



**Republika e Kosovës**  
**Republika Kosova-Republic of Kosovo**  
*Qeveria – Vlada-Government*

*Zyra E Kryeministrit-Ured Premiera-Office Of The Prime Ministre*

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The General Secretary of the Office of the Prime Minister,

Pursuant to article 29, paragraph 6 and article 30, paragraph 3 of the Rules of Procedure of the Government of the Republic of Kosovo No. 09/2011,

Based on the proposal of the Government Coordination Secretariat, which is aimed at developing policy coordination within the government, adopts the following:

## **GUIDELINES FOR THE PREPARATION OF CONCEPT DOCUMENTS AND EXPLANATORY NOTES**

Fitim Krasniqi

General Secretary of the Office of the Prime Minister

March 2012

## **PURPOSE OF GUIDELINES**

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This instruction is intended to help officers who are writing concept papers and explanatory notes.

Sections 1, 2 and 3 cover concept papers.

Sections 1, 4 and 5 cover explanatory notes.

Section 6 explains the process for review of concept papers and explanatory notes.

Concept papers and explanatory notes are written in order to support decision-making by the government. Concept papers are proposals that will put into effect the commitments and priorities expressed in government-wide strategies and ministry strategic plans. Concept papers will usually precede proposals that have a significant social, economic or other impact, that have a high cost of implementation or that are related to the important priorities of the Government or a ministry, new draft laws, the amendment of existing laws or important secondary legislation. Explanatory notes are used for decisions about organizational change, and implementation of policy, and to approve a draft law as the second stage of decision making following a concept paper. The papers must be written clearly and they must have enough information so that people who are not experts can understand what is being considered.

The process of drafting concept papers and explanatory notes begins after the approval of the Rules of Procedure of the Government. Within 15 working days after the approval of the Annual Work Plan of the Government, the General Secretary of the Office of the Prime Minister issues a list which identifies the items of the annual work plan for which a concept paper must be prepared in accordance with article 29 (3) of the Rules of Procedure of the Government No.09/2011.

## **PART 1: POLICY DEVELOPMENT TEAM**

The first step in this process is to appoint the people who will write the **concept paper** or **explanatory note**. Writing a concept paper will require the involvement of officers from the relevant departments. Writing an explanatory note should require fewer people and less time than a concept paper needs. But one or two people must be assigned to complete the work. Every team should be able to call upon other officers in the ministry for help and advice.

The appointment of the team responsible for drafting the document is the responsibility of the General Secretary of the ministry. The form below is to be completed and signed by the General Secretary. A new form must be prepared for each concept paper or explanatory note. A copy of the form must be sent to the Government Coordination Secretariat.

<b>Title of the Policy Project</b>		
<b>Product</b>	<b>Anticipated completion date</b>	
Concept paper		
Explanatory note		
<b>Team</b>	<b>Name</b>	
Team leader		
Officer from Department for European Integration and Policy Coordination		
Expert in subject matter		
Legal officer		
Budget officer		
Other		

After its establishment the team must develop a list of tasks including the deadlines for the completion of the concept paper or explanatory memorandum. This form should also be approved by the General Secretary of the respective ministry.

<b>Schedule for completion of paper</b>	<b>Date</b>
Start date	
Completion of Part 1 and 2	
Completion of Parts 3, 4 and 5	
Completion of Part 6	
Consultation with stakeholders	
Brief General Secretary and Minister	

Completion of Part 7	
Completion of whole document	
Inter-ministry consultation	
Revisions and final draft signed by Minister	
Submission to Government Coordination Secretariat	
Revisions and final paper signed by Minister	
Discussion in Government Meeting	

When the team has been established, it is important to schedule meetings with the General Secretary and the Minister to review progress and discuss the issue and the analysis that the team is working on. These meetings provide advice to the team and ensure that people continue to work on the concept paper or explanatory note.



## **PART 2: PREPARING THE CONCEPT PAPER**

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This section explains what the team should do to complete each section of a concept paper.

The team is responsible to collect and analyse information and to write it as clearly as possible so that stakeholders who are not experts can understand. Different people may write different sections. The team leader should put the paper together into a coherent document.

### **Chapter 1 and 2: Introduction and Background**

To prepare the concept paper, you will need to search for information. You should consult with people in other ministries, in organizations including civil society that are affected by the problem you are describing. If you cannot find relevant information, explain why. But if information exists, you must include it. In particular, when there are numbers that can describe the size or duration of a problem, you must include them. You must include costs.

