensioners, etc., copy and place the competition advertisements on their websites, helping target distribution of information. Below is a partial list of organizational websites where you can find the announcement of the competition of social projects.

- Public association “The Legacy of Republic” – [www.dr.kg](http://www.dr.kg).
- [www.kyrgyzonline.com](http://www.kyrgyzonline.com).
- Association of Centers Supporting Civil Society Organizations – [www.acssc.kg](http://www.acssc.kg).
- [www.nurbala.kg](http://www.nurbala.kg).
- Association Parents of Disabled Kids – [www.kelechek.kg](http://www.kelechek.kg).

Statistics show that as information reaches a greater audience, the SPSS mechanism becomes attractive to NCOs that provide social services to the population. However, during the study, many representatives of NCOs in the regions said that the newspapers in which the competition announcements are published are not popular, especially in the regions. Additionally, access to the internet in the regions is limited. Regional NCOs are not always informed of the competitions and often receive the information too late. The MSD has a practice of informing only select NCOs in the region. Often times regional NCOs receive information via other NCOs.

This situation inhibits the development of the social services market and is not conducive to the emergence of new service providers, especially in remote parts of the country where NCOs are already excluded from many social processes. The MSD should be interested in the broad dissemination of information to select and develop the most qualified and reliable partners in the regions, to which it could delegate the provision of state services.

However, the problem of access to information is not only connected with the MSD, but also with the NCOs themselves. In 2012, there was an experiment to determine the e-accessibility of NCOs, in which NCOs were sent an email and asked to respond within 3 days. It was found that among 112 NCOs that participated in competition in 2012, 78% of participants listed email addresses (25 NCOs have not specified e-mail address), but 13 of these addresses were incorrect. Within indicated period only 14 NCOs responded. Thus, the index of e-accessibility of NCOs is 66% when counting on the existing email addresses, and 12 % - when counting on responses to the message within a specified time interval. 5 of 14 NCOs sent messages from unknown addresses. Therefore, 34-88% of NCOs are likely not reachable via email.

*Table 4. Regional distribution of NCOs – participants of the competition in 2012 which have e-mails*

| Regions                | Number of NCO | NCOs without e-mails | NCOs with incorrect e-mails | NCOs that replied to the e-mails |
|------------------------|---------------|----------------------|-----------------------------|----------------------------------|
| Bishkek                | 40            | 4                    | 6                           | 3                                |
| Jalal-Abad             | 7             | 3                    | 1                           | 0                                |
| Osh                    | 11            | 3                    | 1                           | 1                                |
| Batken                 | 4             | 0                    | 0                           | 1                                |
| Naryn                  | 17            | 5                    | 2                           | 3                                |
| Issyk-Kul              | 13            | 3                    | 1                           | 0                                |
| Talas                  | 9             | 4                    | 1                           | 0                                |
| Chui                   | 11            | 3                    | 1                           | 1                                |
| <b>Kyrgyz Republic</b> | <b>112</b>    | <b>25</b>            | <b>13</b>                   | <b>14<sup>25</sup></b>           |

The experiment's results showed that to date, electronic distribution is not a reliable method to reach the greater NCO community.

*Diagram 3. Dynamics of number of participants of competition on SPSS in 2009 - 2013 years<sup>26</sup>*

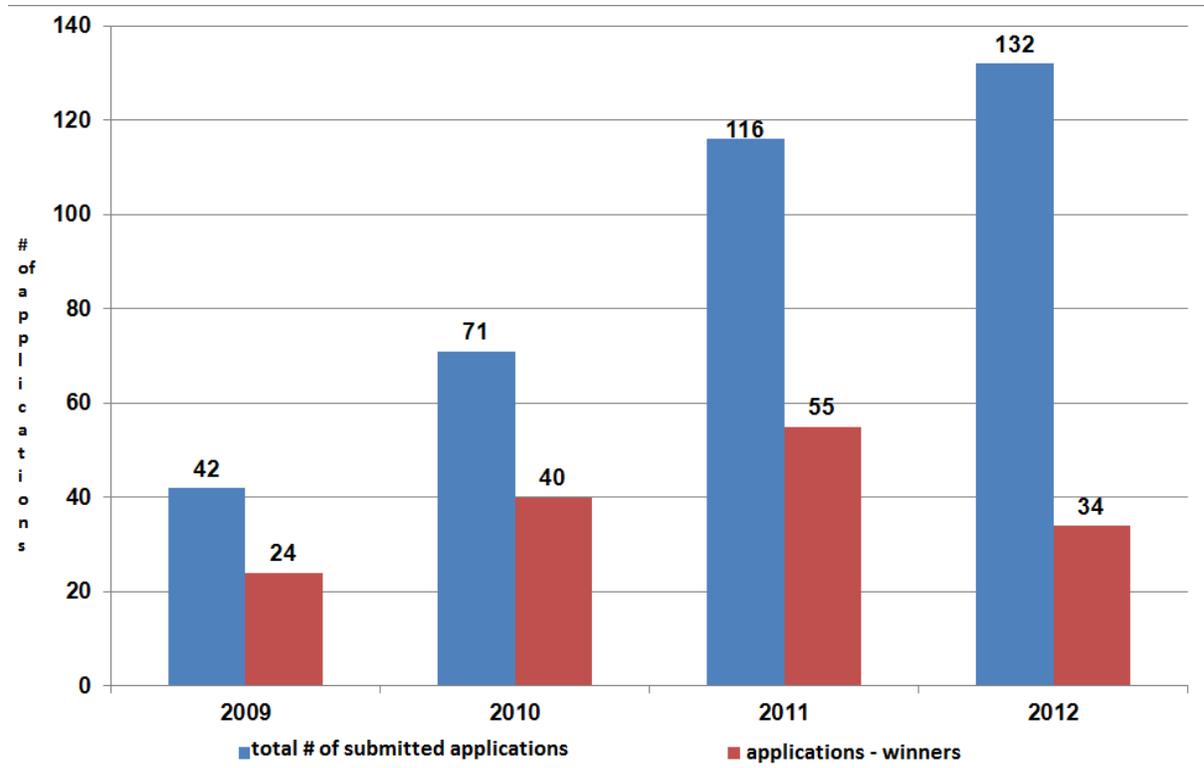


Diagram 3 shows the total number of submitted and the winning bids for the Ministry of Social Development of the Kyrgyz Republic, Department for Protection of Children under the Ministry of Labor, Employment and Migration of the Kyrgyz Republic for the period 2009 - 2012. This includes contestants with applications for the provision of social services to children and senior citizens.

Despite the increase in participants in the competition of social projects, it seems like the MSD does not know its potential and actual partners. There is no current database of service providers, there is no systematic targeted work with appropriate NCOs.

There were a reduced number of participants in 2013 due to the more clearly defined topics of the competition, which excluded participation of a number of NCOs whose activities did not coincide with announced topics for competition or the description of which services can be funded and which cannot be supported.<sup>27</sup>

#### *Collecting applications*

The Regulation on the Competition Procedure stipulates the following procedure for collecting applications:

<sup>26</sup> In 2013 – number of applications submitted for participation in the main competition without additional.

<sup>27</sup> For example, two topics are directed to the support of already operating centers, in one topic it is said that repair of buildings is not supported, the other one provides for assistance in payment of administrative expenses directed at work with members of public association.

- The Customer registers the NCO’s application in the Registry and provides an application in which the following should be indicated:
  - date and time when application submitted;
  - name of organization;
  - address and phone number;
  - name of the NCO’s manager;
  - ID for applicant;
  - Name of the project proposal;
  - Number of pages in the project proposal; and
  - Name of applicant.
- After registration, the Customer provides the applicant with the list of mandatory documents which NCO has to submit to participate at the competition;
- Participants complete the application form and attach the related documents and submit to the Customer;
- The Customer collects applications from all applicants and after checking to see that all the required documents were submitted and completed appropriately, the applicants are considered registered participants of the competition;
- The Registry of project proposals contains the following information:
  - The date of submission of all required documents;
  - Registration number of the project proposal;
  - Address and phone numbers of the organization;
  - Last name, first name and middle name of the head of the organization;
  - Title of the project proposal;
  - Last name, first name and middle name of the project manager;
  - Last name, first name and middle name of the applicant submitting the project proposal; and
  - Number of attached pages.

### ***In practice***

During the 5 years of the competition of social projects, some organizational procedures have become obsolete, and some require significant improvement.

Today, interested parties can simply go to the MSD website and download the electronic form,<sup>28</sup> which effectively obviates the need to enter the Registry and issue the documents by hand.

In addition, the delivery of applications is made in open folders. Many NCOs worry that because of this, their proposal ideas will be transferred to other NCOs by the MSD officials.

Prior to and in 2012, there were complaints from NCOs about how expensive it was to visit the Ministry to submit applications by hand, as well as notarized copies of the certificates of registration and organization’s charter required in two copies,<sup>29</sup> despite the fact that in 2012, 75% of the applications were rejected. In 2013, after analysis of procedures in the MSD, it was decided to collect notarized documents from only the competition winners, which significantly reduced the cost of submitting an application and simplified the application process.

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<sup>28</sup> From the announcement text (2012): “The application form is available at the following address: Bishkek, Tynystanova Street, 215, Rooms 111 and 403 or can be downloaded from [www.mlsp.kg](http://www.mlsp.kg).”

<sup>29</sup> For example, transportation cost of Osh-Bishkek-Osh trip is around 3,000 KG Soms, and 400 KG Soms for notarization of documents.

## *Creation of Competition Commission*

The Competition Commission is created to conduct each competition and is formed in accordance with the Regulation on the Procedure of Competition on social projects.

The quantitative composition of the Competition Commission is determined by the MSD and should be composed of representatives of the MSD and independent external experts. The number of external experts should be at least 50% of the total number of members of the Competition Commission. Nominations of independent external experts must be offered by nongovernmental organizations (NGOs).<sup>30</sup> NGOs have the right to send their written proposals on independent experts starting from the date of announcement of the competition. The MSD registers and records the NGO nominations of independent external experts.

If the number of the proposed independent external experts is higher than the required number for the formation of the Competition Commission, the Ministry selects the independent external experts through an open draw, with the participation of the NGOs who proposed candidates to the Competition Commission.

### ***In practice***

There are few NGOs that are willing to take part in Competition Commissions. Many of the eligible NGOs that have experience providing the social services relevant to the Competition Commission and could act as informed external experts are already participating in the project competition and want to avoid a conflict of interest. Therefore, in practice, the MSD prefers to invite particular NGOs to participate in the work of the Competition Commission. On the one hand, using such an approach, the MSD may solve the problem of the qualitative composition of the Competition Commission, but on the other hand, the majority of NCOs interviewed about the Competition Commissions expressed distrust and suspicion of corruption, since there are no determined criteria to guide the MSD's selection of Competition Commission members. The project evaluations are not transparent, especially in the context of the Competition Commission members. Moreover, members of the Competition Commission selected by the MSD are sometimes representatives of the NCOs that are involved in the competition.

It is believed that those NCOs that are on the Competition Commissions every year are "pocket NCOs" of the MSD and subject to manipulation, so they need to be replaced. In addition, there are complaints that the Competition Commission members are only NCOs based in Bishkek. The problem lies in the fact that nonprofit organizations submitting poor applications are unlikely to be chosen to act as assessors.

Another problem is the fact that the chairperson of the Competition Commission is self-appointed. In 2012, the chairperson was a Deputy Minister who had been suspended from her position by law enforcement agencies for the criminal law violation not related to SPSS. These circumstances paralyzed the work of the Competition Commission 2012 and provision of social services through SPSS.

Over the lifetime of the SPSS Competition Commission member's names are not published, although, in fact many NCOs obtain information about its composition. Expert interviews conducted in 2013 indicated that the NCO community thinks the Competition Commission's composition should be published to ensure a measure of transparency and increased responsibility for the outcome of the competition.

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<sup>30</sup> *In this case, the Law on SPSS states "NGOs" rather than NCOs.*

### *The project applications selection process*

The main stage of the competition procedure is the procedure of selection of the contest winners - the best proposals.

Competition Commission shall select the winners based on the criteria prescribed in the score sheet of the project. Table 5 shows the criteria for the respective points and the proportion of each criterion in percentage.

*Table 5. Assessment matrix, scores and specific weight*

| №  | Criteria for evaluation  | Grade<br>s | specifi<br>c<br>gravity<br>% |
|----|--|------------|------------------------------|
| 1  | Compliance with the project application to the contest topic (if the project subject does not match competition topic, the application will not be further considered) in accordance with the regulation | 0, 1, 2    | 0, 4, 8                      |
| 2  | Project proposal's compliance with announced requirements  | 0, 1, 2    | 0, 4, 8                      |
| 3  | Analysis, a clear statement of problems and goals  | 0, 2       | 0, 8                         |
| 5  | The focus of the project to address the problems and needs of the target group   | 0, 2, 4    | 0, 8, 15                     |
| 6  | The presence of the positive experience of organization in solving social problems   | 0, 1, 2    | 0, 4, 8                      |
| 7  | The rationality of planning the budget of the project  | 0, 2, 4    | 0, 8, 15                     |
|    | Personal contribution to the organization  | 0, 1, 2    | 0, 4, 8                      |
| 8  | Leveraging additional resources (as an added bonus to the assessment)  | 0, 2       | 0, 8                         |
| 9  | Real progress in solving the social problems   | 0, 2, 4    | 0, 8, 15                     |
| 10 | A mechanism further sustainable self-development of the project  | 0, 1, 2    | 0, 4, 8                      |
|    | <b>Total, max grades:</b>  | <b>26</b>  | <b>100</b>                   |

The table shows that only discrete valuation is possible with increments of 4% for some criteria and 8% increments for other criteria. This is relevant for some criteria, for instance, for Criterion 8. It assesses availability of additional resources. They are either available or not.<sup>31</sup> That is, discreteness is built into the nature of this criterion. However, discreteness is not an appropriate measure of Criterion 3, which assesses the situation analysis and clarity of objectives. The same applies to other criteria – committee members, based on their subjective opinion, are unable to give another intermediate score different from scores given in the table. Partial compliance with the indicated criteria results in leveled total sums that make it impossible to significantly differentiate assessments and it consequently leads to equalization of project proposals that vary from each other in terms of quality. Besides, several important criteria are missing, such as those used in international practice such as feasibility of proposed activities, assessment of the organization's capacity, professionalism of the personnel, availability of internal rules for service provision and self-evaluation of executors, etc.

<sup>31</sup> Although even in relation to the given criterion there is a possibility to assess the size of these resources in % of the sum required for the implementation of the social contract.

Before 2013, the assessment procedure for applications began with the division of the committee into groups,<sup>32</sup> and each group reviewed a certain number of applications. Each group member assessed the application from his/her own point of view and then the average score was calculated. In 2010, one application was reviewed by 2 committee members, in 2011 – by 3, in 2012 – 4 or 5.

In 2013, after criticizing the practice of project evaluation by a limited number of experts at the MSD, it was decided that each project should be evaluated by all its members. This has led to new problems, namely, overloading Competition Commission members 78 applications or more to evaluate. For some in the MSD, this work was not part of their official duties and had to be done outside of work hours. There is speculation that this overload has affected the quality of the assessment.

Analysis of the evaluation forms for the 2011-2013 showed that a number of projects received contradictory scores from the experts,<sup>33</sup> meaning one expert put a low score while another put a high score in the same criterion. This inconsistency raises doubts about the experts understanding of the evaluation criteria and their lack of interest and integrity. In addition, if the experts are not personally acquainted with the activities of NCOs, they are guided only by the application which may be well written but unrealistic, while knowledgeable experts can deliver a realistic assessment of the potential of NCOs. It may also cause the diametric scores.

In 2012, the chairman of the Competition Commission orally gave directions to the Competition Commission members that there should be no money given for equipment acquisition and the salaries shall be limited in NCOs budget while such requirements were not spelled out either in the Law or the Regulations. The minutes of the 2012 Competition Commission show the following recommendation was made: if an NCO's application includes over 20% in administrative costs or requires wages above 4,000 KG Soms per month, it should not be considered.<sup>34</sup>

In 2013, in order to inform the NCOs in the application form, it was stated that the salaries and travel expenses under the project would be paid in accordance with the regulations of the Government of the Kyrgyz Republic:

- "On conditions of remuneration of certain categories of employees of the social welfare system" as of April 19, 2011 #170;
- "On setting standards for travel expenses and method of their compensation" as of August 26, 2008 #471; and
- "On regulation of part-time workers" as of 14 March 2000 #135.

The evaluation of bids and the subsequent voting determined the winners of the contest in 2013 (diagram 4). Many winning bids have unacceptably low scores; it is difficult to comment on this fact and these scores cannot be published openly on the MSD website because doing so will require providing additional arguments to justify decisions about awarding.

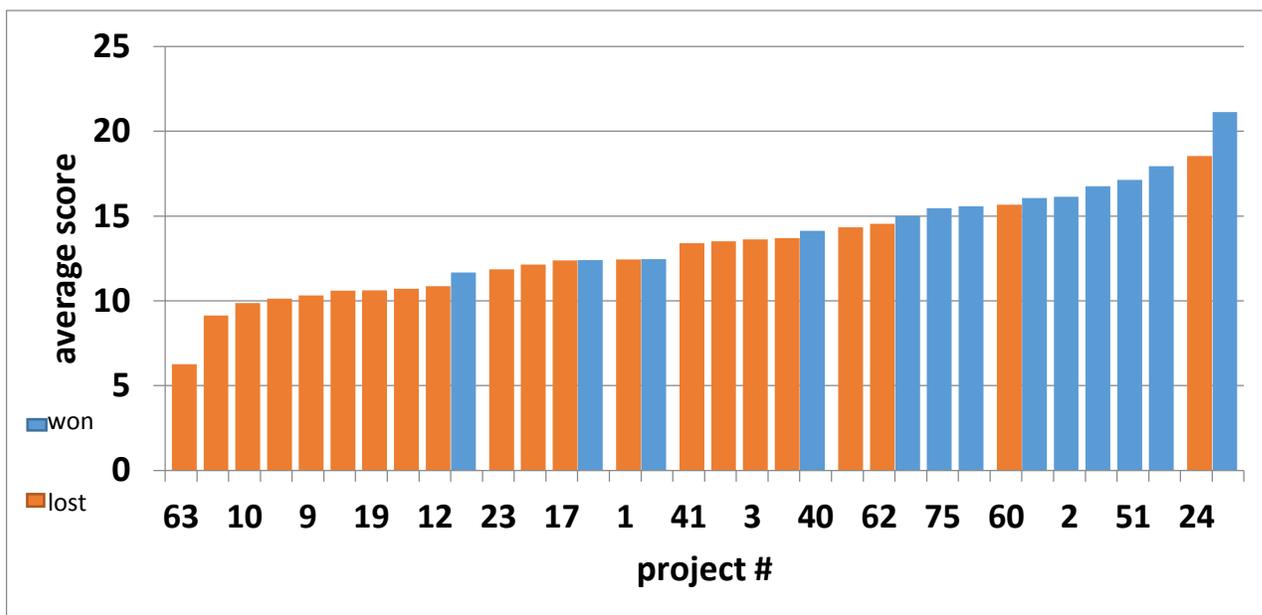
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<sup>32</sup> 112 project applications were submitted for the tender in 2012. Committee members were divided into 4 groups and each groups was supposed to review 28 project applications.

<sup>33</sup> 11 of 58.

<sup>34</sup> Minimum subsistence level in the 1st quarter of 2012 –4,717 KG Soms per month.

Diagram 4. The distribution of grades among NCOs for the 2013 competition on the topic "Support for day-care centers for children with disabilities."



Indeed, more information should be provided to explain why some applications scored 14 or more points and were not selected, while the applications that scored less than 14 points were among the contest winners. If there is a reasonable explanation that is not due to corruption, then it is clear that not all of the conditions of competition are reflected in the evaluation list and that the points earned during the competition are necessary but not sufficient condition to win the contest. To facilitate the work of the Competition Commission and to ensure greater objectivity of evaluation of applications, it should be decided what other criteria can be added to the evaluation list in order to avoid such a situation.<sup>35</sup>

Another weak point in the competition procedure during the last 5 years is the process for informing the participants about the decision. Most often winner are informed because either someone from the MSD called the NCO-contest winner, or the NCO representative called the MSD many times for information.

During the field research, almost all NCOs, including the competition winners, have expressed dissatisfaction with the process of informing applicants of the competition results. According to 2012 information, competition winners were posted on the website on 11/13/2012, at which point some winners had already received funding and other NCOs did not even know. Delaying the process of announcing the results exacerbates mistrust of NCOs toward the work of the Competition Commission.

#### *Conclusion of the contract and training*

The contract between the customer and the provider of social services is regulated by the Law on SPSS.

The conclusion of the contract is preceded by the process of issuing cash certificate certifying that the recipient won the competition and guaranteeing funding. These certificates are handed over to

<sup>35</sup> There may be regional aspect to this issue, although the study did not identify this.

winners during a formal ceremony by senior officials of the MSD. Winners have to visit the Ministry at their own expense.

The contract between MSD and the service provider contains all the fundamentals provisions required and has not been criticized by NCOs.

During the awards ceremony, the Ministry trains the winners on procedures for submitting financial reports and documents. NCOs agree that this training should be made mandatory, but NCOs have suggested improving the form of the training as well as its location and the language of instruction.

### *Financing*

The normative legal acts stipulate the following terms on funding:

- Financing of projects implemented under the state SPSS is carried out in the form of grants.
- The republican budget of the Kyrgyz Republic annually provides funds for financing projects on SPSS.
- Providing financial support for social projects carried out on the basis of contract concluded between the Provider and the Customer.
- The customer verifies the accuracy of the calculations presented by service provider.
- The customer estimates costs for each social project and approves it.
- After approval of cost estimates from the Ministry of Finance of the Kyrgyz Republic, the customer writes a budget order for the required amount of funds to selected social projects.
- The Ministry of Finance of the Kyrgyz Republic offers grants to fund social projects.
- After the opening credits Customer transfers payment to the bank account of service provider.

In general, all procedures are prescribed and a funding schedule is attached to the contract.

### ***In practice***

In practice, the SPSS funding is extremely poor. After receiving the certificate, some NCOs receive funding immediately, some receive it after a short while, and other NCOs do not find out about the funding for long periods of time. Many NCOs have reached out to the MSD seeking information but often times they do not receive a response. If NCOs continue providing activities requiring daily expenses, such as food, not to mention the salaries to the staff, then they may incur personal responsibility both for employees and for the recipients of services.

There are several strategies for NCOs to provide social services in the event of delayed funding:

- NCOs do not begin to work, taking a wait-and-see attitude. Typically, this situation occurs with services, the provision of which is not of a permanent nature and/or if the NCO is totally dependent on the state money.
- NCOs began work at their own risk, and if their own funds are limited, then they gradually reduce the activity to until it is not possible to continue, thereby losing the professionals assigned to the project and the confidence of the beneficiaries.
- NCOs have their own funds and can provide services in the absence of funding from the state, and thus form a stable immunity to a partnership with the state.

The government does not meet expectations on financing, and instead of providing social services delegated by the state, NCOs become hostages of the situation and must act as “beggars.”

Whichever strategy is selected by NCOs to cope with the delay of funding, it greatly undermines NCOs' faith in the government. Stronger and more sustainable NCOs would prefer collaboration with international organizations than the government, an opinion they expressed openly during field research.

Moreover, when some NCOs-contest winners receive funding and winner others do not receive the funding to which they are entitled, and the process is not transparent, then rumors about MSD corruption increase.

In 2012, the government budget deficit made it evident that social contracting is no more than a pilot experiment that can be easily cancelled. But doing so violates citizens' right to social services, causes citizens to lose faith in the government, and slows down the development of the nascent social services market, which is being formed with great difficulty.

### *Monitoring of implementation*

It is obvious that social services delegated to NCOs and financed from the state budget should be monitored to ensure the funds are used as intended and the services provided are of a certain quality.

The Law on SPSS and the Regulation on the Procedure of the competition on social programs state that the customer has the right to:

- monitor the proper use of funds allocated for the execution of social projects;
- inspect the implementation of social projects; and
- if necessary, involve into the monitoring of the implementation of social projects independent experts representing international, non-governmental organizations, interested government agencies and LSG bodies.

The MSD developed instructions for the monitoring of the quality of social services provided by NCOs as part of the state SPSS.

Monitoring is understood as a regular gathering of basic indicators on the ongoing results of the project. Monitoring is carried out throughout the duration of the project and evaluates compliance with the progress of the project schedule and resource management. Monitoring is essential for a timely response to a deviation from the plan. The monitoring procedure is relevant for permanent public social services or services provided as part of the social order over a long period of time, and should compare the project results with the established and approved standards.

In addition, assessments are performed after the end of the project and aim to compare the expected performance with the results achieved during the project. Evaluation findings serve as a basis for judgments about project effectiveness and formulation of recommendations for the future.

### ***In practice***

In Kyrgyzstan, where projects only last 6 to 12 months, monitoring is difficult and expensive. The absence of approved standards for all types of social services limits the use of standardized assessment tools. This means that actually carrying out an assessment requires an individual approach to each project, which is practically impossible.

Under the current state of SPSS in Kyrgyzstan, the MSD could conduct the following types of monitoring and assessment:

- Project Audit; and
- Assessment of satisfaction with service recipients.

In the instructions for monitoring the quality of social services provided by NCOs,<sup>36</sup> there are only two questionnaires - one for the survey of recipients of social services, the other – for workers of the organization providing social services.

The first survey is generally intended to assess satisfaction of service recipients. Questions from the second type of survey, reflected in Table 6, raise doubts, since many of them should at least be reflected in the NCO's funding application and most of the others should be evaluation criteria, meaning they are asked by the Competition Commission in order to decide whether to give or not to give grant. These questions are not considered relevant for evaluating the performance of a NCO already implementing a SPSS project.

*Table 6. Analysis of the survey questions for the workers of organizations providing social services*

| Questions  | Comments                                    |
|--|---|
| 1) What services does your organization supply?  | This question should be in application form |
| 2) How long has your organization been providing services?   | This question should be in application form |
| 3) How long have you (person) worked in this field of services?  | This question should be in application form |
| 4) Does your organization have mechanisms to assess the quality of services?   | This question should be in criteria form    |
| 5) Does the management of your organization conduct regular systematic analysis of the quality of services and the organization of activities for improving the quality of services? |   |
| 6) In your opinion, is the staff of your organization competent to provide quality services to customers?  | This questions should be in criteria form   |
| 7) Do you have formal education in the field of services rendered to you personally?   | This questions should be in criteria form   |
| 8) Does your organization have minimum requirements for the competence of the personnel providing services?  | This questions should be in criteria form   |

<sup>36</sup> Questionnaires of the Belorussian draft Provision "On subsidies for social service providers" were used.

| Questions   | Comments                                  |
|---|---|
| 9) Does your organization hire personnel on the basis of qualifications, competence and abilities (learnability) of candidates?                                       |   |
| 10) Does your organization have mechanism for staff to receive feedback and/or staff development opportunities (corporate training, sending staff to training, etc.)? |   |
| 11) In the last year, have you participated in training activities and/or staff development?  |   |
| 12) Has your organization any approved internal regulations on requirements for providing such services?  | This questions should be in criteria form |
| 13) Does your organization have standard procedures to determine the expectations of customers receiving services?  | N/A                                       |
| 14) In order to get your organization's service(s), is there some kind of a procedure to obtain the service (for example, filling out official forms, applications)?  |   |
| 15) Does your organization have standard procedures for acceptance and satisfaction of customer complaints?   | This questions should be in criteria form |
| 16) Does your organization consider the client's opinion to better the quality of service?  | This questions should be in criteria form |
| 17) Does your organization monitor the process of providing the service?  | This questions should be in criteria form |
| 18) Describe the impact of services delivered by your organization to beneficiaries.  | Question to recipients                    |

Thus, as indicated in the column "comments" in Table 6, of the 18 questions in the questionnaire, 13 are background questions that could be determined from the NCO's funding application. From remaining five questions, four are focused on qualifications of personnel. The last question would be more objective if it were answered by the recipients of services.

Since the SPSS is a form of the public-private partnership, the project audit and assessment recipients' satisfaction with the services should be used to ensure proper use of state funds and the quality of services provided by NCOs.

At the same time, NCOs as partners should be able to assess the state's performance in implementing the SPSS mechanism. To do this, it is necessary to survey NCOs about the state's performance. This information would certainly contribute to improving the SPSS procedures.

We shall analyze the questionnaire on recipient's satisfaction with service. According to the instructions:

- During the initial visit to the organization providing social services, the interviewer should requested a list of recipients who received services funded by the budget.
- The interviewer should randomly select from the list at least 10% of all clients with addresses who are receiving services.
- According to the list of recipients there must be site check visits to each service recipient in order to conduct the survey.

The project applications indicate the number of people who receive social services. For applications in 2012, this number varied from 20 people or more. In light of this, the recommended instructions to survey 10% of the recipients of services, could lead to a sample size of 2 people. In accordance with the rules of the statistical survey, a sample size of less than 30 observations is considered small and the results of such a small sample may not be very indicative of the quality of services. Sample sizes should include at least 30 recipients of services, and if there are less than 30 service recipients, all recipients of this type of services should be surveyed.

#### *Recipient's survey form*

The questionnaire contains 19 questions designed to assess awareness of the recipient about the service provider and the quality of services they receive. In general, this questionnaire is effective and appropriate.

- 1) Do you know the name of the organization from which you received social services?
- 2) Who received services?
- 3) What are the social services you received?
- 4) How often do you receive the service?
- 5) Please rate the provision of services in general.
- 6) How convenient is it for you to get to the place where services are provided?
- 7) Are you satisfied with the work schedule of the organization?
- 8) Does the organization have any procedure for obtaining services (for example, filling out official forms, applications)?
- 9) If there is such a procedure, is it understandable for you?
- 10) If you had a poor service, can you file a complaint with the organization?
- 11) Have you made a complaint/suggestion to organizations that provide services?
- 12) If so, is there any standard procedure of complaints to the organization?
- 13) If you have filed a complaint/suggestion to improve the quality of services, was it addressed?
- 14) Are you confident that by contacting this organization, you are always being able to get the service on time and in full?

- 15) Please rate the following qualities of employees of the organization in the delivery of services (5 - maximum score 1 - minimum score)
- a. Professionalism
  - b. Courtesy
  - c. Efficiency/timeliness
  - d. An understanding of your interests/needs
  - e. Care
  - f. Discipline
  - g. Willingness to help
- 16) If you have any questions/need advice while receiving the service, how well do staff members of the organizations respond?
- 17) If needed, can you receive the service in a separate room?
- 18) Do you pay for the received service?
- 19) Can you note a qualitative change of the services received?

However, the questionnaire has a number of disadvantages associated with further processing and interpretation of the responses, which limits the use of questioning to develop measures to improve the quality of social services.

*Some questions haven't quantitative assessment*

Such questions are used in scientific researches to compare differences identified among other qualitative criteria.

*The use of different scales at similar nature of responses*

Points, which are used in the questionnaire, are likely to encode the answers and calculations based on these distributions, but not for scoring the quality of provided services. For example, a semantic answer provided in various issues and associated with poor quality of service, can take values from 0 to 3. In addition, the homogeneity of the responses to those questions should, where appropriate, use an equal number of responses. Now swing the responses range from 2 to 4.

*Scores for the response "Find it difficult to answer"*

The answer is "no opinion" actually means "do not know" and cannot be scored.

Moreover, in practice it happens that the respondent does not want to answer some questions, but others find it difficult to answer. This leads to a shift in assessment and in order to properly calculate the final score, you need to stick to a pre-defined instructions scoring.

### *Reporting*

An analysis of quarterly and final reports on the activities of NCOs on SPSS received by the MSD showed a lack of uniformity in the presentation of information. Some reports have too many small details, other reports fail to provide useful information. Some reports are written on the computer, others - by hand. Unfortunately, the reports do not provide enough information to monitor and evaluate the activities of NCOs.

In the MSD documents regulating the contents of reports, there is a list of questions that must be answered. The SPSS implementation plan provides a format in which to answer these questions.

| No | Title of activities | Responsible | Deadline | Expected results |
|----|---------------------|-------------|----------|------------------|
|----|---------------------|-------------|----------|------------------|

However, if we compare the SPSS implementation plan with the required reporting form, there are striking discrepancies between the two. The terminology used is different and certain provisions are repeated. The plan and the report form are not synchronized. The formal requirements of the Ministry to the report are presented in Table 7. NCOs understand the Ministry's formal requirements differently because they are not specified by clear indicators.

*Table 7. The MSD requirements to the reports of the SPSS executors and comments to them*

| Name   | Comments   |
|--|--|
| 1. Reporting period  |  |
| 2. Date of report submission   |  |
| 3. Evaluative description of the work completed within the given time period                               | <ul style="list-style-type: none"> <li>• What does evaluative description mean?</li> <li>• What is understood by the word 'work'?</li> </ul>               |
| 4. Who carried out work and when?  |  |
| 5. What results were achieved?   | For example, 50 people were trained, but it is related to item 8   |
| 6. Comparison of the results achieved with the planned activities  |  |
| 7. A list of activities organized within the given period by indicating the timing, place and participants |  |
| 8. Information about cooperation with other non-profit, for-profit and government organizations            | <p>What type of cooperation is being discussed?</p> <p>For instance, should the food purchases from a for-profit company be considered as cooperation?</p> |
| 9. Information about the number of people served, a brief description of a target group                    | Number of people?  |
| 10. Challenges   |  |

Besides, attention should be paid to appendices to reports, which are in no way formalized and can consist of publications, video, photo, audio and other materials, seminar programs, all kinds of lists, positive feedback, etc.

These documents are needed only if specialists are invited by the MSD to conduct an in-depth analysis of performance methodologies and tools in order to identify weaknesses or to disseminate positive experience. But, according to the interviewed NCOs, results of completed projects are never discussed in the MSD and the results remain unevaluated and consequently never used. As a result, additional materials provided by NCOs just complicate reports and overload MSD shelves.

We must note that the field research found a serious problem – we practically could not obtain the lists of service beneficiaries from the NCO implementers, although the lists are a required appendix in accordance with the reporting requirements. The lists are either completely absent or inadequate in that they contain only last names, making it impossible to promptly locate service beneficiaries

and evaluate the project. Interviewing the service beneficiaries is crucial to the SPSS mechanism because only they can assess the quality and level of satisfaction with the services provided.

### *Informing the Public*

The tender procedures for the selection of providers of state funded social services and social services provision by NCO winners must comply with the principles of openness, transparency and the legislation of the Kyrgyz Republic. Due to the significance of the SPSS, it is necessary to have media coverage of all stages of the tender, rather than just publication of the tender announcement.

Special publicity must be given to early termination of contracts when NCOs, for various reasons, fail to accomplish their duties under the SPSS.<sup>37</sup> On the one hand, this will build the trust of NCOs and the public in the Ministry, and on the other hand – the trust of service recipients in the fact that the NCOs won the tender in an environment of openness and transparency, which will reduce corruption and abuse. Moreover, openness makes it possible for concerned representatives of the civil sector to conduct a regular public oversight of the implementing NCOs and monitor the implementation of the SPSS.

### *Complaints*

The SPSS procedure indicates that the disputes between implementers and clients in executing, implementing, changing or terminating contracts for implementation of the SPSS as well as disputes about compensation for property or other damages are considered in the court in accordance with legislation. In practice, there have been no related court cases within 5 years of SPSS implementation. Nevertheless, there are still complaints and disagreements.

Apart from delayed funding, the majority of complaints result from closed nature of the tender committee's work, inaccessibility of information about the scores received and lack of an appeal procedure. According to NCOs, dissatisfaction causes the following:

- Complaints to the Jogorku Kenesh of the Kyrgyz Republic about losing the tender (the Parliament sent letters demanding investigation).
- Scandals with the committee's chair about losing the tender, threats, cursing, blackmailing (which resulted in obtaining funding).
- Complaints to the MSD leadership about the lack of funding.
- Dissemination and supporting rumors about corruption.

Complaints of service beneficiaries were not examined in this report.<sup>38</sup>

## **4.2 Field survey**

In total, 33 NCOs<sup>39</sup> participated in the survey: 15 from Naryn oblast, 7 from Issyk-Kul, and 11 in Bishkek including 2 from Bishkek city. The remaining 9 NCOs representing Batken, Osh and Jalal-Abad oblasts were surveyed during the visits of their leaders to various activities in Bishkek.

All respondents participated in the call for proposals for SPSS implementation and many of them participated more than once and they did not always win. Of all NCOs surveyed in the Naryn oblast, 5 are in Naryn city, 7 – in Atbashy village and 3 – in Kochkor district. 3 NCOs surveyed in Issyk-Kul oblast are located in the Ton district, 1 – in Rybachie town, 2 – in Karakol town and 1 – in Cholpon-Ata.

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<sup>37</sup> NCO Ayar Bala in 2013.

<sup>38</sup> Because of difficulties to obtain lists of service beneficiaries.

<sup>39</sup> The survey was conducted by UNICEF. NCOs were represented mainly by their leaders, formally called as directors, presidents, coordinators, etc.

An attempt was made within the framework of the study to survey a significant number of social service beneficiaries but the goal was not achieved; only 11 beneficiaries were interviewed.

This report did not set out to provide an overview of the characteristics of NCOs in the republic. Nevertheless, a description of NCOs surveyed was obtained from the narratives of their leaders.

The interviewed NCOs were established during the period between 1996 and 2011. The peak of NCO formation was 1997 and 2011. Apart from three NCOs, all other NCOs are headed by women between 32 and 76 years of age.

A high rate of unemployment and an opportunity to seek funding for social service provision from various sources gave rise to formal organizations, which essentially consist of one person. Such NCOs are unsustainable and “short-lived” and are usually built on only close relatives (husband/wife, children, sisters, sisters-in-law, etc.) united behind their leader. However, there are a lot of energetic persons with high human capacity, among them young teachers, doctors, and mothers of children with disabilities, who are willing to try and capable of implementing SPSS.

NCO leaders are usually active people with leadership skills, open, sociable and capable of giving independent assessments. They bravely mention names and facts and also disseminate unverified rumors about corruption.

### *Areas of NCO's Activities*

The majority of NCO leaders responded that most of their activities are of a social nature but their project proposals to the MSD depend on the theme for funding.

Sustainable Kyrgyz NCOs widely adopt and use western technologies and international experience. NCO leaders who obtained new knowledge at seminars openly talk about introducing and adjusting progressive technologies of social service provision to local conditions. Such NCOs are ready to share the know-how and invite “young” NCOs to exchange experience.

Local organizations work in a very wide range of areas in regard to social service provision under the SPSS but the core areas of their work can be systematized into three main groups:

#### *Work with children:*

- rehabilitation and socialization of children with disabilities and their parents;
- inclusive method of training - co-education of ill and healthy children;
- protection of the rights of children in difficult life situation, orphans and children with disabilities;
- assistance to gifted children from disadvantaged families; and
- prevention of vertical and horizontal conflicts of juvenile jointly with District Police Departments.

#### *Work with adults:*

- work with people with disabilities;
  - protection of the rights of people with disabilities;
  - assistance in their employment, etc.;
- public health care, prevention of diseases, fight against smoking, alcoholism and HIV/AIDS;
- protection of the rights of vulnerable groups, including residents of mountainous areas;
- improvement and stabilization of living standards of low-income and poor families;
- crisis centers for single mothers, widows, single elderly women and women – victims of domestic violence;
- craftsmanship, revival of national handicrafts and applied art;
- work with youth, healthy lifestyle, prevention of delinquencies and prevention of HIV/AIDS; and

- employment assistance for girls from socially disadvantaged families.

*Work with the elderly:*

- care for the elderly.

*Participation in SPSS competition*

All the interviewed NCOs participated in the MSD competition and the majority of them participated more than once (two or three times). Many NCOs never won a tender whereas some NCOs won once; only a few organizations received MSD funding twice.

While cooperating with international organizations, sustainable NCOs also submit applications for SPSS tender almost every year.

Every year many NCOs participate in the MSD tender for the first time and it indicates a rise of popularity of SPSS and that the implementation of SPSS through MSD is becoming a stable form of budgetary financing.

The NCO community has a split opinion about organizations that repeatedly win SPSS tenders. The reaction depends on a specific NCO - respondent:

- Positive attitudes are expressed by experienced respondents working in the NCO sector for many years. “These are reliable operational NCOs and the MSD does the right thing by supporting their activities and ensuring their sustainability”.
- Negative attitudes are expressed by the majority of respondents that point at corruption as the reason<sup>40</sup> for winning tenders.

An interesting fact: with few exceptions, the majority of NCOs intend to keep applying despite losing past competitions and disappointments and comments made at MSD.

*Sources of information about the competition*

The responses to the question about how NCO representatives learned about the tender are ranked below in descending order with the most popular methods first:

- Special information distributed among NCOs through Internet;
- Other NCOs<sup>41</sup>;
- MSD personnel<sup>42</sup>;
- MSD website;
- “Erkin Too” and “Kyrgyz Tuusu” newspapers<sup>43</sup>;
- DDSP/CDSP;
- From the MSD Secretary of State at the seminar in Bishkek<sup>44</sup>; and
- From the Vice Prime Minister’s speech on TV (OTRK)<sup>45</sup>.

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<sup>40</sup> Surnames of MSD leaders are given by indicating who is related to who as a relative or friend.

<sup>41</sup> Surnames and NGO names were given either by phone or during face-to-face meeting.

<sup>42</sup> Surnames were given either by phone or during face-to-face meeting.

<sup>43</sup> The republican newspapers are subscribed by mainly government institutions and still these newspapers remain the main source of the most exhaustive information about the organization of SPSS tender.

<sup>44</sup> Mukashev Kyial.

<sup>45</sup> Asymbekova Gulnara.

### *Decision to participate in competition*

When asked why they decided to participate in the tender, the majority of NCOs responded: “to strengthen financing” or “to obtain funding.”

The respondents can be conditionally divided into four groups based on more comprehensive responses to the question asked:

1. The first group represents a small number of NCOs that receive most of their funding by cooperating with other donors (not the MSD). The sum granted by the SPSS is insufficient to cover all the expenses of such organizations but adequate to address specific tasks in line with the MSD themes.
2. The second group represents a small number of active NCOs experienced in cooperation and obtaining financing from international organizations. They are well-known in their own regions. However, this group has not had internationally funded projects for a long time and their trained employees are willing to try to work with the government in order to use their capacity. In essence, they do not work without funding but demonstrate their presence in every possible way by trying to keep track of events, writing project proposals and participating in seminars, etc.
3. The third group of NCOs is most numerous. The group consists of active teachers, mothers of children with disabilities, rural housewives who participated in seminars and have little experience in social work. NCO leaders bring together teachers, mothers of children with disabilities and housewives and have them registered as an organization in order to obtain funds for SPSS implementation. Without funding from the budget they cease all activities as an organization and exist only formally.
4. The fourth group of NCOs includes unsustainable, the so-called “short-lived” organizations. Such organizations essentially consist of one individual person and are registered formally because they intend to obtain funding from the MSD. The project proposals of such NCOs are aligned with themes announced by the MSD. If they win the tender and obtain funds from the MSD, leaders of such NCOs engage only their closest relatives (husband/wife, children, sisters, sisters-in-law, etc.)<sup>46</sup>. Such NCOs prefer working quietly following the principle: the less people know the better.

### *Receipt of the tender document package*

Almost all NCOs-tender participants experienced no difficulties with the receipt of the tender packages.

The sources of information about the receipt of tender packages are:

- MSD website;
- visit to MSD;
- DDSP/CDSP;
- other NCOs;
- fax from MSD;
- Naryn Mayor’s office.

Only two respondents had to make a special trip to the MSD in Bishkek.<sup>47</sup>

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<sup>46</sup> *It is lawful to examine the issue about individual persons’ participating in the tender for SPSS implementation.*

<sup>47</sup> *From Kochkor and Ton districts.*

### *Difficulties in the completion of documents*

Sustainable NCOs experienced in cooperating with international organizations faced no difficulties in the preparation of application documents for SPSS implementation. Some successful NCOs noted that MSD applications appeared to them quite easy compared to requirements of some international organizations. Also, some respondents reported that if they manage to establish successful cooperation and partnership with international organizations and the area of activities does not change, successive project applications to these international organizations are much shorter because the international organization retains many of the required documents such as the charter and certificate of registration. According to the respondents, international organizations never require notarized copies of documents.

The survey revealed an interesting fact – the vast majority of applications were completed in Russian, whereas the working language of most respondents is Kyrgyz. NCO leaders that speak only Kyrgyz admitted that they prepared project proposals in the Kyrgyz language and then they decided to have their applications translated into Russian by outsiders. Such respondents believe that an application in the Kyrgyz language is believed to be noncompetitive and “rustic.”

A large part of respondents that participated in similar tenders for the first time or lack experience in the project activity noted that it was very difficult for them to prepare and submit the whole package of documents.

#### *A list of documents in the preparation of project proposals for the competition*

The respondents were asked one special question: what documents or information do you think is unnecessary or irrelevant in the preparation of the tender documents? The responses strongly correlated with responses to the question about the complexities in the preparation and completion of project applications. The list did not cause any problems for those NCOs that did not experience any difficulty with the application. For the majority of NCOs that find the MSD requirements burdensome, gathering the whole list of documents was a difficult job.

Some experienced and sustainable NCOs did not face any problems in the preparation of the tender package. Others also handled the MSD requirements well and understood that obtaining funds from the republican budget must be accompanied with strict selection and formal barriers at the entry point. They think that “there are no extra documents and all MSD requirements are correct and necessary.” Several participants of the survey noted that the 2011 requirements to the tender documents were more complex, whereas requirements of 2012 became more systematized and simplified. This is a positive trend.

Despite this, the majority of respondents – both winners and losers – complain of difficulties in the preparation of tender applications. The nature of their discontent is varied and is often emotional without any constructive suggestions.

- *Gathering of all documents takes a long time because we have to notarize all documents and gather support letters.*
- *MSD's tender for SPSS implementation is a champion in requiring numbers of documents compared to the majority of other tenders.*
- *It is necessary to cut bureaucratic barriers, number of documents and questions.*

NCOs also made a number of valuable comments that probably need to be considered.

- *Many requirements that show distrust of the MSD to NCOs.*

- *Some questions are repeated in different section of the application.*
- *There is no sense in submitting documents in two copies. None of the government or non-government organizations ever require two copies of documents. It is the job of the MSD to improve processing of applications.*
- *MSD requires two original certificates from the Social Fund while the latter usually issues only one certificate for the concerned organization. And the MSD does not accept a copy.*
- *It is incomprehensible why the document of legal entity registration needs to be notarized, ideally a simple copy should be sufficient. Registration of any organization can easily be checked on the website of the Ministry of Justice. It creates an impression that MSD distrusts NCOs and cannot work with official websites.*
- *A big problem is that we have to pay for many of these documents.*
- *Registering volunteers in the tender application creates inconveniences as copies of passports, domicile registration, diplomas and work record is required for each volunteer. This creates problems as there are many newcomers in Kochkorka without registration but willing to help our organization.*
- *Either Charter or the registration certificate must be required. Requiring both documents is too much. Previously only Charter would be required.<sup>48</sup>*
- *We submit to MSD certificates from tax authorities and the Social Fund showing that we have no tax and social payment arrears, then why balance sheet is required? Balance sheet is excessive in the tender package. Even tax authorities do not require balance sheets from NCOs because the majority of NCOs submit annual declarations of their incomes. Our balance sheets are all full of blank pages.*
- *It is inconvenient to complete budget forms of the application in Microsoft Word now that many respondents have already mastered and use Microsoft Excel. NCOs are asked to complete budget forms both in Word and Excel.*
- *Some documents of a regional NCO sent by electronic mail were twice lost in the MSD. They had to visit the MSD.*

One positive aspect of requiring such documents is that the desire to participate in the MSD tender encourages some informal groups of active citizens to have themselves formally registered by government agencies.

#### *Assistance in the completion of project applications*

Not all respondents approached MSD employees for assistance. The ones who did received assistance in the form of advice and recommendations by phone and during face-to-face meetings in the MSD<sup>49</sup> and they are very grateful for that. Only two respondents mentioned rudeness of MSD employees and one of them was denied assistance. Assistance had to do mainly with budgeting process, and MSD employees advised cutting the budget.

Many NCOs admitted they used the technical assistance of their relatives and acquaintances.<sup>50</sup> Some NCOs request support in the preparation of applications from more experienced NCOs<sup>51</sup> or hire people with project proposal writing skills.

<sup>48</sup> *The respondent had to make a return trip to Atbashy for the registration certificate.*

<sup>49</sup> *Names and surnames were mentioned.*

<sup>50</sup> *Printing, formatting documents on the computer, editing, translation into Russian, etc.*

<sup>51</sup> *NGO names, names and surnames of NGO leaders were called.*

### *Finalization of project proposals and quarterly reports*

NCOs who lost the tender were not asked to finalize or change their applications.

Until 2011, the majority of NCO winners did not have their project applications returned either. Nevertheless, after congratulations on the win in the tender, MSD employees insisted that a number of NCOs should make changes in their applications, mostly to cut the project budget. Such demands became stronger after 2010. The main items to be cut in the budget are personnel and fuel (transportation) costs.

Some NCOs were asked to rework their quarterly reports by the MSD. They complied with such requirements.

### *Composition of the Competition Commission and credibility to it*

A small number of respondents who won the tender positively responded to the question about whether they knew the composition of the tender committee and another question about confidence in the committee. However, not all respondents think it is necessary to publicize the committee composition.

Below are responses to the question about the committee composition:

- The MSD uses “puppet” NCOs as members of the committee.
- All NCOs in Bishkek can find out names of committee members if they want, whereas there is no such opportunity in the regions.
- Some NCOs expressed their willingness to join the committee as members.
- Regional NCOs find it unfair that committee members are always NCOs from Bishkek.
- Some respondents think that they could gather information about committee members and provide sound responses to the question about confidence if they knew names of committee members, especially those from NCOs.

The respondents’ positive replies to the question about their faith in the objectivity of tender committee’s decisions closely correlated with the fact of winning in the tender. In general, NCO winners trust the committee when they won but they would strongly doubt the objectivity of the tender results if they lost.

Some NCO winners did not know the committee composition, yet they had confidence in it. Individual respondents find it fully acceptable that the committee composition is not shared with the participants as they do not know who assesses their project proposals in international organizations. They believe that the committee’s decision is based primarily on NCO’s track record and the reputation and only secondly – on the quality of the project proposal. These organizations believe they wrote very good project proposals, and moreover, they carry out their activities without the MSD support.

The majority of NCOs who lost in the tender did not know the composition of the tender committee and have no confidence in it. Some of them are confident in high quality of their applications and it is incomprehensible for them how other NCOs with lower capacity won the competition. Only two respondents among NCOs who lost in the tender trust the committee’s decision without knowing its composition and they find their loss justified as “the tender is organized at the national level” and the MSD represents the state.

The arguments below reflect NCOs distrust in committee’s work.

- *The MSD has an a priori very warm, biased attitude to **such-and-such** NCOs<sup>52</sup>.*
- *Those who give “kickbacks” (bribe) win contracts<sup>53</sup>.*
- *The MSD does not stick to deadlines and it is suspicious.*
- *The committee’s work is covert and non-transparent.*
- *No tenders are 100% fair. There is always room for subjectivity.*
- *One and the same and not the best NCOs win every year.*

#### *Announcement of the results of competition*

The responses to questions about how NCOs learnt about the tender results indicates that the system of informing applicants of tender results is a weak link in the SPSS organization process.

The majority of NCOs find about the results over the telephone. Often times the MSD did not contact the respondents; most of the respondents repeatedly phoned MSD themselves.<sup>54</sup> The respondents complain that the calls to telephone numbers indicated in tender packages are often answered by employees who cannot provide answers, or are rude or keep them waiting for a long time. In particular, NCOs who lost in the tender were not informed of the results for long periods of time. One NCO approached the District Akim (Head of District Administration), who used his own channels to find out about the loss.

Only a small number of NCOs are informed by electronic mail because the internet is not accessible in all regions.

The list of winners was uploaded on the MSD website in November 2012.<sup>55</sup>

#### *Training in financial reporting*

Every year the MSD organizes trainings in SPSS financial reporting. Since 2009, training workshops have been organized in different ways, and therefore, the respondents’ views about usefulness of the training were divided.