The legal officer (as part of the team) should be responsible to list the laws and regulations that are relevant to this problem or issue. He/she should explain the contents of the laws. The team should brainstorm about the problems with the current laws in order to identify what is not working.

### **Chapter 3: Goals and Objectives**

When the team has gathered all the information it can find on the subject, and has discussed and analysed the information and written it clearly, the team should discuss the goal and objectives you wish to propose to government.

If the goal is already given in the Government program, you must use the strategic plan or annual work plan.

You must try to define objectives that are specific and can be measured. You must consider whether the objective is reasonable relative to the issue. Make sure the objectives are realistic and give a time frame for their accomplishment.

### **Chapters 4, 5 and 6: Options, Summary of Options and Analysis**

In chapter 4 you must define at least three options to achieve these objectives. One of them is the current policy (no change).

Chapter 5 is a summary of the options.

The team may well have a preferred option and may see only one possible solution to the problem. However, you must include the “no change” option and another alternative and provide analysis for all. Your analysis of the options will indicate why one of them is stronger than the others. The team should strive to be accurate and not biased in the analysis.

In each option, you should include enough detail so that stakeholders who are not familiar with the issue can understand. You must explain how each option would be implemented.

The team should discuss the summary of the options and then analyse the benefits and negative consequences of each option.

### **Chapter 7: Consultation**

Consultation with stakeholders who are affected or have a responsibility in the issue you are discussing is essential to complete the analysis of the options. You should meet with them (unless the issue affects the whole population) to ask about their assessment of the options. This will give you valuable information about what is feasible.

In Chapter 7, describe your consultation with others – experts, stakeholders, civil society, other ministries, and the public. You must provide enough information so that people who are reading the paper can understand who you consulted and what advice they gave. When you have completed the consultation, you should re-draft Chapter 6 (the analysis of the options) to take into account what you have been told. The consultation process should be implemented in accordance with the Instruction on Public Consultation (No. 062/2011-September 2011) adopted by the General Secretary of the Office of the Prime Minister.

### **Chapter 8 and 9: Comparison and Recommendation**

Try to summarize, in writing, the consequences of each option. This means that you are writing a summary of the analysis that is the substance of Chapter 7. Then tell which option is most likely to succeed in achieving the goal and objectives you have described in Chapter 3. This assessment is the basis for making a recommendation to government.

Chapter 9 is the recommendation. The recommendation must be specific and contain all the information given in the concept paper.

### **Chapter 10: Communications**

In this chapter you must explain how a decision of government (based on your recommendation) will be communicated. In Chapter 10, explain how and when the communication will occur.

Part 3 below is the outline for a concept paper. You must include information in each part of this outline.



## **PART 3: OUTLINE OF A CONCEPT PAPER**

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### **Title**

#### **Chapter 1: Introduction**

1. Describe the government documents that “authorize” the preparation of this concept paper (government work plan; ministry work plan, budget or other document)
2. Describe very briefly the reason why the issue is a certain priority. (In Part Four of the Manual is a test that will help to establish the priority of an issue.)
3. Explain how this issue relates to government priorities – government program or strategic plan
4. If this paper is fulfilling a government commitment, tell what the commitment is and when it was made.

#### **Chapter 2: Description and definition of the main issue/problem**

##### ***Explanation***

1. Explain the size and duration of the problem
2. Extent of impact
3. If certain groups are affected more than others, explain which groups are affected
4. Tell how many parts of the country are affected – which parts of the country are affected
5. Tell how many organizations are affected – list them
6. Use a table to put the duration and size together. (Design the table to fit your information.)
7. Describe any trends in the size or location or duration of the problem.

<b>Size and Duration of Problem/Commitment</b>					
	Year	Year	Year	Year	Year
Number of people/incidents/ organizations					

##### ***Information***

1. Provide any other information that describes the problem.

##### ***Current policy***

1. Explain the policy that is now in effect. Describe the policy instruments now in use. Tell who is responsible – a ministry, another organization, the private sector or the voluntary sector. List the organizations that are responsible for this issue.
2. Explain the responsibility of each organization involved.
3. Explain what has been done until now.
4. Explain any previous efforts to fix this problem or achieve this commitment. Describe what happened.