Some NCOs find training useful. The respondents most liked the only training workshop in Issyk-Kul. Training in Bishkek received less positive comments. This training was welcomed mainly by experienced accountants who previously worked in government institutions. Since the training was very technical, it was generally useful only for experienced accountants who had previously worked in government institutions.

Other respondents found training workshops absolutely useless because they paid their own travel costs and it was only a half day workshop. In particular, NCOs complained the workshops were delivered in Russian and therefore, they did not understand parts of it. Some respondents think that courses were short and superficial. This helps to explain why NCOs find the reporting forms difficult even after their trainings.

<sup>52</sup> Surnames, names of NCOs, relative and friendly ties are mentioned.

<sup>53</sup> Surnames and percentages are given. «... Besides, the minister of Social Development was arrested recently. What does it say about the committee members, if the minister is corrupt».

<sup>54</sup> NCOs learnt about win/loss by phone from MSD employees, “friends” that do not deal with SPSS. Surnames were mentioned. Some NCOs know about their own scores and scores of competitors from “friends” in MSD.

<sup>55</sup> There is no information about timing when the decisions of the tender committee for previous years were uploaded on MSD website.

### *Involvement of specialists in the project implementation*

Majority of NCOs hire relatives to head their organizations, including mothers of children with disabilities and people dependent on circumstances, instead of hiring highly qualified specialists.

The respondents from remote regions noted shortage or lack of well-trained specialists. According to respondents, social service provision under the SPSS requires availability of psychologists, neuropathologists, speech therapists and speech pathologists. Some NCOs noted lack of graphic designers and other niche specialists in their towns.

However some respondents hired professionals with expertise in special education to assist with project implementation:

- NCOs hired veterinarians. Veterinarians were involved in the pre-purchase examination, purchase and care (immunization and vaccination) of cattle.
- NCOs hired trainers in inclusive education.
- NCOs hires specialists (speech pathologists, psychologists, speech therapists) to a limited extent due to insufficiency of funds and high demand for such specialists.

### *Salary Rates*

Discussion of salary rates under the SPSS raised great interest among NCOs, specifically among relatively successful and sustainable organizations with competent leaders.

Majority of respondents complained about the MSD's unequivocal requirement to cut salaries of project staff. Many NCOs had given in to the MSD and cut salaries of the project staff. Salary rates vary across NCOs.

- For instance, a respondent stated that in line with the MSD requirement, they had to cut salaries for 3 staff members from 5,000 KG Soms down to 3,500 KG Soms, and from 8,000 KG Soms to 6,000 KG Soms for the Project Manager. During delays with funding or the absence of funding, the Project Manager often has to spend his or her own money to cover the organizations' expenditures because the manager is personally liable to the social service beneficiaries.<sup>56</sup>
- Another example: a respondent who runs a day care center for children with disabilities gave the following figures noting that they have the lowest salaries among all other projects. The project manager receives 1,000 KG Soms and other staff members receive even less: carer –500 KG Soms, accountant – 700 KG Soms, the second carer – 400 KG Soms, masseur –630 KG Soms, psychologist – 500 KG Soms, cook – 700 KG Soms. To provide food, they request funds from other organizations and sponsors as 25 KG Soms per child per day was budgeted and many children come to the center for food because they eat very poorly at home.
- In the majority of NCOs, salaries are 3,000 KG Soms or less. For instance, a typical situation: mothers of children with disabilities received 1,800 KG Soms from the SPSS funds while working in the Daycare Center. When the SPSS funding ended, they registered as unemployed in the Employment Center and were receiving 1,300 KG Soms of unemployment benefit. But they are eligible for this benefit only for 6 months and after that women come to work every day without pay just for an opportunity to bring their children to the Daycare Center.

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<sup>56</sup> For comparison, when funded by the grant of international organizations an NCO leader is paid 20,000 KG Soms for 50% of work time, and 6,000 KG Soms for 100% of work time on the MSD funded project.

- One respondent admitted that he has to lie to the MSD because his organization pays a monthly salary for just a few days of work to a specialist in demand.

Overall, respondents think that by demanding salary cuts, the MSD devalues the work and engages in self-deception.

- *One respondent said that the MSD wants fiction instead of quality services.*
- *The quality of SPSS services is very low for such money.*
- *Such salaries are no longer competitive either in villages or in cities.*
- *The MSD believes that if organizations deal with disabled persons then a penny is enough for them.*
- *The MSD believes that 5,000 KG Soms is like USD 5,000 for NCO – a lot of money.*
- *Nowadays it is difficult to find adequate specialists and a competition is needed in order to be able to select them, because these are special services and they cannot be cheap.*
- *The MSD must strictly supervise quality of services and pay adequate salaries.*

It must be noted that there is one SPSS project without salaries and the MSD leadership praised them during certificate award.

#### *Control and monitoring of project implementation by the MSD*

According to respondents-winners of the tender, visit of MSD employees to regions and meetings with NCO can hardly be considered adequate monitoring of project implementation.

The research found that the MSD made approximately one visit to each NCO in Naryn and Issyk-Kul oblasts. The respondents mentioned names of the Ministry officials who visited them.

Visits of the Ministry officials caused different or even polar opinions among NCOs – from positive to extremely negative.

Some NCOs appreciated courage of two young women from the MSD who visited the organizations in February and March when it was bitterly cold in the country and mountain roads were closed because of snow. The officials visited families and inspected the project performance during their visit. According to this group of respondents, the MSD inspection was conducted in a friendly manner.

Other NCOs note, as evidenced by their leaders, that the one-time visit of young officials from the ministry was organized without notification. The officials expressed, without any grounds, their dissatisfaction that NCO leaders were in Bishkek at the time instead of being on the project site. The Ministry officials visited the kindergarten in the afternoon, when the target group of children – the social services beneficiaries – went home, the officials accused the NCO of deception; while talking to parents of children with disabilities they put pressure on them, the officials suspected that parents had been prepared for the interview. The Ministry officials were very rude while talking to the NCO personnel, and they did not inform about the results of the inspection.

According to the NCO personnel, apart from the MSD, NCO activities are closely watched by the community. “Everybody knows that the NCO received grants and everybody watches its performance.”

If co-financed by Akimiat (District Administration) or Village Administration,<sup>57</sup> the NCO’s activities are controlled by these organizations that check the NCO’s project expenditures.

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<sup>57</sup> *Providing an office space or assistance in securing a space.*

### *Submission of quarterly reports*

Majority of respondents submit quarterly reports without much difficulty. However, some NCOs from remote regions complained that they had to travel to Bishkek to submit financial and narrative reports. For instance, the head of one NCO said: "It would be good to submit reports locally in Naryn to the City Department of Social Protection." Some NCOs think that the MSD personnel do not clearly specify their requirements regarding completion of reports and then ask NCOs to rewrite reports during their visits. Several NCOs noted that comments during the report submission are made in a rude manner.

At the same time, the authors of this report met some respondents who failed to submit timely reports to the MSD with excuses such as the report was destroyed by a computer virus.

### *NCOs' Performance Appraisal upon Completion of the Project*

Majority of NCOs noted that completed projects were never discussed in the MSD. They think the results remain unevaluated and consequently it is a waste of effort to obtain them.

However, some NCOs from Atbashy and Rybachie boasted that officials of various ranks,<sup>58</sup> including the MSD leadership verbally, expressed their acknowledgement of good performance and willingness to provide further support to their work under the SPSS.

As for the attitudes to NCO performance related to social service provision, some organizations' performance was positively recognized upon completion of projects by city mayor's office, oblast state administrations, district state administrations (verbally and certificates of merit), the media (articles and photos) and partners (letters of appreciation).

According to respondents, continued funding for another year can be seen, as a rule, as a de facto positive evaluation of NCOs' performance by the MSD.

### *Funding*

NCOs gave mixed responses to the question about the timeliness of SPSS funding by the Ministry. Half of the NCOs did not complain about funding schedules, whereas the other half noted delays in financing.

In 2012, the SPSS faced a special situation related to forced replacement of the MSD leadership, on the one hand, and the budget deficit, on the other. Sensitivity of the state program implementation to such circumstances demonstrates institutional weakness of the SPSS and indicates areas for improvement.

The SPSS funding schedule in 2012 was unacceptably disrupted. Due to a lack of a notification system and according to many respondents, the condescending attitude of the MSD to NCOs, NCOs remained unaware of the situation for several months. Many winners of the tender responded in November that they did not start activities because funds had not been transferred to their accounts. Winners did not see or do not want to see the relationship between delays in funding and deficit in the republican budget. Keeping NCOs uninformed of the status of their funding after handing them the money certificates undermines the authority and reputation of the MSD. The respondents fear that the MSD may cut the original project budget due to delayed funding and NCOs are ready to object as it is not their fault. The MSD should provide regular information to each NCO instead of keeping silent and limiting itself to brief and vague responses to callers.

Delays in funding hinder NCO activities.

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<sup>58</sup> *President Rosa Otunbayeva.*

- *A leader of NCO that uses SPSS funds to maintain a daycare center for children with disabilities complained about having no money during a lengthy period – between December 2011 and September 2012. They had to suspend the operation of the center and stop providing services to disabled children, despite the fact that the children need uninterrupted training and adaptation.*
- *In summer 2011, construction of a bathhouse in the rehabilitation center for the elderly was planned under another project, but the delayed funding resulted in the start of construction in the autumn-winter period, when the cost of construction works and materials went up and a less reliable construction team had to be hired.*
- *Delayed funding explains why another project had to buy only six cattle in autumn when it was expensive instead of buying seven cattle in April as was planned.*

### *Comments and suggestions of NCOs*

Almost all respondents, irrespective of whether or not they won tenders, had some complaints about how the MSD organizes tenders and SPSS implementation. The analysis of the comments and recommendations demonstrates that they can be arranged into three groups. The first group contains general complaints from tender participants, both winners and losers. The second group contains complaints from tender winners and the third group contains complaints from tender losers.

Questions related to the project implementation support were asked only to NCO winners.

The first group of comments: general comments and complaints made by NCOs who won and lost in the tender:

- *No indication of precise timing of the tender.*
- *Failure to stick to the deadline announced by the MSD in the process of tender organization – the deadline for submission of project proposals is not observed, the deadlines are extended.*
- *The tender is extended by announcing an additional tender, which confuses participants who do not understand the reasons for it.*
- *The MSD organizes the work in a private manner. Comments include: “We don’t know whether we won or lost”. “We had to look for acquaintances in the MSD in order to find out that we lost in the tender”. “We are not beggars; we are partners with equal rights.”*
- *Review of tender applications takes an unreasonably long time. “Why the review of documents should take almost four months?”*

The second group of comments made by winners of the tender:

- *It appears the SPSS is a secondary area of activity for the MSD, non-priority, superficial and temporary.*
- *A lack of prompt feedback from the MSD. A lack of a focal point accessible and always dealing with only social contracts who has complete information about the SPSS and able to answer all questions of NCOs.*
- *Many comments about delays that complicate implementation of activities. “We were informed about the results after 4 months, a month later a contract was signed but the funds have not been transferred yet.”*

- *“Red tape and delays in funding after receiving the contract award certificate are annoying. It is impossible to understand the selection criteria of the fortunate ones, who had funds transferred on time; why them? What was the criteria for their selection? Other NCOs had funds transferred with delay, and third ones were rejected? Or wait longer.”*
- *A lack of final performance appraisal of NCOs based on implementation of SPSS – which ones worked well and which ones worked irresponsibly. “All the work remains unnoticed. The MSD does not study performance outcomes and is not interested in either positive or negative aspects of the SPSS implementation. All it cares about is to accept formal reports – papers and that is all”.*
- *Suspicion and distrust demonstrated by the MSD towards NCOs during submission of financial reports. The MSD must provide clear requirements and then check documents against the requirements (contract of purchase enclosed to receipts, sellers’ patents, etc.).*
- *MSD leadership replacement, change of the ministry’s organizational structure strongly affects the strategy of its operation and impacts SPSS as well.*

The third group of comments made by NCOs who lost in the tender:

- *The MSD personnel are very rude on the phone. “We call her at workplace, not at home at two o’clock in the morning. We had to argue and tell her off.” “It is their job to answer by phone”.*
- *The committee’s work is not transparent. “I want to know who won. I will definitely visit MSD when I am in Bishkek to look at winners’ applications in order to write better next time”.*
- *Only “friends” and favorites of the MSD leadership win<sup>59</sup>.*
- *No comments provided to projects proposals of NCOs who lost in the tender.*
- *MSD must train NCOs instead of just scolding and suspecting.*
- *The say that the priority in 2012 is to support projects from the south, even if they are weak. This is why the additional tender is organized only for southerners. This is unfair. They should inform us in advance how much money is planned for each region.*

Suggestions of the first group made by both winners and losers in the tender for the MSD in relation to tender organization:

- *Ensure transparency and objectivity by informing about the tender process, otherwise NCOs are uncertain.*
- *Committee composition is not a state secret. Names of committee members with their CVs must be made open to public.*
- *The final stage of the tender must be broadcast on TV in the regions the way the public property auctions are currently covered. Each committee member should express his/her opinion and then a winner will be selected fairly. The results of the tender must be then covered in “Erkin-Too” newspaper by featuring comprehensive information about winners so that NCOs who lost could come to meet and see what winners do, and then new NCOs will strive to learn best practice.*

Suggestions of the first group of NCOs on the SPSS support process:

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<sup>59</sup> *Winners’ names and NCO names were mentioned.*

- *The MSD personnel must make frequent field visits and monitor NCOs' SPSS performance instead of sitting in their offices.*
- *Increase the budget of SPSS projects, otherwise the amount of funds is too small for serious projects.*
- *Some quality projects must be long term. "The project ends before it started."*
- *Publicize project outcomes upon project completion. Organize joint open presentations of best projects of NCOs in the regions, share methodologies and ideas.*
- *Penalize dishonest NCOs, including financial penalties.*

Suggestions for MSD from the *second group*- NCO winners:

- *Review of all project proposals must be completed by December. In case of budgetary problems in the country the Ministry must inform NCO winners through its website or send SMS-messages about changes in the timeline.*
- *Create and upload on the MSD website a list of NCOs who won in the tender with scores. Funds must be released based on the rating by scores if the ministry has limited funds. If several NCOs have similar scores, funding must be based on clear and transparent criteria such as, for instance, names of NCOs in alphabetical order.*
- *Simplify requirements to document preparation for regular NCO-partners.*
- *Conduct training in financial reporting separately in Russian and Kyrgyz by giving NCOs a choice.*
- *The country has a shortage of specialists - speech pathologists, speech therapists and psychologists to work with children with disabilities. It is not an easy task to work with such a group. Therefore, project salaries must be average for the country if the specialist has no other sources of income, then specialists will perform 100% and a 100% return can be demanded from them.*
- *During monitoring visits to NCOs the MSD personnel should act constructively, on equal grounds and give advice and recommendations.*
- *Organize submission of quarterly reports on SPSS implementation locally using capacity of DDSP/CDSP after training one local staff member.*
- *It is necessary to organize regional seminars on the results upon the completion of projects by NCOs with focus on positive outcomes, feedback, typical mistakes in the performance and reports, etc.*

Suggestions for MSD from the *third group* - NCOs who lost in the tender:

- *It is necessary to conduct a more thorough and open pre-grant monitoring so that interested parties could participate in the discussion of projects on the internet and share their opinions about executing agencies.*
- *Invite short-listed NCOs for an interview in order to meet them personally and be able to directly and objectively evaluate their capacity.*
- *Organize regular training in social contract implementation for new NCOs, for example, once a year for two days with involvement of successful NCOs that repeatedly won tenders.*

### *Selection of service beneficiaries*

According to respondents, NCOs mainly use three methods to select social services beneficiaries under the SPSS implementation:

- *The first method* – use of resources of government institutions and LSG bodies. As well-known public activists among local residents in their own regions, majority of NCO leaders freely use the resources of government institutions and LSG bodies to determine social services beneficiaries, including:
  - lists of vulnerable groups of people from district and city departments of social protection, beneficiaries of social support (children with disabilities, adults with disabilities, single elderly citizens, children without bread-winners, poor families with children, etc.);
  - lists of orphans and half-orphans from city/district departments of education and schools;
  - lists of chronic patients from Family Medicine Centers and Group of Family Physicians; and
  - lists of vulnerable families and children from Village Administrations and District Administrations.

Some NCOs do not limit their cooperation with government institutions and LSG bodies to the use of ready-made working registers. For example, teachers trained in the basics of inclusive education were selected by the district department of education through the Center for teacher professional development. Activities of some NCOs involve personnel from city halls and district and village administrations.

- *The second method* – door-to-door visits.
  - Very few NCOs conduct door-to-door visits asking residents for the addresses of target categories of citizens (wheelchair-bound children, elderly people living alone, etc.), to locate potential beneficiaries of social services, talk to parents and provide comprehensive information about the terms of social service provision. However, such conversations prove to be valuable as many parents do not want to expose children with disabilities to public.
  - If the range of an NCO's activities is limited to one village, its residents usually know each other and NCO members can openly discuss the issue of service recipient selection.
- *The third method* – announcements in the local media.
  - Some NCOs put advertisements of services in local newspapers, which also have the benefit of attracting target categories of social service beneficiaries.

It must be noted that there are active NCOs that thoroughly select service beneficiaries by using two and even all three methods.

However, the majority of NCOs limited themselves to government institutions' ready-made registers of target categories of citizens. NCOs select their clients from the ready-made lists based on criteria specific for each project:

- age;
- place of residence. If the project budget makes no provision for transportation or fuel costs, only beneficiaries residing near the NCO's place of operation are selected;

- social status. In one example, NCO selected girls from the most disadvantaged families from the list of female school graduates of the District Department of Education in order to teach them national handicraft skills, despite the fact that there were a large number of girls willing to learn the skills.

The research found a serious systemic problem related to the registration of social service beneficiaries and some other interesting facts:

- Most of the NCOs surveyed did not have their lists of service beneficiaries available, but many of them promised to send them by electronic mail.<sup>60</sup>
- Lists of service beneficiaries submitted by some NCOs contain poor quality documents that are not helpful (without clients' addresses, etc.).
- As usual, the lists contain only names of service beneficiaries. Quality lists of service beneficiaries with addresses are rare and can be found only in sustainable NCOs.
- Some NCOs cooperate and form partnerships with the relatives of service beneficiaries. For instance, while children with disabilities are trained in the daycare center, their mothers work in the national handicraft workshop.
- There is competition between NCOs for clients.
- A number of NCOs could not definitively answer the question: "There is no special selection, we accept whoever comes to us".

Maintenance of service beneficiaries' records and proper documentation is a weakness in the SPSS program. According to the MSD requirements, NCOs pay more attention to the process and documentation of procurements and purchase of material and technical components of the project (food, stationery, construction materials) for the financial report, instead of a substantive part of the core performance.

At the same time it is necessary to understand that the goal of the SPSS is to provide social services to specific beneficiaries.

#### *Survey of Service Beneficiaries in the Process of Monitoring*

Only some respondents gave positive responses about the survey of service beneficiaries during the MSD's monitoring in 2012, mainly leaders of relatively sustainable NCOs. There was no survey of service beneficiaries in the majority of NCOs or the survey was complicated because of poor quality registration of service beneficiaries.

As mentioned above, the majority of NCOs cannot immediately provide lists of service beneficiaries with necessary contact details for monitoring and control. Independent researchers – the authors of this report – also faced the same problem. There is no doubt NCOs implemented activities under the SPSS projects as evidential material was numerous (children's drawings, books, etc.) and details about activities were described by the project staff themselves and interviews with other witnesses (neighbors, employees of Village Administrations, District Administrations, schoolteachers, etc).<sup>61</sup>

Our assumption is that documentation and record maintenance including proper registration of service beneficiaries is not a priority for NCOs. Hence, the MSD should require registration of service beneficiaries to facilitate control as well to decrease the risk of abuse by dishonest NCOs.

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<sup>60</sup> *These NCOs have not fulfilled their promises to this day.*

<sup>61</sup> *Apart from one NCO in Atbashy where there was little indication of activities.*

### *Standards of provided social services*

Standards are a system of requirements to social service provision approved by normative legal acts of various levels and status (organizations, association of organizations, ministries, laws of the Kyrgyz Republic). Social services are subject to regulation and standardization for the benefit of recipients. Such standards are formulated in the form of documents prescribing clear requirements, norms and rules for the service in order to make its provision comply with its purpose.

The responses to the question about the availability of standards for services provided demonstrated a weakness in the entire SPSS program. Numerous NCOs providing a wide range of social services under the MSD leadership have no formally developed and approved standards for services provided under the SPSS.

The majority of NCOs did not understand the question. The remaining smaller part of NCOs said that they have no standards. Only a limited amount of NCOs designed standards themselves based on the Russian models but it turned out that they also confuse social service standards with work regulations. For example, various documents were shown instead of standards, including: an integrated training program for children with disabilities and healthy children approved by the District Education Department, schedule of lessons, a day regimen for the elderly, and an admission policy for an elderly customer.<sup>62</sup>

After explaining the issue, the respondents said that standards must be provided to them by the state represented by the MSD. Established and approved standards for social services must depend on the level of funding.

### *Desirability of transparent information about the SPSS*

The responses to the question about whether it is necessary to place comprehensive information about SPSS, tenders, winners and project results in order to enhance transparency of the MSD activities depended on whether the NCO won or lost the tender.

*NCO winners* noted that only general information about NCOs who won the contract and their scores must be uploaded. However, it is not advisable to upload project ideas as ideas would be immediately copied.

Still, sustainable and strong organizations believe that most information must be published in order to popularize positive experiences in the regions. But they think that annual balance sheets and the organization's financial statements should not be made public. Simultaneous implementation of several projects by these NCOs, whose balance sheets<sup>63</sup> reflect considerable sums of funds coming from international organizations might cause jealousy among people who cannot adequately comprehend scale of activities because they rarely access grants or do not work with grants at all. The size of funding from international donors might several times exceed the sum requested under the SPSS.

Thus, the NCO winners believe that transparency is needed at the stage that precedes decision-making about funding as well as the stage of discussing the project outcomes of each NCO so that everyone, including service beneficiaries, can express their opinions about the projects. However, absolute transparency is not reasonable.

*NCOs* who lost in the tender believe that the process of SPSS implementation should be widely publicized on the MSD website and in newspapers. Many NCOs demanded information about SPSS through radio and TV as very few people read newspapers whereas the access to Internet is limited.

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<sup>62</sup> *Measuring height, weight, blood pressure, etc.*

<sup>63</sup> *For instance, the balance of one sustainable NCO is Euro 24000.*

Opinions of NCOs who lost in the tender can be divided into two equal groups:

- The first group requires transparency of only main points of proposed projects without excessive specification so that all participants know who the winners are, how they work and why they won the tender. Information for general public must reflect the following points:
  - idea of the proposal, project goals and objectives, project budget, and executing agencies;
  - visual presentation of winners' activities (publications in the media, feedback of service beneficiaries, other NCOs, representatives of LSGs and government institutions, etc.).
- The second group of NCOs believes that information about all applicants must be open and NCO's performance under the SPSS must be subject to public assessment and control, and every tyiyn (cent) must be checked for targeted spending because these are funds from the government budget, and all materials must be accessible to all users on the MSD website.

#### *NCOs after completion SPSS project*

As NCOs complete their SPSS contracts, as well as NCOs who lost in the SPSS tender, they must decide what to do when they no longer have funding:

1. The majority of NCOs cease organizational operations, do not engage in social service provision and do not pay salaries to their staff. Only some NCO leaders try to raise funds.
2. A small number of NCOs continue to operate. These NCOs are strong with relatively sustainable alternative sources of funding.
3. Other NCOs cut most operations and use their own money to fund some costs and involve close relatives and staff members willing to work for free.<sup>64</sup>

For example, some NCOs work with the international organizations to implement the "Clean City" project jointly with the Soros Foundation, where young people clean beaches in Cholpon-Ata City; care for the elderly in Rybachye City; and work at the center for children with disabilities in Atbashy village.

One or two NCOs continue working and support themselves by engaging in handicrafts and producing souvenirs.

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<sup>64</sup> *Mothers of children with disabilities.*

## **Part II.**

# **International experience on the state procurement of social services and state grants for social projects**

### **Chapter 5. Bulgarian experience on the state procurement of social services**

*By Luben Panov, the Bulgarian Center for Not-for-Profit Law*

Bulgaria is one of the countries which in the 2000s reformed the state social contract system by using experience accumulated in the EU countries.

#### **5.1 General provisions**

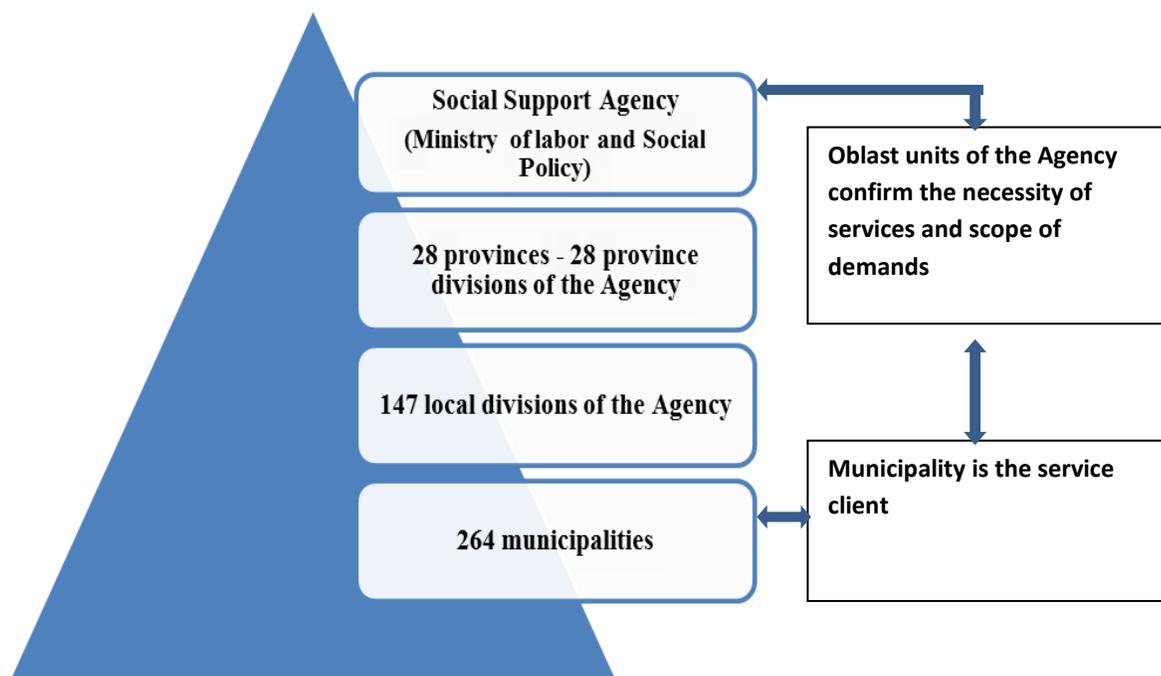
Main provisions and stages of SPSS system in Bulgaria are the following:

- 1) LSG bodies identify needs for social services.
- 2) The state grants the right to provide the state social services to private service providers (of 933 services provided in Bulgaria 178 are entrusted to NCOs through SPSS mechanism).
- 3) Private service providers are service providers registered in a special register who submit annual report about activities. The database of operational NCOs is updated.
- 4) Private service providers:
  - NCO;
  - Commercial companies;
  - Individuals.
- 5) Services for children are provided based on state license.
- 6) The state is held responsible for social services provided by private service providers.
- 7) The state has kept the following functions:
  - Funding the services;
  - Control of spending of state funds;
  - Control of service provision.
- 8) Social services are financed from the republican and/or local budget.

#### **5.2 Organization of SPSS**

Bulgaria's territory is divided into 28 provinces and 264 municipalities. Municipalities are legal units for solving local issues with own budget. The Municipal Council is a local governing body that determines the development of municipality.

Picture 3. Interaction between municipalities and the Social Support Agency in Bulgaria in the area of social service provision



- 1) Bulgaria has developed financial standards for each social service – the cost of providing a specific type of social service to one person for the year.
- 2) Each municipality, jointly with the local social support agency, develops a five-year municipal social service development strategy, which identifies needs, describes services provided to target groups on the municipal territory as well as services to be developed to meet the needs.
- 3) The province strategy is developed based on municipal strategies. The government knows what services are available, what services must be developed and how much it costs.
- 4) The state determines how much funds must be allocated to each municipality.
- 5) The municipality announces tender for provision of a specific type of services at predetermined cost if the requested service is not provided by state providers on its territory.
- 6) The contract is awarded either after the tender between providers (if there are several of them) or as a result of agreement (if there is only one provider).

### 5.3 Regional needs in social services

A 5-year regional development strategies project was initiated in Bulgaria in order to identify public needs in social services on the regional level.

The strategy for social services development in the region of PLOVDIV for 2011-2015 was thoroughly studied during the research. This strategy is made up of strategies of municipalities located in the region.

Strategy structure is uniform across Bulgaria and contains the following main provisions.

### **Analysis of the social service provision situation in the region**

- Socio-economic status of the region (population, employment, unemployment, population's incomes).
- Inventory of current social services.
- Social service coverage (groups and size of groups, access).
- Resources used in social service provision (human, material, financial).
- General conclusions about the status of social services and access to them in the regions.

### **Strategy of social service development**

- Relevance of the strategy.
- Goals and objectives of the strategy.
- Relation of the strategy to international, national, and local policies in social service provision.
- Identification of public needs in social services (in regard to vulnerable groups, people at risk and disadvantaged communities). People at risk identified (people with disabilities, people with multiple disorders, people with mental disorders, elderly people with disabilities, institutionalized people with disabilities, institutionalized elderly people, and lonely elderly people). Disadvantaged communities and groups (the unemployed, disadvantaged ethnic communities, underage and young parents, etc.)
- Analysis of limited access to services.
- Intervention and action plan for providing services to eligible people.
- Assessment of resources required under the service provision strategy (human resources, material resources, funds necessary for social service provision in the region).
- Responsibilities and roles in the strategy implementation (units of the Social Support Agency, municipalities, NCOs, local enterprises, for-profit organizations, etc.).
- Mechanisms for partnership and interaction between the state, private sector and the civil society.
- Structure and sources of social service financing.

### **Monitoring and Evaluation System**

- The main indicators of achieving the strategic goals.

### **Coverage and promotion of the strategy in the society**

Thus, a thorough analysis of the situation and identification of intervention areas is followed by formation of a list of activities based on financial standards for social services – amount of funds needed by the region for strategy implementation.

It must be noted that planning of social service provision is built on real indicators of needs identified in municipalities instead of forecast indicators of the Ministry of Social Protection. In turn, financing of the region is based on the cost of state social services to be provided.

### **5.4 Standards for social services delivery**

Social service provision in Bulgaria strictly complies with the developed standards. “Resolution on criteria and standards of providing social services to children” was studied during the research. The provision regulates criteria and standards of social service provision for children as well as compliance control.

### *General provisions*

- Standards contain requirements to services that simultaneously act as criteria allowing assessment of the quality of social services provided by contractors.
- Standards are subject to mandatory implementation by the state and municipal services as well as all persons and organizations listed in the government registry of social service provision for children.
- Social service criteria and standards are developed in order to ensure:
  - a safe and secure environment to care for children and protection of their rights and interests;
  - improvement of the quality and accessibility of social services for children.

### *Responsibilities of service providers for children*

The main responsibilities of service providers include:

- Maintain records of service beneficiaries in accordance with the Law on Personal Records Protection.
- Inform the child's parents (trustee/guardian) about the services provided.
- Develop jointly with the child's parents (trustee/guardian) a service provision plan based on the child's needs identification.
- Develop procedures for filing and addressing of complaints from children, their parents (trustees/guardians).
- Provide conditions for child development.

### *Standards of social service provision in communities*

The chapter outlines 14 standards wherein each standard contains 2 to 9 quality criteria for social services provided for children in the communities.

#### *Example: Standard 6*

The contractor must notify competent authorities and parent (trustee/guardian) of any incident related to the child.

#### *Criteria for assessment of compliance with Standard 6:*

- 1) The contractor has written procedures in place for notification of appropriate authorities, parents (trustees/guardians) in case of an incident affecting the child's health. The procedure includes registration of an incident and its reasons.
- 2) If the incident was caused by personnel breaching their duties administrative sanctions must be applied in relation to them.
- 3) Each child has a file with records of all incidents, measures taken and the outcomes.

### *Standards for social service provision in foster families*

The chapter outlines 17 standards wherein each standard contains 3 to 11 quality criteria for social services provided for children in foster families.

#### *Example: Standard 5*

The relationships with the child living in the foster family are built on the principles of understanding and respecting the child's personality.

#### *Criteria for assessment of compliance with Standard 5:*

- 1) Attitudes of all persons living in the foster family are based on respect to the child.
- 2) Social workers inform the foster family about the child's history, special features in the conduct and development of the child.
- 3) Foster families are trained in all issues related to protection and safeguarding of child's personality and development of his/her capacity.

#### *Standards of social service provision for children in residential institutions*

The chapter specifies 25 standards wherein each standard contains 3 to 10 quality criteria for social services provided for children in residential institutions.

#### *Example: Standard 10*

Service provider guarantees child's privacy and offers an opportunity to choose clothing and personal belongings.

#### *Criteria for assessment of compliance with Standard 10*

- 1) Children have the right to keep their clothes and personal belongings.
- 2) Children are provided space for storing their clothes and personal belongings.
- 3) Girls are given individual sanitary and hygienic items.
- 4) Children are free to spend their personal money if no limits are specified in the care plan.

## **5.5 Funding the state social services delivery**

Bulgaria has two channels of financing social services provision – state social contract and budget grants.

#### *State procurement of social services*

About 90% of social services are funded from the state budget. Approximately 70% of state social services are delegated to municipalities. The cost of the delegated service is calculated based on the standards that include salaries, personnel salary tax and the amount allocated for service provision.

In this case the government knows precisely what services should be provided and at what cost (for example, food for 50 women in the crisis center). A list of necessary services is developed by municipalities and the line ministries develop standards and estimate costs.

The table below shows financial standards and total cost of some social services.

*Table 8. Financing norms for state social services in 2013*

| <b>Services in communities</b>                 | <b>Number of service beneficiaries</b> | <b>Monetary standard, Euro/person a year</b> | <b>Thousand Euro/ a year</b> |
|--|--|--|------------------------------|
| Day-care center for children with disabilities | 2 088                                  | 2 622  | 5 475                        |
| Day-care center for adults with disabilities   | 1 582                                  | 2 622  | 4 148                        |
| Day-care center for elderly people             | 1 521                                  | 688  | 1 047                        |

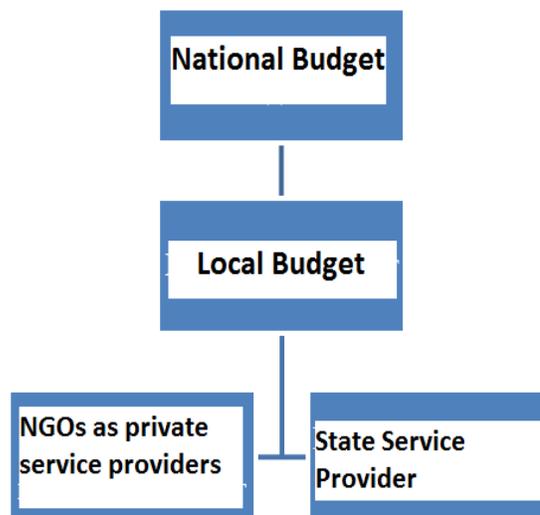
Funds received by the municipality for social contract are shown as a line in the budget.

### *Budget grants*

Budget grants have a goal (for instance, support to homeless people) but it is unclear how the goal will be achieved and what resources are needed. NCOs offer options. NCOs are selected through the tender. These tenders are conducted by a relevant ministry<sup>65</sup>.

The project tender is intended to identify innovative social services that in the future can be expanded to the whole social practice.

*Picture 4. Cash Flow for social service provision*



### Cash Flow

- 1) Social transfers are made directly to beneficiaries while funds for social services are transferred to municipalities.
- 2) Target funds for the provision of state social services are received by local budgets from the national budget.
- 3) These funds can be supplemented by funds from local budgets.
- 4) The service provider is financed by LSG bodies.

### Procedures for tender announcement and service provider selection

At the end of the year local self-government bodies of the municipality announce tender for social service provision and organize tender procedures<sup>66</sup>:

- issue of a decree and publication of the tender announcement;
- appointment of a committee to assess submitted proposals;
- assessment of submitted proposals;
- selection of a winner;
- mayor's decree on announcement of the contract winner;
- conclusion of a contract with the winner.

<sup>65</sup> The SPSS system in the Kyrgyz Republic is similar to budget grants.

<sup>66</sup> Until recently there were numerous NCOs in Bulgaria providing many services funded both by the government as well as donors. There were many seminars, conferences and meetings, etc. but nobody assumed responsibility to provide sustainable social assistance. Now long-term contracts for 3-5 years are executed.

The announcement specifies:

- terms of participation and requirements to candidates;
- description of social services to be delegated;
- size and procedure of financing;
- a list of documents to be submitted;
- time and place of application submission;
- date, time and procedure for conducting the tender;
- deadline for announcement of tender results;
- methodology of assessment of project proposals;
- other specific terms.

Call for proposals from private social service providers might contain options specified in the announcement:

- the provider must provide a space;
- the provider must have special equipment;
- the state has infrastructure and the provider is expected to provide only services.

#### *Tender Committee*

- The Tender Committee is formed by the Decree of the Cabinet of Ministers.
- The Committee consists of 6 people (although this is a weakness – there is no representative of core NCOs and committees often include people who have no capacity to assess the quality of projects submitted to the tender).
- Committee composition is released 1 day before the start of the tender.

#### *Committee activities*

- The committee's work starts with the development of an assessment matrix:
  - matrix of formal requirements to applications;
  - application content assessment matrix.
- The Committee starts with opening the envelopes.
- An act stating the number of submitted proposals is signed. This is done to prevent add-on applications after the application submission deadline.
- The act is a mandatory document, which can be used in the court to appeal against the committee's decision.
- The work starts with the regulation of the decision on the winner – for example, 2/3 of votes.
- The committee conducts technical appraisal of applications to check submission of all documents required.
  - The staff which will provide services is considered separately. Bids are removed from the tender if there is no sufficient information – CVs, education certificates, track records.
  - If the committee finds insignificant gaps it might give time to eliminate them.
- Then, the Committee reviews applications that went through technical appraisal.
  - Given the limited amount of funds allocated by the state for service provision, applications are compared with respect to specialists, the provider's ability to contribute additional funding, material assets and other significant grounds.
- The committee always works at one place and documents are not moved out of the place.

### *Application content assessment matrix*

Application content assessment matrix is the main document regulating the decision-making process in the selection of service providers. The matrix contains the main criteria for assessment of candidates and their proposals:

- compliance of proposals with the requirements indicated in the announcement;
- candidate’s track record in social service provision and good reputation;
- candidate’s working capacities and personnel’s professional qualifications;
- candidate’s financial reliability;
- ability to provide services in compliance with requirements of the standard for the services, and other requirements.

A maximum score a candidate can get is 100 scores.

The table below presents distribution of scores.

*Table 9. Application content assessment matrix*

| <b>Section</b>   | <b>Scores</b> |
|--|---------------|
| <b>1. Program relevance</b> <ul style="list-style-type: none"><li>– Submission of all necessary documents</li><li>– Compliance of the program with the goals of social services announced in the tender</li><li>– Clear definition of social services</li><li>– Suitability, sequence and feasibility of proposed activities</li><li>– Clear and detailed budget</li><li>– Justification of expenses</li></ul> | 30            |
| <b>2. Resource base</b> <ul style="list-style-type: none"><li>– Suitable resource base that meets requirements specified in the announcement</li></ul>   | 10            |
| <b>3. Candidate’s financial stability</b>  | 5             |
| <b>4. Candidate’s experience</b> <ul style="list-style-type: none"><li>– Experience in social services provision</li><li>– Reputation of the social service provider<sup>67</sup></li></ul>  | 10            |
| <b>5. Compliance with social services standards</b> <ul style="list-style-type: none"><li>– Does the program have sufficient grounds to meet specified criteria and standards of social services</li></ul>   | 10            |
| <b>6. Capacity</b> <ul style="list-style-type: none"><li>– Level of professionalism of the personnel in the provision of social services</li><li>– Applicant’s technical capacity in service provision</li></ul>   | 10            |

<sup>67</sup> This item is assessed based on the results of monitoring, if the candidate previously participated in the implementation of the social contract.

| Section  | Scores     |
|--|------------|
| <b>7. Relevance of the program for development of social services</b><br>– To what extent the suggested program meets the needs of the target group<br>– Whether the program contains innovative practices | 10         |
| <b>8. Sustainability</b><br>– Are there provisions for additional financing of the program <sup>68</sup><br>– Partner's supplementary activities /only 3 points if there are not any                       | 15         |
| <b>Total</b>   | <b>100</b> |

Such matrix is mandatory for all applicants but sometimes mayors of municipalities include an item on localization of a service provider giving preference to NCOs operating on the territory of municipalities.

It is necessary to thoroughly examine each proposal in order to be able to complete such a matrix. After the selection of the winner of the tender, the municipality represented by the Mayor signs a social service contract with the winner that contains the following provisions:

- Subject of the contract;
- Duration of the contract;
- Price of the contract;
- Rights and responsibilities of parties;
- Guarantees for targeted use of allocated funds;
- Terms of termination of the contract;
- Users and procedure for placement of the contract;
- Concluding provisions.

#### *SPSS monitoring*

Monitoring of the implementation of social contracts is conducted in two directions:

- spending of funds;
- quality of services provided.

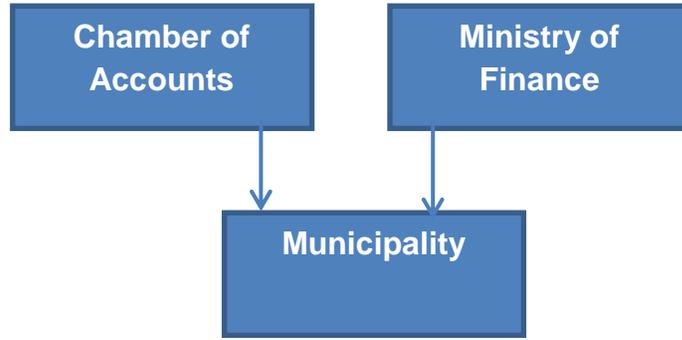
If the social contract is funded from the local budget, the social support agency controls only the quality of service provision, and if the funding comes from the national budget, the agency will control both the quality and spending.

It is a common practice for service recipients in Bulgaria to make co-payments. The size of co-payment is small but it allows launching a quality control mechanism by recipients because otherwise they will have to accept services of any quality.

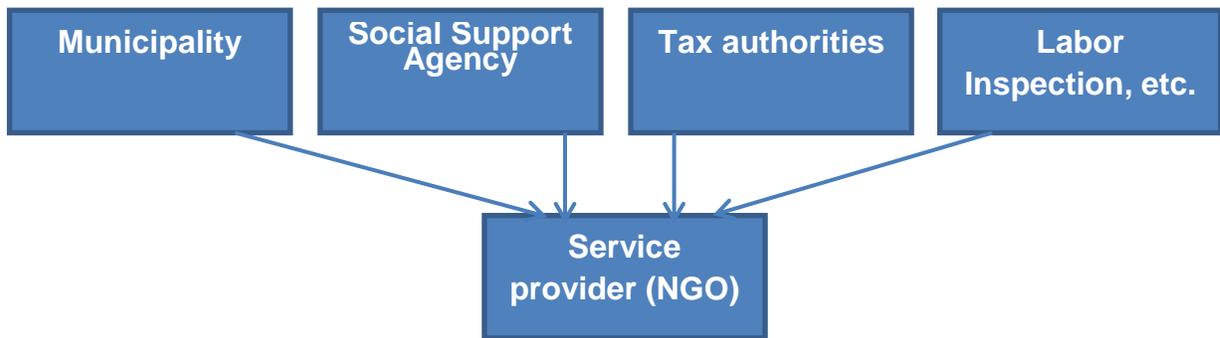
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<sup>68</sup> *State funding is not always sufficient and so partners with own money are welcomed.*

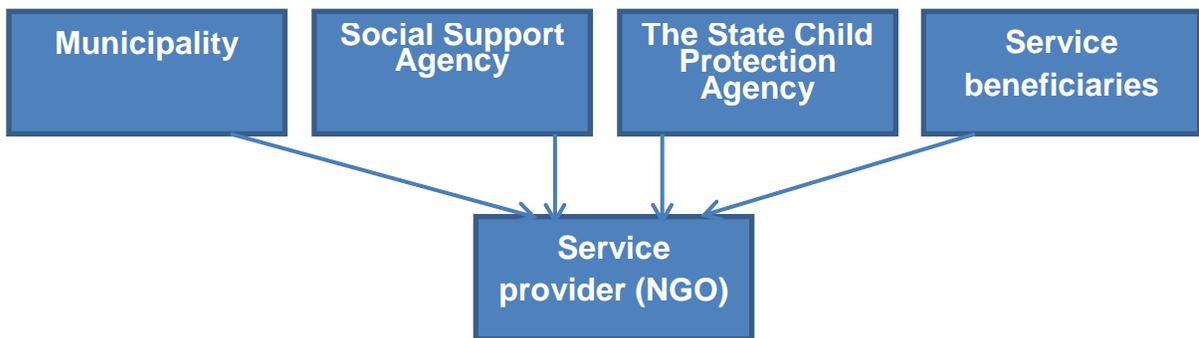
Picture 5. Control of public fund spending by municipalities



Picture 6. Control of public funds spending by social service provider



Picture 7. Control of contract execution and quality of service provision<sup>69</sup>



<sup>69</sup> Here, the State Child Protection Agency, if services are provided to children.

Monitoring of the quality of services is aimed at checking the compliance of service provision with appropriate standards based on the criteria established in the standards. Results are included in protocols.

If non-compliance with standards is insignificant and easily removable, service provision will continue because otherwise contract with the service provider will be terminated; if services were designated for children, it might even result in revocation of the license.

## 5.6 Answers from Bulgarian experience to Kyrgyzstan’s problematic issues in SPSS

Table 10. Answers from Bulgarian experience to Kyrgyzstan’s problematic issues in SPSS

| №  | Questions and answers  |
|----|--|
| 1. | <p><b>Is it reasonable to use an "electronic signature" or procedure for provision of electronic information similarly to state procurement?</b></p> <p>The use of electronic signature will depend on how widely used is this method for submitting documents in Kyrgyzstan. In Bulgaria the usual method is to submit the documents on paper (and receive a number to prove the time and date on which documents were submitted, because if they are received after the announced time they will be rejected according to the formal criteria – missing the deadline for submission). Of course, legislation is not forbidding any method as the mayor’s order for starting a social procurement procedure has to identify “the deadline and place for submitting the documents” which could be interpreted to include also “the method” for submitting documents. If electronic signature is used, it should be an alternative method, but it should be announced in advance in the particular tender procedure. Having in mind there is a separate law for enforcement of the electronic government in Bulgaria, there is a comprehensive process for making all the administrative service electronic.</p> <p>Recently, there have been examples of grant procedures organized by CSOs where documents were filed electronically.</p> |
| 2. | <p><b>What is the procedure for consideration of the project proposal before it is registered for the competition: who is notified, within what time frame, etc.</b></p> <p>The mayor’s order for opening the competition should include the deadline for submitting the documents, but also the date on which the competition will be held, will the procedure will include two levels (i.e. evaluation on the provided documentation and interviews with the providers which could also include setting a date for interviews with the potential providers) and the deadline for announcing the results of the competition. The Competition Commission that evaluates the proposals has 14 days after the competition is held to make a decision. The mayor then has 3 days after the protocol is prepared by the Competition Commission to announce the winner. Candidates are informed within 7 days after the order is issued. But there is no term for signing the contract with the winner which is a lapse in the legislation, giving sometimes possibility for some municipalities to postpone the contracting without motivation.</p>  |
| 3. | <p><b>Is it necessary to publish the composition of Competition Commission?</b></p> <p>No, there is no such requirement. The Implementing Regulations of the Social Assistance Act require that in the Competition Commission is included the</p>  |

|    |   |
|----|---|
|    | <p>representative of the Social Assistance Agency. The Competition Commission itself is determined by the mayor with an order. It might be a good idea not to publish the names of the Competition Commission members until after the competition is over. A good practice is to invite local journalists or other public figures e.g. a representative of the local public council to be part of the Competition Commission or to be present at the time when the Competition Commission works.</p>  |
| 4. | <p><b>How should the members to the Competition Commission from civil society be elected?</b></p> <p>In Bulgaria there is no legal procedure for that. A way to do it is to base it on the expertise of the respective NCOs (but make sure they have no conflict of interest or competing interests). The conflict of interest rules are regulated in a separate general law against conflict of interests within administrative procedures.</p>  |
| 5. | <p><b>Should there be limitations or an ethics code for members of the Competition Commission and participants of the competition?</b></p> <p>It is important not to have conflict of interest for the Competition Commission members. A good practice is to have conflict of interest declarations signed by the members and this is the common practice.</p>  |
| 6. | <p><b>Should there be certain minimum number of members of the Competition Commission?</b></p> <p>The number of members should allow for the Competition Commission to be operative and include the key decision-makers at the local level involved with the provision of services (e.g. representatives of the financial department, of the social department, of the municipal council dealing with social services, etc.). In order to be able to take decisions, the number of members could be odd (the usual number of the members in Bulgaria is 5 or 7).</p>  |
| 7. | <p><b>In what order should the projects proposals be evaluated? How many people have to consider one application?</b></p> <p>With regard to competitions for delivery of a specific social service in Bulgaria, the whole Competition Commission reviews each proposal simultaneously based on an evaluation matrix, which in turn is based on the evaluation criteria within the announced procedure. It is a good practice that they evaluate the proposals one after the other.</p>  |
| 8. | <p><b>Is it necessary to introduce optional criteria to evaluate project proposals that will be selected by the Competition Commission? For example, such as the permanent activity in the location of the target group, the presence of a permanent list of recipients of services, limitations on salaries and administrative costs, etc.?</b></p> <p>There are evaluation criteria which are set in the Implementing Regulations. These are:</p> <ul style="list-style-type: none"> <li>• applicant's relevance to the preliminary announced requirements (this is the first stage of the evaluation and if the applicant is not covering it the application is rejected and there is no possibility for re-submitting);</li> <li>• applicant's experience in social services provision and commercial reputation;</li> <li>• applicant's performance capacity and staff qualification;</li> </ul> |

|     |  |
|-----|--|
|     | <ul style="list-style-type: none"> <li>• applicant's financial sustainability;</li> <li>• presented by the applicant program for development of the social services;</li> <li>• other requirements.</li> </ul> <p>As seen, the last point is other requirements which could be determined by the mayor. But they should be announced at the time of the announcement of the competition. In Bulgaria sometimes there is no requirement that the provider, at the time of the competition, has a presence in the area where social services will be provided. This is so because this could limit competition. Also, in many areas, there are no local service providers.</p>   |
| 9.  | <p><b>There is no procedure for consideration of bids:</b></p> <ul style="list-style-type: none"> <li>— quorum,</li> <li>— evaluation procedure contradictive scores of members,</li> <li>— if it is possible to take applications out of the Ministry, terms of delivery of applications, etc.</li> </ul> <p>As noted above, the Competition Commission meets together and reviews the applications and gives them scores together. This is usually done by mutual consent but it could also be done by getting the average score from the scores of all commission members for example.</p>  |
| 10. | <p><b>Should the list of evaluation criteria and scores be posted on the web-site of the Ministry at the announcement of the competition? (is it possible to do it later?), (1) not later than 10 days after the announcement of the competition and /or (2) not earlier than 20 days prior to determination of winners.</b></p> <p>The list of evaluation criteria should be publicly announced at the time of announcement of the competition (45 days before the deadline for submission) and this is a legally binding rule. The weight of each criterion can also be announced in advance and this is considered a good practice. The weight is not regulated in the law because it is considered that for the different services in different regions the weight shall be different and it is up to the local authorities to decide on this.</p>   |
| 11. | <p><b>Is it necessary to conduct training for awarded NCOs? Who and in what order develops the training modules? Whether it is necessary to have training variations: for example, for directors and accountants of NCOs, and others?</b></p> <p>This is a good practice. But you should also consider trainings for all potential service providers so that they know about the possibilities of social procurement and have the capacity to apply and deliver social services. Such trainings could be organized jointly for social service providers and the authorities that will contract the services so that they share experiences and understand the problems of the other party. In Bulgaria this lead to an increase in the number of competitions announced. SPSS in Bulgaria during the last 10 years showed that the contracting authorities need trainings for organizing transparent and successful procurement even more than the NCOs.</p> <p>Moreover, training the providers after the selection is contradictory to one of the evaluation criteria - the existence of sufficient capacity of the provider. If they do not have the necessary capacity, then probably they will have problems to get a contract.</p> |