##### ***Laws and secondary legislation***

1. List the laws that are relevant to this problem/issue
2. List the secondary legislation that is relevant to this problem/issue
3. Explain what each law says that is pertinent to the problem
  - a. Title of Law 1: explanation of its contents
  - b. Title of Law 2: explanation of its contents
  - c. Title of Law 3: explanation of its contents
4. Continue until you have listed all the laws and secondary legislation that are relevant to the concerned issue/problem
5. Explain the problems with any of the current laws and secondary legislation. If there are contradictions between laws and secondary legislation, explain what they are.
6. Explain which current law is not effective and tell why. If the law is not being enforced, include information about who is responsible.
7. If there is no law or secondary legislation for this issue, explain why there is no law (if possible).

### ***Current program***

1. If there is a public program now, describe it. A program may be a set of services (such as health services or education) with its associated responsibilities, staffing and expenditures. A program may be a benefit, which requires assessment for eligibility and payment of the benefit, such as a pension. A program may be maintenance of roads or irrigation of agricultural land. Every program has responsibilities, objectives, people, and costs for the space/buildings/supplies.
2. Explain who is responsible for this program – a ministry, a subordinated agency, municipality or other organization
3. Explain how the program is managed or delivered.
4. Describe the weaknesses or problems and the strengths of the current process.
5. Link the description of the program to the laws mentioned above when the linkage is relevant.

### ***Current Expenditures***

Use this table to explain what the Ministry and other organizations are spending now in relation to the issue you are discussing. If the ministry is funding an agency or other organization to provide a program, include the expenditures of that agency.

Category of expenditure	Previous Year actual expenditure	Budget this year	MTEF for next year
Ministry budget: (list each type of expenditure)			
Other budgets: (list each type of expenditure)			
Donor funding			
Ministry of Finance direct expenditure			



### ***Additional assessment of the current policy***

1. Provide information and data (if it exists) about the causes of the problem.
2. If the current policy is not effective, explain why
3. If the existing law or secondary legislation is not adequate, explain why
4. If the administration/implementation is not working well, explain why
5. If there is a problem with funding, explain what it is
6. If there is a problem with compliance, explain what it is and why
7. If the problem has been getting worse, explain why (if possible)

### ***Experience in other countries***

1. Explain which other countries have a similar problem (countries in the Region, in the EU)
2. Explain what they do -- what are their policies, how do they address this problem
3. Explain which approach might work in Kosovo

## **Chapter 3: Goals and Objectives**

### ***Goal***

Describe the overall goal of this policy proposal. For example, the goal may be to strengthen the economy of Kosovo or to reduce fatalities from traffic accidents.

### ***Objectives***

1. List at least two measurable things to be accomplished.
2. **Specific** – describe what is to be changed. Create a link between the problem and the objective.
3. **Measurable** – how much will change. Describe anything that might be measured or counted.
4. **Accepted** – the objective is reasonable relative to the issue. Explain the link between the objective and government priorities or overall strategy.
5. **Realistic** – can be achieved. Make sure the objective is something that can be done.
6. **Time-dependent** – can be achieved over a period of time.

## **Chapter 4: Options**

You must include at least three options or ways to address the problem.

### ***Option 1: Status quo option (no change)***

1. Explain exactly what would be involved in not changing the existing policy/law/secondary legislation/administration.
2. Explain any assumptions you make about the continuation of the existing policy.
3. Explain how the status quo is implemented.

### ***Option 2: Change existing policy***

1. Describe how the existing policy could change.
2. If a new law is required, describe the content of a new law. Explain exactly what the new law would regulate and how.
3. Describe enforcement and tell who will be responsible for enforcement.
4. Describe the penalties for non-compliance.
5. Will they require more training, more staff, or more resources.
6. If a new program is needed, describe the program, what it would do, who would be responsible for it, what it would cost, who would be affected by it.
7. If an education or information campaign is needed, describe it. Who would deliver the campaign? Who would be the target? When and where would the campaign be delivered? How would it be delivered? Who would be responsible for delivery?
8. Explain who would be responsible for implementation of a new program or law. What organization will be responsible? Who will do what.
9. What preparation will be necessary?

### ***Option 3: Change existing approach to implementation***

1. Explain what would happen if the law/policy remained the same, but the administration or management or implementation is changed.
2. Who will be responsible?
3. Explain what training or other changes would be implemented.
4. Explain what additional resources or other help would be needed.

### ***Other options***

1. Describe any other options such as economic incentives, voluntary efforts and others
2. Explain exactly how they would work.
3. Explain how they would be implemented.

## Chapter 5: Summary of the Options

Prepare a table that summarizes the options, using the format below. This summary will help you identify information that might be missing, or information that will make each option very clear to the decision makers.