|     |   |
|-----|---|
| 12. | <p><b>What kind of consultative support needs an NCO in course of implementation of SP project? (upon submitting application, during implementation of the project, after the end of the project)?</b></p> <p>They need to know there is such a possibility, they need to know how to prepare their application and what is required from them in terms of capacity and organization of work in order to deliver a service. They also need to know what are the requirements they have to follow and the obligations they undertake when applying to provide a social service (e.g. need to register somewhere, follow quality standards, report, be open for monitoring, etc.).</p>  |
| 13. | <p><b>Should the grants allocated to particular year (e.g., 2013) be spent before the end of the current calendar (fiscal) year, or they can be spent in the next calendar (fiscal) year?</b></p> <p>It is not a good practice to organize competitions for social services to be provided only in the current fiscal year. Even if the budget of the municipality is annual, the contracts signed with the winners should be long-term. This is so because the provision of social services requires constant and long-term investment. An organization, in order to invest in its capacity and for improving the service it provides, needs to have a long-term horizon. In Bulgaria contracts are usually for a longer period e.g. 5 years. Even if the organization needs to spend the money from the current budget by the end of the year, it knows it will receive the next installment in January of the following year.</p> <p>In Kazakhstan because of budgetary issues, contracts were signed until the end of the year and each year there were new competitions. This lead to problems with the beneficiaries of the social services who had to receive care 12 months per year.</p> |
| 14. | <p><b>The law does not provide for the procedure for administering funds when the ministry has fund balance after the competition. What to do in case if there are such funds?</b></p> <p>In Bulgaria, the competition announcement includes the planned budget as well. The potential providers do not compete based on lower financial offer but on other criteria (see above). That is why all funds planned for spending are usually spent. There is a legal restriction to spend the funds for something different from the service.</p>   |
| 15. | <p><b>Funds for SPSS are not protected items of the state budget, and there is a risk of their removal (sequestration) from the state budget. How to include money for SPSS into the list of protected items? Which normative legal act regulates the issues with protected and not protected items? What is the criterion for selection of protected items?</b></p> <p>In Bulgaria there is no division between protected and unprotected budget items. But there is money for the different social areas. If the money for social procurement is part of the budget that the state annually has for supporting the social needs of the population, then there should be no fear of losing that money because the government always has money for social policy in the budget. Once this money comes from the Ministry of Finance, it will be the role of the MSD to determine how to spend this budget.</p> <p>Once the social procurement starts working and shows positive results, it will be unreasonable to stop it. Moreover, this money will be going to satisfy the needs of specific people so it would be difficult for the government to stop it.</p>                                |

|     |  |
|-----|--|
|     | <p>There is also another possibility that exists in Bulgaria - if after a contracting procedure, the Social Assistance Agency is evaluating the services and discovers that the service is serving less people that it is announced, they can make the so called “compensation” and cut the budget of the service.</p>   |
| 16. | <p><b>Complaints are not published. There is no procedure for their consideration. Do we need these procedures?</b></p> <p>In Bulgaria there is a possibility for complaints against the decision of the mayor about the selected provider and it is regulated in the law. This follows the rules of the Administrative Procedure Code. But the appeal does not stop the social procurement process.</p> <p>With regards to grants, each grant-making program creates its own regulation on how to appeal.</p> <p>It is an important practice to have an appeal procedure as this will give credit to the transparency, rule of law, accountability of the procedures and the decisions taken and that they are based on objective criteria.</p> |

## Chapter 6. Netherland’s experience on the state procurement of social services

*By Luben Panov, the Bulgarian Center for Not-for-Profit Law*

### 6.1 Philosophy and objectives

The underlying philosophy of the Dutch system for long-term care is that the state bears the responsibility for those who are in need of long-term care. The general policy goal for long-term care was formulated in 2008 as follows:

“To ensure that for persons with a long-term or chronic disorder of a physical, intellectual or psychological nature, care of good quality is available and that the cost level of this care is acceptable to society.”

To ensure that the personal needs are fully respected and the provided services and support are the best, the Dutch system for the last decade shifted from the classical services provision that is contracted out between contracting authority and service providers (purchase concept)<sup>70</sup> to partnership agreements based on ensuring individual approach (more effective) and on best value of the money (more efficient). It took the system to develop from one level to another, step by step investing in developing the capacity of the partners and implementing the principle “money follows the person”. This outlined a paradigm shift - a perspective is emerging that focuses on the client in his natural network rather than on the care providers’ interest. Now, the main principles of the provisions of the long-term care are subsidiarity and decentralization (*first level*: from national government to local government, and *second level*: to private providers). The healthcare and welfare sector is becoming increasingly market and customer oriented.

The social care system in the Netherlands in the last 10 years developed to ensure coordination of the most important intervention for people in need – healthcare and social support are provided in coherent and integrated approach. This approach allows the provision of services systematically, consistently and comprehensively, and that increases efficiency of provided services.

<sup>70</sup> Social procurement concept.

The pillars for care, support and well-being are established in the following legal acts:

- 1) Health insurance act (ZVW) – responsibility for providing cure; there is an insurance obligatory for all Dutch citizens, operated by private health insurance companies, insurers are obliged to accept every resident in their area of activity, comprises a standard package of essential health care;
- 2) Voluntary Health Insurance (AV) – possibility for providing extras; everybody with compulsory health insurance can apply (91% of all insured are using this option), all kinds of extra care or out-of-payments, not (fully) covered by the ZVW or AWBZ;
- 3) Exception and Medical Expenses Act (AWBZ, introduced in 2006) – responsibility for providing care.
- 4) Social Support Act (WMO, introduced in 2007) – responsibility for providing support.

*Long Term Care Insurance (AWBZ)* is used for long term expensive care while the *Social Support Insurance (WMO)* is used for domestic home help, mobility devices, home adjustments, etc. The Regional Care offices are responsible for execution of the long-term expensive personal care under AWBZ for its population, while WMO – the lighter support is a responsibility of the municipalities.

In Netherland, in general all the services are decentralized to private providers, while the authority retains the responsibility to fund the services, to search for the best provider and to control the implementation. It is considered a conflict of interest if the state provides services directly because the authority cannot ensure in the same time policy development, obligation to provide services, providing them and monitoring the quality.

#### *Competition (according to AWBZ and WMO)*

Competition between home-care providers plays a role in both the AWBZ and the WMO. Competition is fiercer in the WMO, as municipalities (as purchasers using mainly tendering procedures) have much stronger financial incentives than *Regional Care Offices* (contracting mainly with annual contracts without tendering). However, the *Care Offices* do negotiate with the providers on price, and they try to get a reduction in maximum prices. The personal budget can be seen as a separate type of funding. It stimulates competition because care recipients can contract the providers themselves. Providers will need to compete in order to be chosen.

Below is described how the care and support is organized within AWBZ and WMO.

## **6.2 Exception and Medical Expenses Insurance (AWBZ)**

*Long Term Care Insurance* according to AWBZ is a mandatory scheme for long term care for people with disabilities and people who are elderly with long term health conditions.

These types of services are funded by income related contributions that are collected through the income and payroll tax systems, along with the contributions for the other national insurance schemes (e.g. for unemployment and disability) and co-payments.

#### *Responsible state authorities*

The responsible state authority for this policy is the Ministry of Health, Welfare and Sport, which name illustrates the willingness to achieve the integrated approach between the healthcare and the social services even on the level of developing the policies. For the implementation of the AWBZ the Ministry uses a number of semi-independent governmental organizations associated to it:

- Center for assessment of care for assessing the LTC needs;

- Health Insurance Board for advice on coverage package, and financial consequences, and for overseeing regional Care Offices that allocate care;
- Care Authority for monitoring conditions of competition and setting tariffs;
- Central Administration Office for financial administration and payments;
- Health Care Inspectorate for inspection of health and quality of care.

### *Types of assistance*

To be eligible for care under the AWBZ, insured persons have to have a certain disorder, limitation or disability, meeting what is referred to as an indication principle. Outlined in the AWBZ, these six indication principles are:

- Somatic (physical) illness, disorder or disability;
- Psycho-geriatric disorder or disability;
- Psychiatric disorder or disability;
- Mental disability;
- Physical disability;
- Sensory disability.

This 'indication' is carried out by Center for assessment of care for assessing the LTC needs (CIZ). The CIZ is an independent organization which conducts care needs assessments independently, objectively and thoroughly. If a person is assessed by CIZ as being eligible for this type of insurance, they can choose between having (1) a personal care budget or (2) receiving care in kind.

### *Care in-kind*

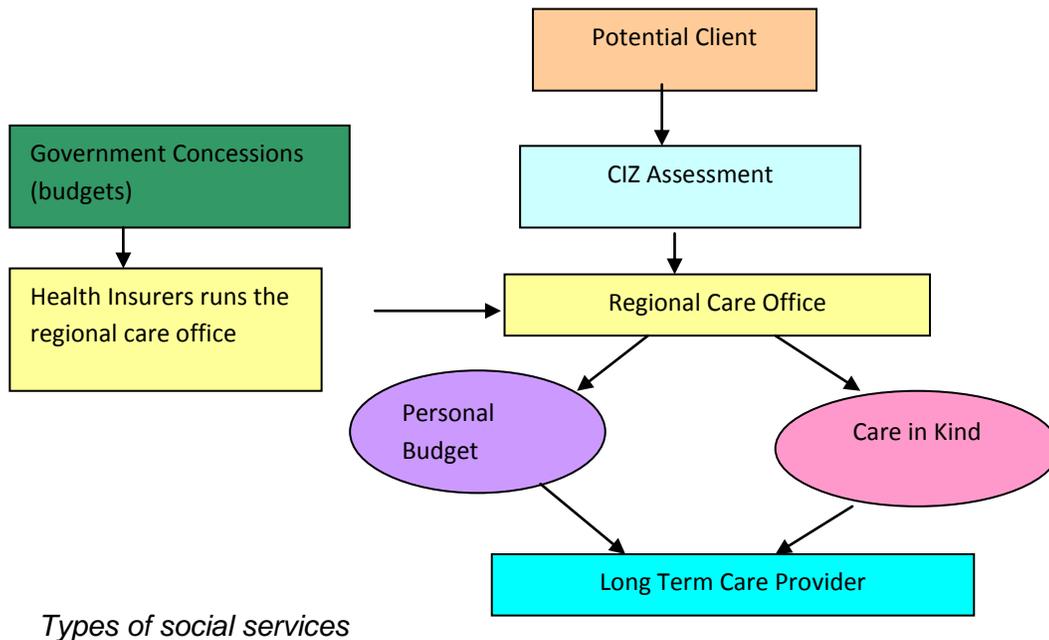
If a person chooses in-kind care, they have some choice as to which care organization delivers their care. Recipients go to their *Regional care offices* which are run by a *health insurer company* which is responsible for organizing and purchasing care for people with disabilities using *Long Term Care Insurance*. There are 32 *regional care offices* in the Netherlands. The health insurers have a list of *long term care providers* that they recommend to a service user. The chosen care provider arranges the care and handles the associated administration in consultation with the insured person. It is not compulsory to receive all of the care from the same provider. The insured person can obtain some of the in-kind care from one provider and another part (also in-kind) from another provider.

### *Personal care budget*

Insured persons can choose for a cash amount rather than care in-kind as mentioned above. This is referred to as the personal care budget (persoonsgebonden budget (pgb)). In principle, anyone who requires care under the AWBZ for more than three months will be eligible for a pgb (i.e. receive a budget to procure care on their own) for certain functions, such as nursing, personal care and supportive guidance.

Pgb's are not available for the functions 'treatment' and 'accommodation' as these are always provided in-kind, with the exception of short-term accommodation. The pgb can be paid monthly, quarterly, semi-annually or annually. The disbursement, however, amounts to 75% of the costs of care in-kind due to cost-cutting measures to reduce overhead costs. The pgb offers considerable freedom. People are free to choose – they can hire a care professional (person) or a care provider (organization). They determine when and how they want to receive the care. Many pgb recipients like having a specific care provider that they selected themselves. Although this is often someone they know, such as a neighbor or friend, people are free to go to official care providers.

Picture 8. Structure of Long Term Care Insurance (AWBZ).



The focus is no longer on the available supply of care offered, but on the needs of the insured persons. This leads the way to the provision of customized care. The need to shift away from a “supply-side” to a “demand-side” approach can be attributed to a changing society in which people increasingly voice their preferences and requirements and want to organize their lives in the manner they see fit.

The guiding principle of the AWBZ is also to ensure that people live at home for as long as possible, enabling those to receive care both at home and in an institution.

Types of social services below offer considerable freedom in arranging the indicated care in consultation with a care provider.

Types of social services:

- Personal care (e.g. providing assistance with showering, bed baths, dressing, shaving, skin care, going to the toilet, eating and drinking).
- Nursing (e.g. dressing wounds, administering medication and injections, showing patients how to administer injections).
- Supportive guidance (e.g. helping others to organize the day and manage one’s life better or learn look after one’s household, both individually and as part of daytime activities).
- Treatment (e.g. specific treatment by a geriatric specialist, a doctor for the developmentally disabled or a behavioral scientist).
- Accommodation: Some are unable to continue living independently (e.g. when they require sheltered housing or continual supervision in connection with serious absent-mindedness).

For example, within AWBZ people with physical or mental disabilities receive such types of services as home care, home for elderly people, and help from institutions for those who need psychiatric help. A product consists of a single function or a combination of functions. See the example below.

Help consists of one service or complex of services. *For instance Mr A. is confronting various limitations due to advanced dementia and is unable to continue living at home independently as he*

requires care and nursing. His indication touches on four functions, namely care, nursing, treatment and accommodation. This combination of functions is supplied in the form of a 'care intensity package'. Various kinds of care intensity packages are available depending on the scope of the care needed and the sector (nursing and care, care for the disabled and long-term mental health care).

#### *Accreditation of service providers*

Before a service provider can provide care, it has to be approved and has to have concluded a contract with an implementing body. The care providers that want to provide care under the terms of the AWBZ need permission from the *Minister of Health, Welfare and Sport*. During the application process, an assessment is carried out to determine whether certain conditions are being met. One condition of accreditation is that service providers meet the requirements of the *Care Institutions (Quality) Act*. The main requirements are the accessibility of acute care and the transparency of governance and management.

Under the *Care Institutions (Quality) Act*, care institutions are obliged to offer responsible care and systematically monitor, manage and improve the quality of the care on the basis of a quality system. This is the responsibility of the organisations themselves:

- Service providers must provide 'responsible care' i.e. care that is characterized as being of a good level, effective, suitable, patient oriented, and geared towards the real needs of service users;
- Service providers must make clear what they are doing to achieve and maintain 'responsible care';
- Service providers must - to the greatest extent possible - systematically protect and improve the quality of care they provide; this includes taking measures such as establishing and monitoring a system of quality control;
- Service providers must publish an annual report indicating the quality control policies they have adopted and report on the quality of care they deliver.

#### *Contracting care under AWBZ*

Normally, the insurer is responsible for the execution of the AWBZ for its population of insured. In practice, the management of the AWBZ is organized as follows: the health insurers that are active in a region voluntarily give a mandate to one health insurer to carry out the AWBZ for their insured. This health insurer runs a separate legal entity (*the Regional care office*) that has to 'earn' a concession of the government to perform this task. That is to say, the *regional care offices* have to fulfill a number of conditions of the government. The costs are paid from the AWBZ fund. In order to make sure that national AWBZ expenditures stay within the budget, the AWBZ implementing body calculates *regional* budgets for the *care offices* at the request of the *Ministry of Health, Welfare and Sport*.

*The Regional Care offices* perform their task of allocating care to clients by purchasing care from care providers in the region. The offices have a number of functions such as commissioning services by annual contracts (*not tendering*) and promoting quality assessment of care providers. The means of care offices to ensure quality of care is mainly financial and consultation with local care providers, patients' organizations and local authorities about developments in demand and supply of care. The operating of the office in a region is commissioned by the *Ministry of Health Welfare and Sports* to the largest health care insurer in the region: in 2013 the 32 *Care Offices* are operated by 12 health care insurers.

*The regional care offices* are supposed to keep costs within the regional budget and to purchase care as efficiently as possible. If the performance of a care office is poor, then permission to operate a regional care office might be given to another health insurer.

#### *Commissioning services by annual contracts*

The contracting scheme between the social service provider and the *Care office* is a yearly contracting procedure. It is direct contracting. On yearly basis the *Regional care office* publishes the criteria within a social procurement.

Based on the criteria the social service providers make their offer which contains 3 chapters:

- Administrative criteria;
- [Quality criteria](#); ([quality frame](#) 2013)
- [Production offer](#).

The production offer states:

- 1) which products (services) does the service provider want to deliver (not in terms of clients);
- 2) in what amount /units of delivery;
- 3) what amount of money (budget).

The production offer states the products the service provider is willing to deliver. It is based on 90% of the customer services that are provided in the previous year. 10% is negotiable (also includes the increase of the budget). The *care office* pays to the service provider based on monthly reports (paid is only what is delivered and properly reported). In the course of the year based on the monthly reports by the service providers *the Care office* may change the budget. Variations and adjustments within the year are possible.

#### *Quality assessment of care providers by the care offices:*

*Care offices* play a key role in achieving cost effectiveness and in purchasing care with a good price/quality ratio. It is important that the care that is purchased and delivered is of good quality. For this reason, the arrangements made by *care offices* with the care providers are in line with the national quality frameworks (the standards for responsible care). This is also laid down in the *care offices'* joint [Purchasing guideline](#).

### **6.3 Social Support Act**

The Social Support Act (WMO) became law on 1 January 2007. Pursuant to this Act, municipal authorities are responsible for policy relating to social support for their residents and its implementation. As a participation act, the guiding principle of the WMO is 'participation'. The WMO policy of municipal authorities has to promote participation in society, including those who for whatever reason whatsoever are termed vulnerable. The local authority is responsible for social support, which can link up well with the recipients' needs and their immediate living environment. Municipal authorities have a considerable degree of policy freedom in implementing the WMO. The Minister is responsible for the system of the Act, not for the way in which individual municipal authorities interpret the policy.

The municipal council drafts a plan for a maximum of four years, which outlines the direction of the decisions to be taken regarding social support. Municipal authorities are also obliged to adopt a WMO by-law which records the purport of individual provisions and the conditions under which these are to be made available.

Under the WMO, social support encompasses nine areas for the provision of support to:

- 1) Promote social cohesion and quality of life in villages, districts and neighborhoods;

- 2) Provide preventative support and guidance to young people having a hard time growing up and to parents encountering child-rearing problems;
- 3) Provide information, advice and support;
- 4) Support voluntary carers and volunteers;
- 5) Encourage participation in society and the independent functioning of people with a disability, chronic psychological problem or a psychosocial problem;
- 6) Make arrangements for people with a disability, chronic psychological problem or a psychosocial problem to ensure they can live independently or participate in society;
- 7) Support community shelters, advice and support centers for domestic violence;
- 8) Support public mental health care (OGGZ);
- 9) Support ambulatory care for addicts.

Municipal authorities work out the specifics of each area, enabling them to interpret the WMO in a manner to be fitting the local situation.

The municipal authority provides individual support: e.g. a wheelchair or adaptation in the home, making it possible to manage the household and move around the home. Another way to support people is by means of group facilities (e.g. group transport, care for addicts, local assistance, women's shelters or the organization or informal support (neighborhood support, volunteer work).

#### *Tendering for procurement of social services*

Within the WMO, competition was introduced through tendering. The WMO is subordinate to European laws and is consequently obliged to comply with European standards stating that the purchasing of services within WMO should be tendered out. Tendering was introduced as a way to improve efficiency in the public sector. European and national legislation seemed to imply that it is obligatory to tender. Most local governments followed and started tendering. With about 400 municipalities in the Netherlands, this provides considerable variety in terms of the way in which the WMO is being executed. Nevertheless, a heated debate is currently being conducted, questioning whether tendering is really obligatory.

Tendering is intended to allow for equal competition among suppliers in delivering their products and services in a particular community. In order to achieve this, the formulation of the assignment and the procedure should guarantee that the 'best' offer is selected. Since the responsibility for composing the assignment lies with the municipality, they have the possibility to act accordingly. Consequently, while municipalities do have this option at their disposal, it still raises the question if the obligation to organize a tendering process achieves the goal for which it was intended, i.e. to encourage equal competition between suppliers.

The most important part of the tender concerns domestic aid (home care and household services for the elderly and mentally or physically disabled). Two categories are to be distinguished:

- 1) HH1: Domestic activities: shopping, preparing a cold lunch, preparing a hot meal, light domestic aid, heavy domestic aid, doing the laundry, keeping the cleaning supplies in order.
- 2) HH2: Domestic activities as in HH1, with supplement organization household and help with a disordered household, including helping others in the house with self-care and or helping others with preparing meals and the daily organization of household. In addition, all kinds of criteria can be phrased in the tender, for instance concerning services that promote the welfare and participation of citizens. To stimulate a stronger focus on quality and the broader criteria, the Ministry of Health has developed the concept of socially considered tendering.

In sum, the most important forms of tendering are as follows:

**Normal tendering with competition on price and quality:**

Normal tendering with competition on price and quality was applied in 52% of the municipalities. The main consideration for this model of tendering was the relative inexperience with the price-quality ratio of household assistance. This model is most representative of competition.

**Setting a maximum price:**

One variant of normal tendering with competition on price and quality went as follows: a maximum price was set within the procurement guidelines. In 30% of cases, the municipalities preferred this method of tendering mainly because of its tight budget, and openness both to the municipality and the tenders, as well as being certain that the price would not exceed a certain maximum (ibid). This model is based on competition on a local level but safeguards negative effects by setting a maximum price.

**The 'Zeeuws' Model with competition on quality and a fixed price:**

The 'Zeeuws' model of tendering seems to offer advantages over other models of tendering in healthcare services. By setting the price, the municipality and the healthcare provider know what the municipality is willing to pay. This model of tendering is chosen by municipalities to guarantee and preserve the existing relationships with current providers of healthcare and encourage cooperation. Because a large number of providers have been contracted, the freedom of choice of clients is seemingly more substantial. In a way, this model constitutes a reduction of forces of competition and perhaps solves the tension between competition and cooperation.

**Care sale by auction: first phase selection on quality, subsequently competition on price:**

Care sale by auction is a variant with regard to which the municipality publishes the tender assignments on an auction website. All contracted suppliers are obliged to place a bid on all the tender assignments. The supplier with the lowest bid is granted the assignment. This model is also based on competition.

**Relative judgments:** With relative judgments, the score of a tender is evaluated on the basis of the score of another tender.

To LSG bodies, the Zeeuws model is also a way of maintaining strong relationships with traditional providers of services, whilst keeping the possibility of switching to others intact. Although this model is lauded, problems and dissatisfaction have in fact arisen. Suppliers of domestic aid claim that the hourly tariff was so low that they are considering not signing up for contracts. Opponents of tendering are anxious of quality and client satisfaction becoming subordinate to costs and prices, as a result of which clients' choice will be limited because of monopoly positions of suppliers. Another fear is a possible mass discharge of non-granted parties in tendering.

These fears are much highly similar to the concerns around market principles in general. With the introduction of tendering in the WMO, a field of tension arises between competition and cooperation. On the one hand, communities and healthcare providers are asked to engage in cooperation and arrange care chains around clients. From another point, they shall compete between each other and through direct competition provide the quality.

**Chapter 7. Social services delivery through grant programs in USA**

*By Rebecca Ullman, the International Center for Not-for-Profit Law*

The chapter below consists of three parts: 1) an overview of the federal legislation and practices for the provision of social services through government grant programs in the USA; 2) information on specific administrative agency regulations and practices; and 3) an example of a grant program solicitation by the state of New York.

## 7.1 History of US government support for social services

In the United States, there is a long history of government financial support for social services. Some of the oldest educational and health institutions, including Harvard University and Massachusetts General Hospital, received public funding in their formative years.<sup>71</sup> In the 19<sup>th</sup> and early 20<sup>th</sup> century, government funding continued, although mostly in the urban areas of the Northeast and Midwest. New York City, for example, relied upon Catholic Charities to provide child welfare services.<sup>72</sup> In the 1960s, the federal government vastly expanded its funding in the areas of social and health programs including community action agencies, community mental health centers, neighborhood health centers, and child protection agencies.<sup>73</sup> Many of the expanded services were provided by non-profit organizations. In 1965, President Lyndon B. Johnson signed into law two acts which would become the primary vehicles for delivery of medical services to the public- the Medicaid and Medicare acts. Medicaid is a health insurance program for low-income and needy people; it covers children, the aged, blind, and/or disabled and other people who are eligible to receive federally assisted income maintenance payments. Medicare is a health insurance program for people over 65. In the 1980s, the government responded to crises such as AIDS, homelessness, and hunger in large part by financing non-profit organizations.<sup>74</sup>

In fiscal year 2012, the US federal government spent USD 3.5 trillion. Of that, 21% or USD 732 billion was spent on Medicare, Medicaid, and the Children's Health Insurance Program.<sup>75</sup> Another 12%, or USD 411 billion, supported programs that provide aid to individuals and families facing hardship including food stamps, school meals, low-income housing assistance, child care assistance, and various programs that aid abused and neglected children.<sup>76</sup>

### *Defining government support*

According to the US federal government, "assistance" or "benefits" refers to the transfer of money, property, services, or anything of value, the principal purpose of which is to accomplish a public purpose of support or stimulation authorized by federal statute.<sup>77</sup>

The Catalog of Federal Domestic Assistance classifies US federal government financial assistance into 15 categories, including:<sup>78</sup>

- Project Grants and Cooperative Agreements - The funding, for fixed or known periods, of specific projects. Project grants can include fellowships, scholarships, research grants, training grants, traineeships, experimental and demonstration grants, evaluation grants, planning grants, technical assistance grants, survey grants, and construction grants.
- Formula Grants - Allocations of money to States or their subdivisions in accordance with distribution formulas prescribed by law or administrative regulation, for activities of a continuing nature not confined to a specific project.
- Direct Payments for Specified Use - Financial assistance from the Federal government provided directly to individuals, private firms, and other private institutions to encourage or

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<sup>71</sup> Smith, Steven Rathgeb, "Government Financing of Nonprofit Activity." *Nonprofits & Government: Collaboration and Conflict*. Elizabeth T. Boris and C. Eugene Steuerle, Urban Institute Press, 1999. Pg 178.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> Center on Budget and Policy Priorities: <http://www.cbpp.org/cms/?fa=view&id=1258>.

<sup>76</sup> *Id.*

<sup>77</sup> US Government Catalog of Federal Domestic Assistance:

<https://www.cfda.gov/?s=generalinfo&mode=list&tab=list>

<sup>78</sup> US Government Catalog of Federal Domestic Assistance:

<https://www.cfda.gov/?s=generalinfo&mode=list&tab=list&tabmode=list&static=assistance>

subsidize a particular activity by conditioning the receipt of the assistance on a particular performance by the recipient. This does not include solicited contracts for the procurement of goods and services for the Federal government.

- Direct Payments with Unrestricted Use - Financial assistance from the Federal government provided directly to beneficiaries who satisfy Federal eligibility requirements with no restrictions being imposed on the recipient as to how the money is spent. Included are payments under retirement, pension, and compensatory programs.
- Direct Loans - Financial assistance provided through the lending of Federal monies for a specific period of time, with a reasonable expectation of repayment. Such loans may or may not require the payment of interest.
- Guaranteed/Insured Loans - Programs in which the Federal government makes an arrangement to identify a lender against part or all of any defaults by those responsible for repayment of loans.
- Insurance - Financial assistance provided to assure reimbursement for losses sustained under specified conditions. Coverage may be provided directly by the Federal government or through private carriers and may or may not involve the payment of premiums.
- Sale, Exchange, or Donation of Property and Goods - Programs which provide for the sale, exchange, or donation of Federal real property, personal property, commodities, and other goods including land, buildings, equipment, food and drugs. This does not include the loan of, use of, or access to Federal facilities or property.

For the purposes of this discussion, we will focus on the category of project grants and cooperative agreements, which we will refer to using the general term 'grants.'

## 7.2 Grants

Under US law, a federal grant is defined as "a form of assistance authorized by statutes in which a federal administrative agency (the grantor) transfers something of value to a party (the grantee) for a purpose, undertaking, or activity of the grantee that the government has chooses to assist."<sup>79</sup> Cooperative agreements are similar to grants except for the fact that substantial involvement is expected between the grantor and the recipient.<sup>80</sup>

The US legislative branch, Congress, makes the laws and provides money to fund them; the executive branch carries out the law with the money provided by Congress. As such, all federal expenditures, including grant programs, may only be made following an appropriation by Congress.<sup>81</sup> Congress may give the executive branch considerable discretion concerning how to implement the laws and hence how to obligate and expend funds appropriated, but it is ultimately up to Congress to determine how much the executive branch can spend.<sup>82</sup> Thus, funding for grant programs must be initiated by Congress.

There are two types of federal grant programs, mandatory and discretionary, and Congress authorizes funding for each type differently.<sup>83</sup>

Mandatory grants, also called 'formula' grants, are those that Congress gives directly to states and other municipalities and allows them to distribute the funds to recipients. These are non-competitive

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<sup>79</sup> *Principles of Federal Appropriations Law: Third Edition: Volume II, US Government Accountability Office, released on February 1, 2006. Available at: <http://www.gao.gov/htext/d06382sp.html>. (Principles of Federal Appropriations Law)*

<sup>80</sup> *Federal Grant and Cooperative Agreement Act, Sept. 13, 1982, §6305.*

<sup>81</sup> *US Constitution, Article I, section 9, clause 7.*

<sup>82</sup> *Id.*

<sup>83</sup> *Principles of Federal Appropriations Law, Chapter 10.*

awards and are usually allocated to eligible entities according to population and/or other census criteria. In general, all applicants who meet the minimum requirements of the application process are entitled to receive money.<sup>84</sup> States and other municipalities prefer this type of grant because they increase the states' spending flexibility and, in theory, reduce federal control.<sup>85</sup> An example of program funded through a formula is the U.S. Department of Health and Human Services Nutrition Services Incentive Program. This formula program provides resource incentives to reward efficient performance in the delivery of nutritious meals to the elderly. Each year, the U. S Department of Health and Human Services allocates formula funding to states and Native American tribes based on the number of meals served to the elderly in the prior federal fiscal year in proportion to other states and tribes. Nutrition providers must report monthly meal counts to state agencies, which submit final year-end counts to the federal government. As long as tallies are turned in, the Department of Health and Human Services automatically reimburses nutrition providers with \$0.50 per meal delivered in the previous fiscal year.<sup>86</sup>

Discretionary grants are issued through federal administrative agencies. Federal administrative agencies (agencies) are formed by so-called 'implementing statutes' that are passed by Congress and set forth the goals the agency must pursue. An agency's authority to issue grants must be based on the agency's implementing statute. Grant funding may only be expended for authorized grant purposes within the authorized time period and within the authorized amount as set forth in the appropriation.<sup>87</sup> However, agency appropriations are often very general and thus may be broadly interpreted by the agency. For example, many agencies receive 'lump sum' appropriations with just one or two categories such as 'salaries' and 'operating expenses.' Generally speaking, if the agency is properly authorized to implement the grant program through a general line item category, its decisions on discretionary grant program spending will not be questioned by the General Accountability Office, Congress's "watchdog" agency.<sup>88</sup> In this case, the agency has a great deal of flexibility in what kind of grant funding to offer.

Alternatively, Congress may pass legislation specifically authorizing a grant program and assign an agency to implement it.<sup>89</sup> These are called congressionally directed grants. Legislation establishing an assistance program frequently will define the program objectives and leave it to the administering agency to fill in the details by regulation.<sup>90</sup>

The agencies that issue the most federal assistance include: Department of Health and Human Services, Department of the Interior, Department of Agriculture, Department of Housing and Urban Development, and the Department of Justice.<sup>91</sup>

### **7.3 Answers from US experience to Kyrgyzstan's problematic issues in the state procurement of social services**

As described above, administrative agencies are generally responsible for the solicitation, consideration, and management their own discretionary grant programs. To do so, many agencies promulgate internal rules and regulations to guide these processes.

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<sup>84</sup> [http://www.federalfunding.net/grants\\_types.htm](http://www.federalfunding.net/grants_types.htm).

<sup>85</sup> *Principles of Federal Appropriations Law, Chapter 10.*

<sup>86</sup> [http://www.federalfunding.net/grants\\_types.htm](http://www.federalfunding.net/grants_types.htm).

<sup>87</sup> *Principles of Federal Appropriations Law, Chapter 10.*

<sup>88</sup> *Principles of Federal Appropriations Law, Chapter 10.*

<sup>89</sup> For more information on congressionally directed awards, please see this [link](#).

<sup>90</sup> *Principles of Federal Appropriations Law, Chapter 10.*

<sup>91</sup> US Government Catalog of Federal Domestic Assistance:

<https://www.cfda.gov/?s=main&mode=list&tab=list>.

For example, the US Agency for International Development has a collection of documents called Automated Directives Systems (ADS) that govern its internal organizations and functions and are organized topically.<sup>92</sup> ADS 303 specifically give guidance to agency officials on grants and cooperative agreements to non-profit organizations.<sup>93</sup>

ADS 303 details how USAID:

- Publishes funding opportunities (303.3.5);
- Writes requests for applications (303.3.5.2);
- Ensures competition (303.3.6.1);
- Evaluates applications (303.3.6.4);
- Prevents conflicts of interest among evaluators (303.3.6.4.d) and
- Determines the responsibility of potential grantees (303.3.9).

In order to answer the questions below in detail, it was necessary to focus in on one particular agency. The Department of Health and Human Services (HHS) was selected because its mission, to protect the health of all Americans and provide essential human services, especially for those who are least able to help themselves, is most relevant to the types of grants proposed here. In particular, the HHS Grants Policy Statement from the HHS Office of the Assistant Secretary for Resources and Technology, Office of Grants<sup>94</sup> was used to prepare the responses below.

*Table 11. Answers from US experience to Kyrgyzstan's problematic issues in SPSS*

| №  | Questions and answers SPSS   |
|----|--|
| 1. | <p><b>Is it reasonable to use an "electronic signature" or procedure for provision of electronic information similarly to state procurement?</b></p> <p>Yes. Most federal grants are submitted through the <a href="http://www.grants.gov">www.grants.gov</a> website and therefore do not rely on physical signatures. Under the grants.gov system, organizations create institutional accounts (one per organization) with usernames and passwords. To submit a grant, the official authorized by the organization to submit the account logs on and uploads the application. Then he or she submits an electronic signature to verify the authenticity of the submission.</p>   |
| 2. | <p><b>What is the procedure for consideration of the project proposal before it is registered for the competition: who is notified, within what time frame, etc.</b></p> <p>Generally, funding opportunity announcements will invite the submission of full applications at the outset. However, an HHS granting offices may require or encourage submission of preliminary documents before submission of applications for initial (new) support. If pre-applications are used, they must be submitted as specified by the HHS granting offices in the funding opportunity announcement. Pre-applications may be required as a means of screening out, through an objective review process, those applications with little or no chance for Federal funding before applicants incur significant expenditures in preparing an application.</p> |
| 3. | <p><b>Is it necessary to publish the composition of Competition Commission?</b></p>  |

<sup>92</sup> The full series of ADS can be accessed here: <http://www.usaid.gov/who-we-are/agency-policy>.

<sup>93</sup> ADS 303: <http://www.usaid.gov/sites/default/files/documents/1868/303.pdf>.

<sup>94</sup> Available at: <http://www.hhs.gov/asfr/ogapa/grantinformation/hhsgps107.pdf>.

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|    | No.  |
| 4. | <p><b>How should the members to the Competition Commission from civil society be elected?</b></p> <p>Applications for grant programs are subject to review by: 1) the program management office (see below) and 2) objective reviewers. Objective review is an advisory review of discretionary grant applications conducted by a minimum of three unbiased reviewers with expertise in the programmatic area for which applications are submitted. The review is intended to provide advice to the individuals responsible for making award decisions (in the program management office). Objective review is essential to ensuring selection of applications that best meet the needs of the program consistent with published evaluation criteria and providing assurance to the public that the evaluation process is impartial and fair.</p> <p>Selection of Objective Reviewers. HHS granting offices should take appropriate steps to rotate and replace independent reviewers as frequently as feasible. Federal and non-Federal personnel may be used as reviewers. When Federal personnel are used as independent reviewers, they should be as far removed as possible organizationally from the HHS granting offices approval official and his or her program office and grants office staff.</p> |
| 5. | <p><b>Should there be limitations or an ethics code for members of the Competition Commission and participants of the competition?</b></p> <p>As part of the ‘objective review’ process described above, independent reviewers are required to file a financial disclosure report with the HHS granting offices conducting the reviews. HHS granting office officials managing the grant review process should identify whether any prospective reviewer has an actual or apparent conflict of interest. If an independent reviewer has a conflict of interest regarding an application, the reviewer must not participate in, or remain present, during the review of that application.</p>   |
| 6. | <p><b>Should there be certain minimum number of members of the Competition Commission?</b></p> <p>Applications are evaluated in several stages. There is a Grants Management Office review and an Independent/Objective review. The Independent/Objective review must have three members.</p> <p><i>Application Evaluation</i> The application evaluation activities include the receipt and review of grant applications submitted by potential recipients. The Grants Management Office oversees the review and evaluation of grant applications to ensure outside reviewers and agency personnel comply with management policies and regulations, and with sound business management practices.</p> <p>The Program Management Office evaluates grant applications for their programmatic value and determines which applications best meet program goals and offer maximum potential for success. <i>Receipt and Screening</i> This involves receiving and officially logging incoming grant applications. Applications are screened (usually against a checklist) to ensure they are properly completed. The Grants Management Office receives and screens the grant applications for completeness and eligibility of the</p>  |

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|    | <p>applicant. This function may be centralized and/or supported by contractor effort.</p> <p><i>Independent/Objective Review</i></p> <p>This involves evaluation of the technical aspects of grant applications through the objective review process. After the technical evaluation is completed, a preliminary decision is usually made and documented on a technical merit rankings list. The Grants Management Office advises objective review groups and individuals in the proper procedures to follow in conducting the independent/objective review and/or checks for violations of procedures. The Program Management Office provides technical experts who participate in the independent/objective review and develop the technical or merit rankings list, unless the evaluation is performed by an individual office (e.g. NIH Center for Scientific Review).</p> <p><i>Business Management Evaluation</i> This involves evaluation of the business management capability of applicants based on information contained in the application, additional information as requested, and a review of prior performance as a recipient. If necessary, a pre-award business management review is conducted (usually on-site). This step also involves reviewing the application to ensure it complies with the applicable regulatory or statutory requirements (e.g., to ensure all required assurances have been provided). The Grants Management Office performs business management evaluation activities. The Program Management Office assists the Grants Management Office as requested.</p> <p><i>Cost Analysis</i> This involves conducting a detailed cost analysis of the proposed budget submitted by the grant applicant to determine if costs are allowable, allocable, and reasonable. The Grants Management Office performs cost analysis activities. The Program Management Office assists the Grants Management Office as requested, particularly by assessing the impact of cost issues on technical aspects of the grant.<a href="http://www.hhs.gov/asfr/ogapa/grantinformation/grantprocess.html#AppEval">http://www.hhs.gov/asfr/ogapa/grantinformation/grantprocess.html#AppEval</a></p> |
| 7. | <p><b>In what order should the projects proposals be evaluated, how many people have to consider one application?</b></p> <p>The order in which project proposals should be evaluated is not prescribed in the guidance materials. Several people within the program management office will review the proposal; three independent reviewers review the proposal.</p> <p><i>Conduct of Review.</i></p> <p>As part of the objective review, independent reviewers, whether serving on a panel or acting as field readers, shall numerically score each application using only criteria published in the program announcement. HHS granting offices awarding competitive grants shall maintain at a minimum for each competitive review, documents identifying the independent reviewers, their qualifications, and their compliance in filing a financial disclosure report</p>  |
| 8. | <p><b>Is it necessary to introduce optional criteria to evaluate project proposals that will be selected by the Competition Commission? For example, such as the permanent activity in the location of the target group, the presence of a permanent list of recipients of services, limitations on salaries and administrative costs, etc.?</b></p>  |

Application review criteria must be published as part of the funding opportunity announcement. Typical review criteria may include

- the approach to the proposed project or program;
- whether to meet a health need or carry out an investigator-initiated research project;
- the potential of the program or project (to contribute to meeting the objectives or purpose of the supporting program);
- the method used to evaluate project or program results;
- resources of the applicant organization, e.g., facilities;
- the capabilities of its staff;
- reasonableness and appropriateness of the budget.

HHS grant approving officials also may apply other factors, e.g., geographical distribution, but they must be specified in the funding opportunity announcement.

Applications receiving a favorable objective review are reviewed for other considerations. These include, as applicable, cost analysis of the project/program budget, assessment of the applicant’s management systems, ensuring continued applicant eligibility, and compliance with any public policy requirements, including those requiring just-in-time submissions. The applicant may be asked to submit additional information (such as an updated budget or “other support” information or verification of IACUC review) or to undertake certain activities (such as negotiation of an indirect cost rate) in anticipation of an award. However, even at this point in the process, such requests do not guarantee that an award will be made.

In addition to considering the specific information provided in the application, the grant management office determines the adequacy of the applicant’s financial and business management systems, including property management and procurement systems, that will support the expenditure of and accountability for grant funds if an award is made. Applicants/recipients are expected to have systems, policies, and procedures in place by which they manage grant funds and grant-supported activities. They may use their existing systems for this purpose as long as organizational policies are consistently applied regardless of the source of funds and systems meet the standards and requirements set forth in 45 CFR part 74 or 92, as applicable (see “Financial Management”). If an applicant has no prior experience with Federal grants or cost-reimbursement contracts, the grant management office may review the applicant’s financial management and other management systems before award, or within a reasonable time after award, to determine their adequacy and acceptability. For an applicant with prior HHS grants or other Federal cost-reimbursement awards, the grant management office may review recent audit reports and other available information to determine whether the applicant’s management systems meet the established standards. The grant management office will advise the applicant if additional information is required. On the basis of the review results, the grant management office will determine the need for any corrective action and may impose special conditions on the award. The HHS granting office also will oversee the recipient’s systems as part of its routine post-award monitoring.

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| 9. | <p><b>There is no procedure for consideration of bids:</b></p> <ul style="list-style-type: none"> <li>— quorum;</li> <li>— evaluation procedure in case of contradictory scores of members;</li> </ul> |
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|     | <p>— terms of delivery of applications, etc.</p> <p>Applications received in response to the same funding opportunity announcement generally are scored individually and then ranked with other applications reviewed by the same review group in their order of relative programmatic, technical, or scientific merit. The highest ranked applications are those that receive priority consideration for award within available funding. Authorized program officials (“approving officials”) make final award decisions from among those applications receiving a favorable objective review.</p>   |
| 10. | <p><b>Should the list of evaluation criteria and scores be posted on the web-site of the Ministry at the announcement of the competition? (is it possible to do it later?), (1) not later than 10 days after the announcement of the competition and /or (2) not earlier than 20 days prior to determination of winners.</b></p> <p>The list of evaluation criteria for a grant competition must be published with funding opportunity announcement.</p> <p>Information on the winners of federal grants, both specific grantees as well as statistics about HHS grants in general is available on this website. <a href="http://taggs.hhs.gov/index.cfm">http://taggs.hhs.gov/index.cfm</a></p> <p>Detailed information on specific applications, such as scoring, is generally not public. It may be possible to discover some of this information through a Freedom of Information Act (FOIA) request. However, even with a FOIA request, HHS will generally not release:</p> <ul style="list-style-type: none"> <li>• Pending competing grant applications</li> <li>• Unfunded new and competing continuations and competing supplemental applications</li> <li>• Evaluative portions of site visit reports and objective review summary statements, including scores.</li> </ul> |
| 11. | <p><b>Is it necessary to conduct training for awarded NCOs? Who and in what order develops the training modules? Whether it is necessary to have training variations: for example, for directors and accountants of NCOs, and others?</b></p> <p>In general, the government does not provide grant management training for NCOs. There may be some online resources available, such as these modules from the Department of Education: <a href="http://www2.ed.gov/rms-training/doed_formula_fy12/mod01/module.htm">http://www2.ed.gov/rms-training/doed_formula_fy12/mod01/module.htm</a>. There are many private entities that provide in depth training for NCOs seeking to win and implement federal grants. One such organization is called InsideNGO- <a href="https://insidengo.org/events/">https://insidengo.org/events/</a>.</p>  |
| 12. | <p><b>What kind of consultative support needs an NCO in course of implementation of SP project? (at submitting application, during implementation of the project, after the end of the project)</b></p> <p>In terms of support during the application process, generally, NCO’s are allowed to submit questions for clarification of the funding opportunity announcements that will be answered publically. Seeking private support from the granting office is not permitted.</p> <p>In terms of support during the implementation process, HHS granting offices monitor their awards to identify potential problems and areas where technical assistance might be necessary. This active monitoring is accomplished through review of recipient-</p>   |

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|     | <p>generated reports, including audit reports, and correspondence; site visits; and other information available to the HHS granting offices. The names and telephone numbers of the individuals responsible for monitoring the programmatic and business management aspects of a project or activity will be provided to the recipient at the time of award. Monitoring will continue for as long as the HHS granting offices retain a financial interest in the project, program, or activity as a result of property accountability, audit, and other requirements that may continue for a period of time after the grant is over.</p>  |
| 13. | <p><b>Should the grants allocated to particular year (e.g., 2013) be spent before the end of the current calendar (fiscal) year, or they can be spent in the next calendar (fiscal) year?</b></p> <p>Budget and Project Periods. HHS granting offices will fund multi-year grant projects in 12 month increments known as budget periods with the allowed project period not exceeding 5 years.</p> <p>Carryover of Unobligated Balances. In accordance with all laws and regulations, carryover of unobligated balances by the grantee is authorized only from one budget period to the next, but must be used by the end of the project.</p> <p><b>Low-cost and No-cost Extensions.</b></p> <p>An HHS grants management officer may noncompetitively extend a grant project period for up to 12 months to provide for an orderly phase out of Federal support, or for administrative reasons.</p> |
| 14. | <p><b>The law does not provide for the procedure for administering funds when the ministry has fund balance after the competition. What to do in case if there are such funds?</b></p> <p>In the U.S., most budget authority provided to federal government agencies for discretionary spending requires the agencies to obligate funds by the end of the fiscal year or return them to the Treasury general fund, and state and municipal agencies typically face similar constraints.<br/> <a href="http://www.hks.harvard.edu/jeffreyliebman/LiebmanMahoneyExpiringBudgets.pdf">http://www.hks.harvard.edu/jeffreyliebman/LiebmanMahoneyExpiringBudgets.pdf</a></p>  |
| 15. | <p><b>Funds for state social procurement are not protected items of the state budget, and there is a risk of their removal (sequestration) from the state budget. How to include money for the state social procurement into the list of protected items? Which normative legal act regulates the issues with protected and not protected items? What is the criterion for selection of protected items?</b></p> <p>In the US, there are no 'protected categories' in the budget. There are some budget categories that have been traditionally difficult to cut, like Medicare, but they are not necessarily immune to cutting. One way legislators ensure agency spending is through mandatory grants, which give funding directly to state and other municipalities, and direct funding of particular grant programs.</p>  |
| 16. | <p><b>Complaints are not published. There is no procedure for their consideration. Do we need these procedures?</b></p>   |

The HHS Departmental Appeals Board (DAB) provides impartial, independent review of disputed decisions in a wide range of Department programs under more than 60 statutory provisions. The DAB generally issues the final decision for the Department, which may then be appealed to federal court. The DAB may issue a recommended decision for action by another official. The DAB has three broad areas of jurisdiction each with its own set of judges and staff. The DAB also has a leadership role in implementing Alternative Dispute Resolution (ADR) across the Department since the DAB Chair is the designated Dispute Resolution Specialist under the Administrative Dispute Resolution Act of 1996. DAB staff includes trained mediators and facilitators. The DAB's ADR responsibilities include providing ADR services and training and coordinating and facilitating negotiated rulemaking committees.

The DAB resolves disputes with outside parties such as state agencies, Head Start grantees, universities, nursing homes, doctors, and Medicare beneficiaries. In a single year, disputes heard by the DAB may involve as much as \$1 billion in federal grant funds. <http://www.hhs.gov/dab/about/index.html>

HHS permits recipients to appeal to the Departmental Appeals Board certain post-award adverse administrative decisions made by HHS officials (see 45 CFR part 16). In addition, some HHS granting offices have implemented specific appeal procedures (see Part IV). In general, a recipient may appeal the following HHS granting office actions:

- Termination, in whole or in part, of a grant for failure of the recipient to carry out its approved project in accordance with the applicable law and the terms and conditions of award or for failure of the recipient otherwise to comply with any law, regulation, assurance, term, or condition applicable to the grant
- Determination that an expenditure not allowable under the grant has been charged to the grant or that the recipient has otherwise failed to discharge its obligation to account for grant funds
- Denial (withholding) of a non-competing continuation award for failure to comply with the terms of a previous award
- Determination that a grant is void (i.e., a decision that an award is invalid because it was not authorized by statute or regulation or because it was fraudulently obtained). The formal notification of an adverse determination will contain a statement of the recipient's appeal rights. As the first level in appealing an adverse determination, the recipient must submit a request for review to the HHS official specified in the notification, detailing the nature of the disagreement with the adverse determination and providing supporting documents in accordance with the procedures contained in the notification. A recipient may not submit an appeal directly to the DAB where HHS appeal procedures are in place. In those instances, the DAB will review only those appeals that have been reviewed and acted on by the HHS granting office.

## 7.4 Example of State Grant Program for Social Services

### *New York State Community Schools Grant Initiative*

The following is an example of a state-level grant initiative to provide social services to children and families.

The New York Council on Children and Families (Council) recently put forth an initiative to provide funding for local school systems to develop ‘community schools.’

The characteristics of a particular community school are highly dependent on the characteristics and needs of the population it serves. Thus, the request for proposals sets forth the community schools strategy, characteristics, allowable activities and expenditures, and how success will be measured, but it does not dictate precisely how a school system must use the grant funding to create a community school.

Included below is a description of the program and information about the application process.

*Excerpted from Community Schools Initiative Program Overview & Grant Implementation Plan August 2013<sup>95</sup> and the 2013 Community Schools Grant Initiative Request for Proposals.<sup>96</sup>*

The demands on schools in distressed communities are far greater than those in less challenged areas, and they span a variety of disciplines that include but are not limited to academics. Communities in distress need to be able to rely on their schools to not only provide a quality education to every child, but also to serve as the hub for varied support services for children and their families. These critical services address needs from health care to counseling, from nutrition to job preparation. It is important to support these schools as neighborhood solutions, many of which are the primary point of contact between at-risk families and critical service providers....

Fundamentally, Community Schools coordinate and maximize public, non-profit and private resources to deliver critical services to students and their families, thereby increasing student achievement and generating other positive outcomes.

#### *Purpose of the Grant Program*

The New York Commissioner of the State Education Department (SED) is authorized to award competitive grants “to eligible school districts for plans that target school buildings as ‘community hubs to deliver co-located or school-linked academic, health, mental health, nutrition, counseling, legal and/or other services to students and their families in a manner that will lead to improved educational and other outcomes.’”