Summary of Options			
Major Characteristics	Option 1	Option 2	Option 3
Major features of the option			
Target population/ sectors/ regions affected			
Implementation characteristics – who is responsible – government (who), private sector, citizens			
Program or service administration or delivery			
Law, secondary law, amendments, enforcement, sanctions			
Economic incentives or disincentives – taxes or subsidies			
Education and communication campaigns			
Instructions and codes			
Timing – when would option go into effect			

## Chapter 6: Analysis of the Options

Although it is not possible to estimate benefits and negative consequences or costs with certainty, the analysis of available information and consultation with groups who are affected will help to present the most accurate picture possible.

### *Benefits*

1. **List the benefits of option 1 (*status quo*).** Tell what it will accomplish/ what difficulties will be avoided by continuing the status quo. Explain how you will know



the benefit has been achieved. Explain the impact on European integration. Tell what assumptions you have made. Please try to identify direct and indirect benefits.

2. **List the benefits of option 2.** Tell what it will accomplish, how it will achieve the objective. Explain how you will know the benefit has been achieved. Explain the impact on European integration. Tell what assumptions you have made. Please try to identify direct and indirect benefits.
3. **List the benefits of option 3.** Tell what it will accomplish, how it will achieve the objective. Explain how you will know the benefit has been achieved. Explain the impact on European integration. Tell what assumptions you have made. Please try to identify direct and indirect benefits.

### *Negative consequences*

1. **List the negative consequences of option 1 (status quo).** Tell who is affected negatively. Explain the impact on European integration. Tell what assumptions you have made.
2. **List the negative consequences of option 2 (change existing policy).** Tell who is affected negatively. If you can describe the reaction, explain what it will be. Explain the impact on European integration. Tell what assumptions you have made.
3. **List the negative consequences of option 3 (change administration or implementation).** Tell who is affected negatively. If you can describe the reaction, explain what it will be. Explain the impact on European integration, if any. Tell what assumptions you have made.

### *Distribution effects*

1. If different sectors of the economy are affected, tell which and how. For example, is agriculture affected, but not manufacturing?
2. The benefits or negative effects may differ by region. Describe how urban or rural or specific parts of the country will be affected.
3. The effects may be felt differently by different age groups or by women and men. If there are different effects, describe them.

### *Costs*

Each option will have costs. Include a table which estimates the costs of each option. A summary table is included here. All ministries should follow instructions issued by the Ministry of Finance in accordance with article 31 of the Rules of Procedure of the Government No. 09/2011.

Summary of Fiscal Impact Assessment				
	(000s Euros)			
	Current year	Year 2	Year 3	Year 4
<b>Option 1</b>				
Net change in expenditure allocation				
Net change in revenue generation				
Expected donor funding				
<b>Option 2</b>				
Net change in expenditure allocation				
Net change in revenue generation				
Expected donor funding				
<b>Option 3</b>				
Net change in expenditure allocation				
Net change in revenue generation				
Expected donor funding				

An Annex should include a more detailed table of the financial impact for each option. This table should be the relevant information in the Fiscal Impact Assessment form.

## Chapter 7: Consultation

### *Consultation with experts (outside government, in universities or agencies)*

1. List each expert (individual or group) that you consulted and describe briefly what that person said or advised.
2. Explain what conclusions you have made based on this advice.

### *Consultation with other ministries*

1. List each ministry that you consulted and with whom you spoke.
2. Explain their position with respect to the issue or their advice.
3. Explain what conclusions you made based on this advice.

### *Consultation with stakeholders—organizations or individuals who are directly affected*



1. List each stakeholder (group or individuals) that you consulted.
2. Explain the stage in policy development when you consulted these stakeholders (for example when you were assessing the issue or when you were developing options), and how (in writing, workshops, conversation).
3. Explain what they said or advised.
4. Explain what conclusions you made based on this consultation.

### ***Consultation with public and civil society***

1. If you consulted the public, describe how the consultation was done, with whom, how and when.
2. Describe how you consulted with civil society (professional or business organizations, NGOs and others).
3. Describe and explain what you learned from this consultation.

The instruction on the consultation process (September 2011) will assist you in determining the method for conducting the consultation process.

## **Chapter 8: Comparison of Options (assess the consequences of each option)**

1. Summarize the consequences of Option 1, including the benefits, negative consequences, distribution of effects, implementation considerations, and fiscal/budgetary implications.
2. Summarize the consequences of Option 2, including the benefits, negative consequences, distribution of effects, implementation considerations, and fiscal/budgetary implications.
3. Summarize the consequences of Option 3, including the benefits, negative consequences, distribution of effects, implementation considerations, and fiscal/budgetary implications.
4. Explain which of the three options, in your assessment, is the most likely to be effective in achieving the goals and objectives set out in Part 3.