#### *Program Characteristics*

Successful applicants will craft the Community School’s role as part of a strategy to meet the needs of high-needs students and their families by demonstrating the following elements in their proposal:

- Targeting Resources (School and Community Need): Community Schools are designed to address the needs of distressed communities and to serve low-income students and families. Within eligible school districts, Community Schools should target the students and schools with the greatest needs.
- Program Quality (Design, Organization & Implementation Plan): Community Schools ensure that students and their families have access to a comprehensive suite of programs and services that include academic enhancement, family engagement, health promotion and healthcare (including physical, dental and mental health), nutrition, counseling, legal, parenting skills and supports, housing, workforce training and related job search assistance.
- Partnerships: Community Schools collaborate with non-profit providers, community-based organizations, the business community, institutions of higher education, and city and/or

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<sup>95</sup> [http://ccf.ny.gov/Comm/CommResources/CCF\\_SED\\_CommunitySchools\\_Plan.pdf](http://ccf.ny.gov/Comm/CommResources/CCF_SED_CommunitySchools_Plan.pdf)

<sup>96</sup> <http://www.p12.nysed.gov/funding/2013-community-schools-grant-initiative/home.html>

county government agencies as active participants for planning, technical support and provision of direct services to students and their families.

- Focus on Performance/Outcomes (Program Evaluation and Goals Fulfillment): Community Schools adopt performance benchmarks that allow ongoing measurement of improvement in student and family well-being based on the programs and services that the Community School is providing. Appropriate benchmarks include quantitative measures of improved student performance (e.g., improvement in student achievement levels, decrease in absenteeism, increase in graduation rates); increase in the linkage and delivery of need-aligned social services (e.g., increased usage of school breakfast, increased immunization rates, minimum number of early childhood home visits); and increase in access to essential services (e.g., counseling services made available, health clinic established at a school, housing counseling services made available).
- Budget & Sustainability: Community School proposals should demonstrate how they will leverage existing funding streams and sustain performance and service provision after the conclusion of the grant award.

### *Allowable Activities and Expenditures*

Allowable activities are those that are directly related to meeting the overall and individual Community School program requirements. If any inappropriate and/or unallowable items are included in the budget, they will be deleted and the budget will be reduced accordingly. All expenditures must be directly aligned with program goals and objectives. Equipment purchases are permitted when necessary to meet the project goals and objectives, but must not exceed 10% of the total project budget.

Additional allowable activities include, but are not limited to:

- The provision of tutoring, supplemental instruction, and enriched educational services
- Before- and after-school, mentoring, and summer programs with a teacher or other qualified individual
- School supplies for distribution at shelters and temporary housing facilities
- Extraordinary or emergency assistance to enable homeless children to attend school
- Expedited student evaluations, including gifted and talented, special education, and limited English proficiency
- Professional development for educators and other school personnel
- Referrals for medical, dental, other health services, and social services
- Defraying excess cost of transportation (e.g. portion of transportation expense not covered by State Aid or Medicaid reimbursement)
- Provision of developmentally appropriate early childhood education programs, not otherwise provided
- Provision of services and assistance to attract, engage, and retain homeless children and youth and unaccompanied youth in public school programs
- The payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children and youths in school
- Provision of pupil services (including violence prevention counseling) and referrals for such services
- Addressing needs of homeless children and youth arising from domestic violence
- Provision of education and training to parents of students about educational rights and resources that are available
- Coordination between schools and service agencies

### *Evaluation Factors*

Community School grants will be awarded based on factors including, but not limited to, the following:

- Measures of school district need;
- Measures of the need of students to be served by each of the school districts;
- The school district's proposal to target the highest need schools and students;
- The sustainability of the proposed community schools program; and
- Proposal quality.

The proposal quality shall take into account factors including, but not limited to, the following:

- The extent to which the school district's proposal would provide such community services through partnerships with local governments and non-profit organizations;
- The extent to which the proposal would provide for delivery of such services directly in school buildings;
- The extent to which the proposal articulates how such services would facilitate measurable improvement in student and family outcomes;
- The extent to which the proposal articulates and identifies how existing funding streams and programs would be used to provide such community services; and
- The extent to which the proposal ensures the safety of all students, staff and community members in school buildings used as community hubs.

### *Community Schools Grant Eligibility*

Community School grants will be awarded through a competitive Request for Proposals process. Eligibility is determined as follows:

- Any school district may apply as long as the school district is 1) a high-need school district, or 2) an average-need school district with a minimum Extraordinary Needs percentage of 50% as most recently calculated by the State Education Department.
- A school district may apply to support all or some of the schools in the district. If a portion of schools within the district will be receiving supports, then those schools must be identified as part of the grant application process.

A consortium of school districts may apply as long as all school districts in the consortium are 1) high-need school districts, or 2) average-need school districts with a minimum Extraordinary Needs percentage of 50%.

- In New York City only, non-profit organizations (including non-profit community-based organizations) that collaborate with the school district may apply on behalf of the New York City school district with approval of the Chancellor of the school district.
- All school district applicants must demonstrate that they have fully implemented the standards and procedures for conducting annual professional performance reviews (APPR) of classroom teachers and building principals in accordance with the requirements of section 3012-c of the education law and with the Commissioner of Education's regulations.

### *Budget Considerations*

Up to \$15 million from the State FY2013-14 Enacted Budget will be available for grant awards supporting the Community Schools initiative. Each eligible applicant may apply for a maximum allocation of \$500,000 per Community School site to be distributed over 3 years.

## Chapter 8. Azerbaijani experience on state grants<sup>97</sup>

*By Mahammad Guluzade, the International Center for Not-for-Profit Law*

### 8.1 Short overview

Azerbaijan is an oil-rich former USSR country that obtained its independence in 1991. For years the Azerbaijani Government was also known to international community because of its unfriendly attitude towards NGOs and civil society at large. During that time, NGOs survived on foreign grants, and this became a source of friction between NGOs and the government. The Azerbaijani Government treated NGOs as if they were foreign agents or spies. NGOs and the government saw each other only as opponents. For years, registration of an indigenous NGO was almost impossible in Azerbaijan. In four cases, the European Court of Human Rights (ECHR) found Azerbaijan to be in violation of Article 11 (freedom of association) of the European Convention on Protection of Human Rights and Fundamental Freedoms.<sup>98</sup> In recognition of the ECHR's rulings, the Government of Azerbaijan has improved the process of NGO registration and has begun to settle issues relating to registration in favor of NGOs and their founders.<sup>99</sup> The Azerbaijani Government's attitude started to change also due to its new membership in the Council of Europe and exposure to Western models of NGO-government interaction. The Government of Azerbaijan manifested the change in its attitude towards NGOs by starting to register new NGOs. By 2007, more than 2,500 NGOs<sup>100</sup> were registered in Azerbaijan. When the government saw that the expanded number of NGOs did not cause political unrest, it implemented the next step: the President approved the Concept for State Support to Non-governmental Organizations (hereinafter the "Concept"),<sup>101</sup> which provided a legal basis for governmental support of civil society in Azerbaijan. The Concept was designed to make government funding more accessible to Azerbaijani NGOs, as compared to foreign grants.

Before deciding on how to provide financing to NGOs, the Azerbaijani Government studied international best practices, in particular the experiences of Hungary and Croatia. On 13 December 2007, following a study tour and a period during which it conducted comparative research, the President of Azerbaijan signed a decree on establishing a Council for State Support to NGOs, a body designed to serve as a "bridge" between NGOs and state bodies, as well as a vehicle to provide financial support to NGOs in Azerbaijan. The President also approved the regulations on the NGO Support Council,<sup>102</sup> a document that outlines the council's status and main procedures.

According to the regulations, the NGO Support Council was entrusted with the right to develop proposals to improve the state policy in regard of NGOs and submit them to the President; and to provide consultative, methodical, logistic, financial, and other type of assistance to NGOs.<sup>103</sup>

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<sup>97</sup> This article was prepared on the basis of the article 'Azerbaijani NGO Support Council: Overview of Three Years of Activity' posted at [http://www.icnl.org/research/journal/vol14iss1/art\\_2.html](http://www.icnl.org/research/journal/vol14iss1/art_2.html)

<sup>98</sup> The cases are *Ramazanova v. Azerbaijan*, *Ismailov v. Azerbaijan*, *Nasibova v. Azerbaijan*, and *Aliyev and others v. Azerbaijan*.

<sup>99</sup> Mahammad Guluzade and Natalia Bourjaily, *The NGO Law: Azerbaijan Loses Another Case in the European Court*, *IJNL*, Volume 12, Issue 3, May 2010.

<sup>100</sup> According to Mr. Ilgar Mammadov, Head of Registration and Public Notary Main Department of the Ministry of Justice of Azerbaijan, there were 2,612 registered NGOs in Azerbaijan as of 14 December 2010. Round-table "Annual financial reporting of NGOs in Azerbaijan: problems and perspectives," 14 December 2010, Baku.

<sup>101</sup> Decree on Approving a Concept for State Support to Non-governmental Organizations, approved by the President of Azerbaijan, dated 27 July 2007, available at [www.cssn.gov.az](http://www.cssn.gov.az).

<sup>102</sup> Regulations on the Council of State Support to Non-Governmental Organizations under the President of the Republic of Azerbaijan, approved by President's Decree # 674 of 13 December 2007, available at [www.cssn.gov.az](http://www.cssn.gov.az).

<sup>103</sup> *Ibid*, para. 2.3.

In addition to provision of financial support to Azerbaijani NGOs, the NGO Support Council has already proven to be an important advocate for NGOs interests. The council played a significant role in preventing adoption of legislation that was initiated by the Government of Azerbaijan, and originally designed to restrict activities of NGO, in 2009.<sup>104</sup> It is currently advocating with the Government for simplification of financial reporting requirements for NGOs, and providing technical support to NGOs, helping them to comply with complex financial reporting.

## **8.2 Creation of Council for state support of NGOs**

The NGO Support Council<sup>105</sup> was established as a result of the President's Decree of 13 December 2007. It is designed to represent both the government and NGOs. As such, it is composed of eleven members, all of whom are appointed by the President of Azerbaijan. Eight members are nominated by non-governmental organizations and one member from each of the three state bodies: the Ministry of Justice, the Ministry of Finance, and the President's Office. The NGO Support Council's members are appointed to four-year terms and cannot hold these positions for more than two consecutive terms. They do not get paid from the state budget and work on a voluntary basis. The members of the council elect from among themselves a chairman, deputy chairman, and secretary. The legislation requires that the members meet certain requirements to prove their competence: (1) they must possess a university degree; and (2) they must have reputation in the society and high moral values.

The present chairman of the council is an influential deputy and prominent civil society figure who is providing strong leadership and relative political independence in the council's decision making, despite the fact that all of the council's funding comes from the state budget. His leadership helped the NGO Support Council gain trust among NGOs in Azerbaijan as well as international organizations. Many international organizations, such as the World Bank, UNDP, USAID, and OSI, have been cooperating with the NGO Support Council, including co-funding joint projects.

## **8.3 State grants to public benefit projects of NGOs**

The main function of the NGO Support Council is to provide financial support to NGOs via grants. It distributed more than ten million USD in grants during 2008-2013 to support more than 1500 NGO projects, including some 2000 training, 21 films, 67 webpages and publication of 152 books.<sup>106</sup> Grants competitions are held several times a year. Previously NGO Support Council allowed NGOs to participate in several competitions during one financial year on the condition that the NGO's previous project ended. However, at present NGO Support Council supports only one project from one NGO during a financial year. The maximum grant amount does not exceed 20.000 azn (USD 25.500) and the amounts cannot be transferred to the next financial year.

The NGO Support Council supports NGO activities in a broad variety of areas, from defending human rights and free legal aid, to social-economic development and environmental protection. Only Azerbaijani NGOs can apply for grants<sup>107</sup>.

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<sup>104</sup> See *Analysis of Proposed Amendments to the Law of the Republic of Azerbaijan on Non-governmental Organizations (Public Associations and Foundations)*, ICNL, 16 June 2009, available at [www.icnl.org](http://www.icnl.org).

<sup>105</sup> [www.cssn.gov.az](http://www.cssn.gov.az)

<sup>106</sup> See <http://az.itv.az/gundem/39614.html>.

<sup>107</sup> Since August 2013 NGO Council also has grant competition for foreign NGOs from UK, France, Sweden, Belgium, Norway, Switzerland, USA, Lithuania, Czech, Poland, Hungary, Ukraine, Russia, Turkey and Moldova to fund projects in the field of human rights, fighting xenophobia, islamophobia, racism, etc. in foreign countries. The maximum grant amount is 100,000 Euro.

The council's grant competition is normally announced one month prior to date of submission of project proposals, and contains detailed competition rules. Applications can be submitted by mail or in person.

The evaluation of the projects submitted to the NGO Support Council is carried out in three stages:

- 1) Preliminary selection of the project proposals by the Council's Secretariat, which mostly checks the conformity of the project with the competition rules.
- 2) Evaluation of the project proposal expertise by contracted experts. The experts evaluate the projects on a score-based system according to the evaluation sheet approved by the NGO Support Council. Each project is codified by the NGO Support Council and evaluated by three independent experts whose names are not disclosed to the public.
- 3) *Final decision of the NGO Support Council on the project proposals.* The eleven members of the Council discuss each project proposal individually and make their decision in view of the experts' opinion. The secretariat then places information about winning organizations on its webpage and notifies them individually by mail.

Those NGOs whose project proposals were not successful can appeal to the NGO Support Council within ten days from the time the decision is made. Appealing NGOs are invited to the council to familiarize themselves with the expert opinions on their project proposal. In practice, very few NGOs use this appeal mechanism (out of 984 proposals rejected by the Council, only 57 were appealed)<sup>108</sup> because:

- 1) according to NGOs, evaluations of project proposals are conducted rather impartially and NGOs trust the final decision of the NGO Support Council;
- 2) chances are slight that an NGO might win an appeal and NGOs do not wish to damage their "relationship" with the NGO Support Council as they plan to apply for grants in the future. So far, there was only one case where an organization won its appeal.

Overall, the procedure of conducting competitions for grants has been impartial and transparent. NGOs interested in this source of funding have been closely monitoring the work of the NGO Support Council. So far, NGOs initiated two cases against the council's withdrawal of the decision on financing their proposals, when these NGOs accused the council of an unjustified budget cut. These cases are still pending in court.

An important and perhaps most problematic part of the NGO Support Council's work is monitoring the implementation of projects supported through grants. During its first grant competition in 2008, the NGO Support Council provided funding to 191 NGOs. When the secretariat began monitoring the financed projects, it was discovered that some ten percent of NGOs did not submit their project reports on time, and several NGOs could not be reached at the contacts provided to the NGO Support Council. Having felt "cheated," the NGO Support Council became more rigorous in the selection of grants submitted by local NGOs. Analyses of the subsequent grant rounds demonstrate that at present, the NGO Support Council mostly finances the projects of well-established NGOs whom they "trust." To ensure that grant recipients comply with reporting requirements NGO Support Council organizes training for NGO's accountant and chairperson (project manager) which is mandatory to attend.

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<sup>108</sup> ICNL obtained these statistics directly from the NGO Support Council in January 2011.

## 8.4 Positive moments and shortcomings in activity of the Council

The establishment of the NGO Support Council in Azerbaijan was an impetus for strengthening and further development of NGOs in the country. It did not become a government tool to manipulate civil society through funding, as some foreign observers had feared when the NGO Support Council was established. Moreover, successful media coverage of NGO activity sponsored by the council helped improve NGOs' public image among society in general.

The NGO Support Council has not replaced foreign funding in some areas, but rather provides important supplementary funding in areas of society that were not previously supported by any funder, including patriotism, national traditions and customs, and propaganda for Azerbaijan's position in Karabakh conflict. Getting funding from the NGO Support Council does not require knowledge of a foreign language, and proposal and reporting requirements are often much simpler than similar requirements imposed by foreign donors. These distinctions, along with the generally very small sizes of grants, are not typically attractive to many beneficiaries of foreign grants, which allow small, indigenous organizations to benefit from the funding.

In practice, the NGO Support Council provides many types of support, not all of which are specifically prescribed by its bylaws, such as helping groups to register NGOs. The registration process for NGOs remains bureaucratic and politicized in Azerbaijan.

The main challenge for the NGO Support Council is its inability to meet the needs of NGOs with its limited budget. The council is financed by the state budget of Azerbaijan and there is no basis for it to generate funds from other sources. In Croatia, for example, a similar institution (the National Foundation for Civil Society Development) is financed through private donations, income from economic activity, and other sources (a percentage from money collected through lotteries and gambling).<sup>109</sup> Single-source funding makes the NGO Support Council vulnerable to political pressure as to which NGOs are financially supported and which are not. So far, because of its strong leadership, the NGO Support Council has been impartial in its decision making. However, unless sources of funding are diversified, this may not be the case for much longer.

## Chapter 9. Estonian experience on the state grants

*By Luben Panov, the Bulgarian Center for Not-for-Profit Law*

### 9.1 Overview of the civil society environment in Estonia

There are different ways in which governments can support civil society – providing direct financial support in the form of grants is only one way. There are numerous other mechanisms for state support such as creating a supportive legal and policy environment for the operation of CSOs, providing tax incentives for CSOs and their donors, supporting volunteerism, providing in-kind support for CSOs (including consultations, training, advice, offices, etc. free of charge), etc.

Estonia is an example of how these different tools work together. According to the USAID CSO Sustainability Index for 2012 Estonia is the country with the best score among the 29 countries in Central and Eastern Europe and Eurasia that are studied with a score of 2.0. It is the leader in 5 out of the 7 categories studied, including the category on financial sustainability. That is why it can serve as a model for other countries.

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<sup>109</sup> *Katerina Hadzi-Miceva, Legal and Institutional Mechanisms for NGO-Government Cooperation in Croatia, Estonia, and Hungary, IJNL, Volume 10, Issue 4, August 2008.*

In order to understand the way the funding mechanisms in Estonia work, we need to understand the institutional framework in which CSOs in Estonia operate. In December 2002 the Parliament adopted the Estonian Civil Society Development Concept (EKAK). It is the strategic document that guides the development of the framework in which Estonian CSOs operate. It defines the roles of both the public administration and CSOs. It was adopted after a large-scale consultation process among civil society organizations. According to Urmo Kubar, executive director of the Network of Estonian Nongovernmental Organizations (NENO), the most important facts resulting from the adoption of EKAK are that *“both the public and the nonprofit sector are equal partners in developing the society, and that nonprofit sector remains independent even if it receives funding from public sector.”*<sup>110</sup>

EKAK has four important sections:

- Goals;
- Principles;
- Ways of achieving goals;
- Implementation.

While at the start, the ways for achieving the goals and the implementation mechanism have been crucial, as time progressed the sections with goals and principles became the leading sections as these were long-term and strategic.

The basis for the financing of the NGO sector is laid down in Section I, Goals: *“to develop a support system for nonprofit sector”* (point 7). In addition in Section IV, Implementation of EKAK, this goal is put as a long-term priority: *“Guaranteeing of a functioning support system for civic initiative”* (point 1.3). As a short-term priority, EKAK outlines the need for *“Mapping, systematization and improvement of the system for financing citizens’ associations from public budgets and informing the general public thereof”* (point 2.6).

Most importantly, EKAK provides for the need to establish a joint committee between state representatives and civil society which will be responsible for the implementation of EKAK. In 2007 the membership of the committee was revised and the number of members was limited to 20 (10 from each of the two sectors) and the level of the members increased (from expert to political level). The Committee is chaired by the Minister of Regional Affairs. In addition, an implementation unit was set up with the Minister of Regional Affairs, responsible for the EKAK implementation on the side of the government.

In order to implement EKAK, the government adopts Implementation Plans. The last adopted plan is the Civil Society Development Plan 2011-2014. One of the measures of the Plan is Measure 3: Improving the organization of the financing of citizens’ associations from state and local government budgets<sup>111</sup>. This measure among others provides that the government would attempt to use uniform funding practices and procedures. It also plans to increase the money targeting improved NGO capacities as NGOs would be a key partner in implementing government policies in different areas.

As seen from the different programming documents, the government of Estonia wants to develop many and diverse funding opportunities for CSOs. That is why, as an indicator of the Implementation Plan is the ratio of CSOs that receive funding from more than 3 different sources.

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<sup>110</sup> *Estonian Civil Society Development Concept (EKAK): Framework for Cooperation Between Third and Public Sector. Brief Overview and Some Learning Points, presentation by Urmo Kubar at European Conference „How to foster civil dialogue in Europe“, 15 May 2008, Brussels*

<sup>111</sup> *Civil Society Development Plan 2011-2014, p.16*

In addition to grants, the Plan provides for several measures related to the transfer of service provision from state bodies to CSOs such as:

- Facilitating the delegation of public services to citizens' associations and harmonizing delegation practices;
- State and local government support to the contractual delegation of public services to citizens' associations and the development of the related capabilities;
- Facilitating and supporting the development of citizens' associations providing services.

## 9.2 Financial support to CSOs from the state

The USAID CSO Sustainability Index for 2012 for Estonia notes with regard to Financial Sustainability that: "The majority of CSO funding comes from domestic sources such as local governments and national foundations. Every year, the state directly allocates approximately €7 million of budget funds to different nonprofit organizations in the form of project grants and institutional support, including €1.1 million to the National Foundation for Civil Society (NFCS). CSOs can also apply for funding from various competitive grants, with a total value of approximately €60 million. Some of these competitions are only open to CSOs, while others are open to CSOs, private companies, and public sector organizations."

As seen from the Index, in Estonia there are various state-established funding mechanisms for CSOs working in different areas. In addition, the government provides support to regional development centers in every Estonian county, which provide assistance and training to CSOs. Different funding mechanisms have different procedures for providing grants to CSOs. That is why the Implementation Plan plans to harmonize the practices and procedures of all CSO funding mechanisms.

There are examples of the state providing direct support to important umbrella organizations of CSOs. For example, a network of environmental organizations – Estonian Council of Environmental NGOs (EKO) receives around 35 000 EUR core budget per year from the state since 2006.<sup>112</sup>

The state also provides support to target areas for which CSOs can also apply. An example is the Estonian Research Council which provides institutional research funding. Another example is the Environmental Investment Center (EIC) which supports projects related to the environment. Their last call for proposals is for improving the conditions of the watercourses<sup>113</sup>. EIC is a foundation established by the Ministry of Finance. It is funded by 4 different sources - environmental fees in Estonia, EU structural funds, loans from the European Investment Bank and sale of CO2 emissions.

In addition, different government structures operate their own grant-making programs some of them supporting exclusively the CSO sector or certain segments of it. In the area of youth the Ministry of Education and Research provides grants to youth organizations. Another example of an existing mechanism for provision of grants to CSOs is the mechanism through which the Ministry of Foreign Affairs provides grants to CSOs as part of the Estonian official development assistance (ODA). CSOs are an important partner to the government in implementing the ODA policies of Estonia and for example in 2006 they have received approximately 321 000 EUR in grants for project implementation<sup>114</sup>. But as noted in the report: "The problem remains that there are still no open and transparent calls for project proposals. The current system favors those NGOs that are already in close contact with the MFA and the lack of concrete guidelines for projects makes it difficult for

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<sup>112</sup> *Presentation from Peep Mardiste, Estonian Green Movement.*

<sup>113</sup> <http://www.kik.ee/en/news/eic-gives-again-out-grants-improving-condition-watercourses>

<sup>114</sup> *Development Cooperation in Estonia, Country Study, Annika Kool, December 2007*

‘newcomers’ to enter the circle”.<sup>115</sup> This is one example that transparency is important with regard to public funding.

A new source of income is the Gambling Tax Board which supports projects in the areas of education, youth, sports, social activities and culture. It was created by a decision of the Estonian Parliament in 2011. The Gambling Tax Board is managed by a Council composed of 9 members of whom 6 are representing Parliament and 3 people are representing the three ministries in whose subject area the Board will fund projects (culture, social activities and education).

The Board supports two types of projects – small ones (below 6391 EUR) which are evaluated on a monthly basis and bigger projects (above 6391 EUR) evaluated once annually in December<sup>116</sup>. The Board prefers to support activities which are not supported by other funding schemes of the government or the third sector. Up to 25 % of the budget of the project could be used for project management costs.

In addition to the other available sources of funding, there are funding mechanisms which target directly to support the capacity of NGOs. The first one is the NGO Fund under the European Economic Area Financial mechanism funded by Iceland, Liechtenstein and Norway. It is established with the Memorandum of Understanding between the Donor states and the Republic of Estonia and is managed by the Open Estonia Foundation (an independent NGO). It announces open calls and will distribute 1,91 mln. EUR until 2016. The objective of the Fund is “strengthened civil society development and enhanced contribution to social justice, democracy and sustainable development”. It provides 3 types of grants – small capacity building grants (up to 7 500 EUR), large-scale grants (up to 40 000 EUR) and network grants to be implemented by coalitions of NGOs (up to 100 000 EUR).

Only public benefit organizations can receive grants and they need to be independent from local and national authorities, political parties and commercial organizations. Organizations applying for large-scale or network projects need to have existed for at least a year. Calls should be announced at least 60 days before the deadline for submitting proposals. Another condition of the NGO Fund is the requirement for co-financing of 10 % of the total budget (and up to half of that can be volunteer work).

The duration of the projects varies from 9 months (for small projects) to 2 years (for network projects). The evaluation and selection of project proposals follows 3 main stages:

- Reviewing compliance with administrative and eligibility criteria – only organizations that pass here go to the next stage;
- Quality assessment where each project is evaluated based on criteria such as relevance of the project to the goals of the program, methodology, experience of the applicant, etc. The experts undertaking the evaluation can suggest modifications of both budget and activities;
- The Selection Committee, based on the evaluation of the projects, prepares the list of projects proposed for funding and the decision for allocation of grants is taken by the Board of the Open Estonia Foundation.

With regard to payments, after the organizations sign their grant contracts, they receive a certain part of the project funding in advance (ranging from 25 % to 75% depending on the size of the project). For all projects, 90 % of the grant will be paid before the final report and only 10 % is left for payment of the final balance (after a final report is submitted and expenses are approved).

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<sup>115</sup> *Id.* 3, p. 7.

<sup>116</sup> <http://www.hmn.ee> .

The other grant-making mechanism that supports building the capacity of civil society organizations is the National Foundation for Civil Society which is established by the Government of Estonia. It is an example of how governments in Central and Eastern Europe have put special importance on civil society development. Similar grant-making structures exist in Croatia, Hungary and Albania and there are plans to establish a similar mechanism in Bulgaria as well (according the recently adopted Strategy for Support to the Development of NGOs).

### 9.3 The National Foundation for Civil Society

#### *General organization and structure*

The National Foundation for Civil Society (NFCS) was created in 2008 based on a decision of the Estonian Government. It is based on a concept paper developed by the Network of Estonian Nongovernmental Organizations in consultation with a number of other NGOs and different ministries and adopted by the Ministry of Interior. This concept has analyzed the funding situation of NGOs in Estonia and the models used in other countries. As a result, it has proposed that a new mechanism is created, focusing especially on supporting the development and capacity of civil society organizations.

NFCS is an independent legal entity – a foundation established under the foundation law in Estonia by the Ministry of Interior (as a representative of the Government of Estonia which is the founder). The overall goal of the foundation is *“to contribute to enhancing the capacity of not-for-profit associations and foundations acting in public interests of Estonia in development of the civil society and in formation of the environment favorable for civic initiative”*.<sup>117</sup>

According to the Concept for NFCS, it will have two main focuses:

- 1) Institutional capacity building of the non-profit sector both on national and local level, and supporting the activities of organizations and networks in order to implement EKAK and increase the capacity of NGOs to be equal partner for public institutions.
- 2) Implementation of innovative civil society programmers and projects: researches, development projects, application of new knowledge, acquiring and distribution of experiences in international civil society development, starting necessary cooperation structures.<sup>118</sup>

The work of the foundation is overseen by a Supervisory Board composed of 10 people appointed by the Ministry of Interior of which 5 are representatives of CSOs. The representatives of the government include representatives of the Minister for Regional Affairs (under the Ministry of Interior), Ministry of Finance, Parliament and others. The CSO representatives are proposed by the Joint Committee for the Implementation of EKAK (see the Overview for further information on this body). The Joint Committee organized a selection process before proposing the 5 candidates of CSOs. The Board members have a mandate of 3 years and cannot serve for more than 2 consecutive mandates. Among the most important tasks of the Board are:

- Approval of strategy, action plan and annual budget of the Foundation;
- Approval of the procedures for grant competitions;
- Approval of reports.

The day-to-day operations of the Foundation are organized by the staff of the NFCS. In addition, external experts are hired to evaluate the projects which apply for funding.

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<sup>117</sup> Art. 2.1, *Articles of Association of the National Foundation for Civil Society*.

<sup>118</sup> *Concept for National Foundation for Civil Society, Agu Laius and Urmo Kubar, August 2007.*

NFCS receives funding directly from the state budget which is approximately 1,3 mln. EUR. Up to 15 % of this funding goes for administrative expenses covering the operation of the Foundation. The rest is provided in the form of grants or covers the programs of the Foundation. The Foundation manages also other programs such as the Swiss Cooperation Program in Estonia, the EU citizen program, etc. for which it receives funding from the respective donor agency.

### *Programs of the NFCS*

The National Foundation for Civil Society has 3 main programs<sup>119</sup>:

- Program for operational capacity of NGOs – open calls for projects. Through this program the NFCS supports different advocacy initiatives, integration projects, social entrepreneurship activities, volunteer centers, etc. By November 2010 there were 128 grants awarded;
- Program for innovative ideas and international cooperation – continuous open call. This program supports interesting and innovative ideas of NGOs and also the spreading of Estonian civil society experience abroad. By November 2010 there were 26 grants awarded and 13 initiatives to promote Estonian experience abroad;
- Advocacy and support program for civil society development – activities initiated by the Board of the NFCS. This program has supported different management and other trainings for NGOs, researches, as well as important events for the civil society sector such as National NGO Conference, Volunteer Awards, etc.

The eligible applicants are NGOs which have existed for over a year, that are not controlled by the local or national authorities, political parties, employers' or business associations, labor unions. There is a requirement for a 10 % co-financing of which half can be in-kind (including volunteer labor).

The announcements for the calls for proposals are published in a daily newspaper, on the website of the NFCS and spread through information lists of civil society organizations. For the program for support of innovative ideas (Good Idea Projects) the announcement should be published 45 days prior to the deadline for submitting of proposals. The project proposals submitted to NFCS are evaluated at two stages – technical and content evaluation. The technical evaluation is carried out by the staff of the Foundation and monitors the following:

- application is completed and submitted timely;
- all cells in the application form are filled;
- budget is in accordance with the open call requirements;
- applicant(s) meet(s) the open call requirements;
- the amount of co-financing is in accordance with the requirements;
- the applicant's articles of association, board of directors and the last confirmed fiscal year report is published on the home page of the applicant;
- absence of tax liability.

After the technical evaluation is passed, the project is evaluated by three independent experts (in case of open calls) or two experts (in the case of Good Idea projects). In the case of open calls, there are clear evaluation criteria. According to the NFCS' procedures there are a number of criteria which are assessed when a project is submitted "previous activities of the applicant and project implementation capacity, application's conformity with the open call's terms and conditions, content, correspondence of the activities and budget with the goals of the open call, goal orientation and thoroughness and clear connection to the budget, clear definition of results in the application, result-oriented approach and sustainability of project, openness to partnership and cooperation with

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<sup>119</sup> *Presentation of NFCS, Merlin Sepp, Program Coordinator, 30 November 2010.*

public authorities, business organizations or other non-profit organizations or foundations.”<sup>120</sup> The evaluators can propose changes to the proposed project which the applicant may accept or not. In case of non-acceptance, the initial project and the motives for disagreement is submitted for decision to the Board. In the proposed changes are accepted, the amended project is submitted for decision.

The evaluation results (the ranking of the projects) are submitted to the Supervisory Board who makes the decision to provide a grant. The contracts are signed by NFCS based on the decision of the Supervisory Board.

All supported projects are published on the website of the Foundation. For 2012 under the support received from the state budget, NFCS has supported 8 Good Idea projects (the maximum grant up to 40 000 EUR), 49 smaller projects under different programs (the maximum amount 6 500 EUR) and 31 mid-size projects (up to 20 000 EUR).<sup>121</sup>

The financing is provided to the supported organizations in the following mode (this may vary depending on the type of project or grant amount):

- 40 % after the signing of the contract;
- 30 % after submission of the first interim report;
- 20 % after the submission of the second interim report;
- % after submission and approval of the final report.

The National Foundation for Civil Society conducts regular monitoring of the funded projects. This includes reviewing the interim and final reports, communication with the supported organizations, site visits and other forms of monitoring. Substantial changes to the proposed activities or budget need to be approved by the NFCS staff.

#### **9.4 General considerations**

When planning a system of government support for CSOs, there are several important issues that governments need to take into consideration. The Balkan Civil Society Development Network (with support from the European Center for Not-for-Profit Law and the International Center for Not-for-Profit Law) has developed a Monitoring Matrix on Enabling Environment for Civil Society Development. Its standards and indicators could serve as a valuable resource when determining the how to structure a grant-making program for CSOs.

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<sup>120</sup> Art. 4.3.2; *Procedures for announcing open calls, proceeding applications and Good Idea projects, disclosing and monitoring the implementation of the grant; National Foundation for Civil Society.*

<sup>121</sup> [www.kysk.ee](http://www.kysk.ee) .

## **Part III.**

# **Problems in the mechanism of the state social services procurement in Kyrgyzstan and recommendations to improvement**

### **Chapter 10. Ways for development of SPSS system in Kyrgyzstan**

At present, the Law on SPSS is implemented by only one state agency – MSD. The Law on SPSS provides for implementation of SP in almost all areas in which various ministries and socially-oriented agencies work, as well as LSG bodies. However, apart from the MSD, the other ministries and agencies and LSG bodies do not use this mechanism. Polls showed that there are several reasons for this situation: 1) representatives of other ministries and agencies and LSG bodies do not understand the Law on SPSS, 2) they think that the law on SPSS should be implemented only by MSD (based on the title of the law), and 3) state and local budgets are limited and do not allow for additional spending. Many ministries and agencies simply do not dare to ask for more money for new spending, including for funding of social programs through the SPSS mechanism. SPSS is also not used by LSG bodies, although SDSP emphasizes the need to improve the accountability of local state administrations and local self-governments in developing social services in their territory. LSG bodies are also encouraged to provide each year in the local budget funds for SPSS programs (projects) and the SDSP even sets the specific task of “developing mechanisms for delegating the provision of services to the elderly through SP to civil sector.”<sup>122</sup>

However, other ministries and socially orientated agencies, as well as LSG bodies should begin to use the mechanism of SPSS as the MSD has demonstrated that this mechanism is highly efficient and other countries that have been using it for many years. Using this mechanism, it is possible to achieve the stated social objectives with fewer expenses but better quality services.

State funds for SPSS funding should be provided in the budget of each ministry or agency providing services to the population in the areas identified in the Law on SPSS, as well as in local budgets. The funds for SPSS shall be provided separately and not included in the line “other expenses” as it is done currently in the allocation of funds to MSD. Certain minimums for financing social programs through the mechanism of SPSS should be allocated in the state budget; funding for social programs through the mechanism of SPSS from year to year should not go below this threshold. We also hope that SPSS, by demonstrating its effectiveness, will lead to sustained increase of funding either through the republican or through local budgets.

It should also be noted that there is no clear concept of which services may be provided by non-governmental organizations (including NCOs) more efficiently than by government agencies. It is necessary to evaluate the list of state and municipal services and to identify those services that can be transferred to non-governmental organizations (including NCOs) both in the framework of mechanism of state procurement and through the mechanism of SPSS.

Most important is that the SPSS system should be simple, clear and transparent to society, and implementation of SPSS should be subject to quality monitoring.

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<sup>122</sup> *Item 45 of SDSP.*

## Chapter 11. Problems in SPSS competition procedure and recommendations for their solution

During the analysis of the legislation and practice of related to SPSS, a number of problems in the SPSS bidding procedure were discovered. In the table below you can see these problems (grouped by stages of the bidding process), as well as recommendations for their solution.

Table № 12. Problems in SPSS competition procedure and recommendations for their solution

| №  | Stages of SPSS competition procedure               | Problems  | Recommendations   |
|----|--|---|---|
| 1. | <b>Determination of topics for social programs</b> | <b>Setting priorities for funding through SPSS without public consultations.</b> There is no effective mechanism in the SPSS legislation to identify the need for particular social services in general, including those that may be financed through the SPSS mechanism. At present, the state body determines the needs of society or a particular category of the population at its own discretion. This makes the SPSS system less effective, as the lack of consultation procedures with the public may result in the funding of social projects and services that are less urgent than other social services. | It is necessary to rationalize the mechanism for determining the need for social services in general, including those that may be financed through the SPSS mechanism. For this purpose, the law should:<br>(1) provide for ability to create electronic databases of social problems on the websites of state bodies, where citizens and civil society organizations could send their proposals at anytime,<br>(2) conduct special studies to determine the most pressing social problems at a specific time by particular locality, region, country,<br>(3) include public hearings in order to determine the most pressing social problems for financing social programs to address them through the SPSS mechanism. |
| 2. | <b>Announcing the competition</b>                  | <b>Every year the competition is announced at a different time</b><br><br><b>Criteria for selection of winners are not published</b>  | A study of the statistics of allocation of funds by the Ministry of Finance for SPSS over the past 5 years should be completed. Then the latest date and offer should become the permanent date of announcement of competition.<br>Along with the announcement of a competition, it is necessary to publish criteria for selection of winners.  |
| 3. | <b>Access to</b>                                   | <b>Informing NCOs about competition through websites or mass media is not enough for local</b>  | Information on the procedure for conducting competitions and funded projects should be  |

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|           | <p><b>information</b></p>  | <p><b>NCOs.</b></p> <p><b>Absence of relevant database of service providers, absence of systematic targeted work with appropriate NCOs</b></p> <p><b>Participants of the competition are not informed about the results of the competition in time.</b></p>  | <p>accessible to citizens and broadcasted on Public TV and Radio Company (the most popular television and radio in the country) as a social advertising, and also be permanently and openly accessible on the MSD website.</p> <p>It is necessary to create a database of NCO- service providers, as well as create "black" and "gray" lists of NCOs which provided substandard services or have otherwise violated the rules set forth in the SPSS.</p> <p>There should be a mechanism for announcement and notification of participants about the results of the competition. For instance, informing them via SMS or e-mail dissemination to NCOs that are in the database of participants of the SPSS. It will force NCOs to update their contacts in the database in time.</p>   |
| <p>4.</p> | <p><b>Submission of application and documents for participation in the competition</b></p> | <p><b>Applications for participation in the competition are submitted to MSD in open folders.</b> A number of successful NCOs have raised concerns that the MSD may transmit the ideas stated in their project proposals to other NCOs.</p> <p><b>Complexity of submitting documents for SPSS competition.</b> The process for preparing a package of documents for participation in the competition is cumbersome and expensive. In particular, it requires provision of the charter documents of participants in two languages and two notarially certified copies. The situation is further compounded by the fact that NCOs wishing to participate in the competition, have to travel to Bishkek to submit the documents, even if they are located in distant areas, because the competition committees work only in the capital of the country- in Bishkek under MSD. This makes the application process expensive and burdensome for NCOs.</p> | <p>It is necessary to provide in legislation for the division of package of competition documents in two parts: (1) confidential (project proposal and its budget), and (2) open (copy of charter, certificate and other documents).</p> <p>Requirements for package of documents to be submitted for participation in the competition should not be overly burdensome; in particular, there is no need to provide notarially certified copy of the charter.</p> <p>There should be several ways to submit documents for the competition that will help ensure the transparency of the SPSS system:</p> <ul style="list-style-type: none"> <li>(1) personally by the representative of NCO;</li> <li>(2) by registered mail;</li> <li>(3) by e- mail;</li> <li>(4) or through creation of a web portal created to administer the SPSS procedure.</li> </ul> <p>It is also necessary to oblige the regional departments of the MSD to accept package of documents of</p> |

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|    |  | <b>Necessity to submit the same package of documents for participation in the competition</b>  | <p>participants of competition for further submission to the Competition Commission.</p> <p>NCOs submitting the documents for the first time should be registered in the database with all their data so that in the future, the MSD would require only project proposals (description and budget) on an annual basis. In this case, NCOs should submit documents only to the extent that they were changed (for example, when there are changes and amendments in charter).</p>   |
| 5. | <b>Informing society about submission of applications to the competition</b> | <b>Information about submissions to the Competition Commission is not accessible to society.</b> There are doubts among the NCOs about the fairness of the state body; they believe that the applications are still received after the formal deadline for applications.   | It is necessary to publish regularly (e.g. once a week) on the website of the state body a list of NCO participants, including the number and date of acceptance of the application.   |
| 6. | <b>Creation of Competition Commission and its working procedures</b>         | <b>The selection procedures for members of the Competition Commission are flawed.</b> According to the Law on SP, selection of members of the Competition Commission is carried out by the customer, that is the state body. Sometimes it is difficult for the state body to find a sufficient number of independent external experts who want to work on the Competition Commission on a voluntary basis. Sometimes NCOs that are competing in the competition also send a representative to the Competition Commission, and this creates a conflict of interest. In this regard, the procedure for formation of the Competition Commission is still not transparent, there are no criteria by which it is possible to determine which expert is suitable for a particular competition (taking into consideration specificity of each competition and each state body). Additionally, Competition Commissions are formed and operate mainly in the capital, despite the fact that the law provides for the right to regional offices of state bodies to form their own local Competition Commissions. | To resolve this problem it is necessary to improve procedure for formation of the Competition Commission by carefully studying the various options of foreign experience. For example, it is necessary to carefully examine the experience of other countries where the Competition Commission employs several experts on a fee basis, which consider (independently of each other, without knowing each other) project proposals within their qualifications. It is necessary to develop regulations on conflict of interest so that it is clear to all what it means and how it can be avoided / resolved. |

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|    |  | There is no procedure for election of the chairman of the competition committee and the list of his powers. These flaws in the procedures for selecting Competition Commissions members discredits the neutrality and competence of the Competition Commission.  |  |
| 7. | <b>Procedure for evaluation of project proposals</b> | <p><b>The law contains no clear criteria for selecting the winners.</b> The criteria contained in the by-law,<sup>123</sup> but they are not effective because:</p> <p>(1) The evaluation criteria are not clear and allow for different interpretations, even by members of the Competition Commission;</p> <p>(2) There are no optional criteria in the legislation which could be administered at the discretion of Competition Commission, which would allow the Competition Commission to adapt the criteria to each particular contest;</p> <p>(3) A number of important factors taken into account by the Competition Commission are not considered official criteria (for example, offered salaries in the budget of the project). Similarly, there are cases of non-objective evaluation of project proposals. Scores on the same criteria of the different members of the Competition Commission may be diametrically opposed, suggesting the incompetence of the committee members or the vagueness of criteria. In practice, there were cases where NCOs receiving lower (compared with other NCOs) scores are declared the winners of the competition, which led to protests from NCOs who obtained higher scores.</p> <p><b>There are no regulations for operation of the Competition Commission.</b> The Law on SPSS and by-laws do not provide provisions governing the operation of the competition committee, for example:</p> | <p>All criterions for bid evaluation should be published when the competition is announced. Also the criteria for assessment of applications that is currently in the legislation and scoring for some criterions should be reviewed. It is necessary to reconsider the introduction of optional criteria at the discretion of the Competition Commission in order to take into account the specificity of individual types of competitions. In developing the criteria, all the factors that, in practice, affect the decision-making in determining the winners should be taken into account. Conditions on the amount of wages (fees) that may be envisioned in draft budgets should be fixed in the legislation. In addition, if the scores on the same criteria are diametrically opposed – there should be a mechanism that allows for consultations between members of the Competition Commission or interviews with applicants.</p> <p>Also, lists of participants and their scores should be published on the website of the state customer together with announcements of the results of the competition.</p> <p>In order to solve this problem, the relevant provisions on the procedure for operation of the Competition Commission shall be included in the Law on SPSS. It</p> |

<sup>123</sup> Regulation on the procedure for conducting competition for social programs (projects), approved by the Resolution of the Government of the Kyrgyz Republic as of January 24, 2009 #41.

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|    |  | <p>(1) Each member of the Competition Commission reviews all project proposals (there may be more than 100) - it is difficult to study a large number of applications in a short time;</p> <p>(2) The members of the Competition Commission take proposals home, which could lead to a violation of confidentiality of the information contained in the applications;</p> <p>(3) MSD employees - members of the Competition Commission during the evaluation of project proposals are not exempt from their core responsibilities, and therefore, they have to study proposals during non-working time;</p> <p>(4) It is difficult to assess the potential of NCOs only by application and the documents submitted;</p> <p>(5) The members of the Competition Commission, in evaluation of the applications may not have sufficient expertise in certain areas;</p> <p>(6) There are no rules for determining the presence of a quorum, the procedure of selection, voting, etc.</p> <p>Neither the Law on SPSS nor the by-laws contain provisions that establish the procedure for operation of the Competition Commission, voting procedures, etc.</p> | <p>is also necessary to carefully examine the experience of foreign countries, in particular the experience of Azerbaijan, where the Competition Commission employs several experts on a fee basis to evaluate the proposals who consider project proposals independently and anonymously (i.e. not knowing to which NCO they belong to and not knowing each other). If there are uncertainties in the project proposals, they invite the head of the NCO for an in-person interview or an interview by Skype or other means.</p> |
| 8. | <b>The time frame of the contest and determination of the winner</b> | <p>The Law provides a time frame for collecting project proposals - from 40 to 60 days, but <b>there is no timeframe for the competition itself</b>. As a result, there is no clear end date for the work of the competition committee and the date of determination of the winners.</p>   | <p>In the Law on SPSS, it is necessary to set the time frame for the end of the competition and determination of the winners, for example - no later than 30 days after the collection of applications.</p>   |
| 9. | <b>Treaty on the social project</b>                                  | <p><b>The expected results of the implementation of projects are not formulated in the contracts.</b> The agreement does not provide a description of the expected results of the project and does not specify quantitative (where possible) and qualitative indicators of the project. Having such factors would minimize the subjective evaluation of the results of the project.</p>  | <p>A new model contract for social projects within the SPSS needs to be developed, including a provision for the expected results and their specification. The same results should be formulated in the reporting forms that NCOs must turn in upon completion of the project (or at certain time limits specified in the contract).</p> <p>Moreover, the methods of evaluation of the results of</p>   |

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|     |                                      |   | <p>the project should be required to be determined in the evaluation of applications. That is, the results of the projects must be measurable.</p> <p>Methods and evaluation criteria specified in the selection of the winning bids must be included in the contract and in the reporting form.</p>   |
| 10. | <b>Project implementation period</b> | <p><b>The average duration of a project is 6 - 12 months.</b><br/>This creates problems for those NCOs that provide services of continuous nature (for example, maintenance of a shelter).</p>  | <p>It must be possible to finance long-term projects (up to 10 years), with a guarantee of funding for one year and the possibility to extend the contract in each following year without competition, dependent upon budget funding.</p> <p>Since some state social services should be provided continuously on the basis of needs evaluation at the local level, a list of the cost and services should be identified. Then, NCOs should receive funding from the state to provide social services (on a competitive basis), based on the identified needs. This would eliminate the need to designate a topic for SPSS and ensure the sustainability of NCOs who are professionally engaged in the provision of certain areas of social services to the population.</p> |
| 11. | <b>Funding</b>                       | <p><b>Problems with the terms of transfer of funds.</b><br/>According to Article 14 of the Law on SPSS, after determining winners of the contest, the public authority signs an agreement with them on the realization of the social project. Parties in the agreement set the conditions and the procedure for financing the project. Once these conditions are set, however, the amount of time it takes the government to transfer the funds varies significantly. Some NCOs receive funding immediately, others must wait for a while, and still others remain in the dark for long periods of time. Additionally, there are sometimes delays in the government's internal transfers of money. Delays in project funding/start up are extremely difficult for NCOs that provide permanent</p> | <p>In the Law on SPSS, the precise terms of financing social projects and demand from the Ministry of Finance to meet these deadlines must be prescribed.</p> <p>The legislation governing the procedure for financing from the state budget should be carefully reviewed and necessary amendments should be proposed to avoid delays in project funding for SPSS.</p> <p>It is necessary for state to clearly fulfill its obligations, including the timely transfer of grant funds to NCOs that implement a social project.</p>  |

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|     |                   | <p>services and cannot interrupt their activities due to delays in funding. When one winning NCOs receive funding, and others do not, and the process is not transparent, rumors of government corruption develop.</p> <p><b>The Law does not establish procedures for administration of funds in cases where the Ministry still has money after conduct of the competition.</b></p> <p><b>Funding for organizational costs of a state body for the competition and the evaluation of the quality of projects and services.</b> The law did not provide funds for the administrative costs of public entity to call for proposals for the SPSS, monitor, inspect and evaluate the projects. The public agency must have the means to publish announcements in the media about the competition of social projects, an administration web portal for the SPSS, and the capacity to assess the quality of the project and services etc.</p> | <p>The Law on SPSS should make it possible to announce an additional competition, and the order of additional funding for existing projects if funds are leftover after the first contest.</p> <p>For this purpose, it is proposed to allocate funds for administrative costs for the implementation of the Law on SPSS for state agencies implementing the law on SPSS.</p>            |
| 12. | <b>Monitoring</b> | <p><b>Monitoring of SPSS projects.</b> When the term of the social project is between 6 to 12 months, effective monitoring is often not possible. Existing monitoring procedures are only relevant for the services permanently rendered by the state and municipal social services or long term services provided under SPSS.</p>   | <p>Monitoring SPSS projects (sample estimate) should be conducted in accordance with pre-established and objective criteria that will be effective for short term projects. It is necessary to develop and approve procedures/instructions for field inspection for the staff of the ministries.</p>  |
| 13. | <b>Reporting</b>  | <p><b>Poor quality reports of NCOs on SPSS.</b> The format of the report does not comply with the plan approved at the signing of the contract. NCOs often submit the report with many irrelevant documents. NCOs do not submit or submit poor-quality lists of beneficiaries.</p>   | <p>It is necessary to:</p> <ol style="list-style-type: none"> <li>1) establish reporting requirements in the legislation. A mandatory part of the report should be a comparison of the results described in the contract with the actual results achieved;</li> <li>2) develop methodological guidance that contains a whole set of reports, both on financially and on core</li> </ol> |

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|     |   |   | <p>activities, with specific examples of the required reporting forms. The guidance should be in accordance with the disciplines and seek to systematize and simplify the work of the state body's specialists themselves;</p> <p>3) place on the state body's website a sample report;</p> <p>4) organize consultations on reporting through the state body's website, create and continuously update the section "Frequently Asked Questions and standard errors";</p> <p>5) hold regional seminars on the results of the implementation of projects on SPSS and take note of the best projects, make comments, indicate standard errors in activities and reporting, etc.</p> |
| 14. | <b>Informing public</b>                       | <p><b>There is no practice of informing the public in the media about the results of the project on SPSS after its completion.</b> There are no cases of disclosure of information about the termination of the contract with any NCO.</p>                    | <p>It is necessary to insert into legislation a requirement that the public must be informed about the results of a completed social project, as well as information about termination of the contract with the NCO or about its violations in implementation of SPSS.</p>   |
| 15. | <b>Complaints and responsibility</b>          | <p><b>There is no procedure for appealing decisions of the Competition Commission and the state body.</b> There is no liability for violation of the legislation on SPSS. Complaints are not published and there is no procedure for their consideration.</p> | <p>It is necessary to:</p> <p>1) to fix the requirements for the consideration of complaints on SPSS, and responsibility for violation of SPSS in the legislation;</p> <p>2) establish in the legislation the procedure for consideration of complaints from the recipients of services, both at the regional and national level.</p>  |
| 16. | <b>Improving the SPSS competition process</b> | <p><b>There is no feedback from NCOs about the quality of procedures of SPSS competition.</b></p>   | <p>It is necessary to survey NCOs on the quality of procedural issues related to the competition after its completion. Information received should be analyzed annually and the emerging problems shall be eliminated in time.</p>   |

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24. Instructions for monitoring the quality of social services provided by NCOs in framework of state procurement of social services (approved by the order of the Ministry of Social Development of the Kyrgyz Republic as of July 29, 2009 #98).
25. Order of the Ministry of Social Development as of June 30, 2011 #127 on Approval of the Contract for Implementation of the State Procurement of Social Services.
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