## **Chapter 9: Recommendation**

Include a recommendation to the Government, based upon the preferred option you have selected.

Make the wording of the recommendation specific. It must cover:

1. What will be done
2. By whom
3. When
4. At what cost
5. When the ministry will return to Government with more information, including a draft law



## **Chapter 10: Communication**

Provide information that will be useful in communicating the decision or policy of government to the public.

1. Suggest whether a press release or other public communication would be useful.
2. Explain how the ministry will communicate with stakeholders and others who are affected.
3. Explain when the communication will occur.

## **PART 4: PREPARING AN EXPLANATORY NOTE**

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An explanatory note is used to seek a decision about:

1. A strategy, in which case the explanatory note will include a summary of the strategy and the policy and fiscal implications of its approval
2. A draft law to be introduced to the Assembly. In this case the explanatory note is the second step in decision making, following discussion and approval by the Government of a policy in a concept paper.
3. Organizational change or an important administrative issue or other decision that does not require a concept paper
4. An explanatory note is not required for appointments and dismissals.
5. An explanatory memorandum shall include and set out:
  - 2.1. The key issue being addressed
  - 2.2. The objectives and their relationship to Government priorities
  - 2.3. Recommended option
  - 2.4. Rationale for recommendation, including justification for the level of approximation with the EU legislation;
  - 2.5. Key elements of proposed legislation or policy (content, policy instruments, cost, administrative arrangements);
  - 2.6. The complete list of EU legal acts that have to be included in the draft legal act as informative reference (if applicable);
  - 2.7. A fiscal impact assessment for the recommended option;
  - 2.8. Consultation (who was consulted and brief summaries of the responses);
  - 2.9. How the new policy should be communicated to the public
  - 2.10. Draft Government decision
  - 2.11. any other background information and analysis necessary to permit ministers to take an informed decision.

Use this instruction to determine whether an explanatory note is the right document to prepare.

The title of the explanatory note should reflect its basic purpose.

**Chapter 1** describes the issue and tells why the explanatory note is being written.

The information included in Part 1 will depend upon the purpose of the note. If it is about organizational change, you must explain the current organization and the proposed change.

If it is providing instructions or directions to ministries or other organizations, you must explain the content of the directions, why they are needed, and who will receive them. If the explanatory note will accompany a draft law, explain the policy decision that government has already made. Give enough information so that people who are not expert and are not familiar with the issue can understand.

If the explanatory note is about a draft law, **Chapter 2** should be a summary of the law and its implementation in accordance with the existing standards in force for legislative drafting. Attach the entire law to the document.

**In Chapter 3**, include the all the expenditures associated with this decision. Explain what will be spent to implement a new organization (staff to be hired, space) or the proposed expenditures for a strategic plan (action plan or strategy).

**In Chapter 4**, describe what the effect or impact of the decision will be. If the explanatory note is about organizational change, describe the expected effect of this change. If the note is about administrative instructions, explain what is supposed to change as a result of issuing them. If the note is to accompany a strategic plan, the benefits of the strategy should be summarized. If the note is to accompany a draft law, the benefits of the new policy have been explained in the concept paper, but they should also be summarized in the explanatory note.

You should consult other ministries and you may have consulted stakeholders, NGOs and the public during the preparation of a strategy. Briefly describe the consultation and what you learned in Chapter 5. Provide a recommendation in Chapter 6. Address communication in Chapter 7.



## **PART 5: OUTLINE OF AN EXPLANATORY NOTE**

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### **Chapter 1: Key issues being addressed**

Explain the purpose of the explanatory note. Explain what government is being asked to decide.

#### ***Strategy (action plan)***

If the purpose of the explanatory memorandum is to seek approval of a strategic plan or other planning document, explain why and how it was prepared. Include a copy of the document for which approval is being requested.

- a. Explain who will implement the plan and when
- b. If more planning is needed to determine who will do what (actions), describe how this planning will occur, and when the ministry will return to government with details.
- c. Provide costs for implementation of the strategic plan or explain how future expenditures will be estimated and when

Strategies should be drafted in accordance with Administrative Instruction No. 02/2012 on the Procedures, Criteria and Methodology for the Preparation and Approval of Strategic Documents and Plans for their implementation.

#### ***Draft law***

If the purpose of the explanatory memorandum is to seek approval of a draft law, the explanatory memorandum needs to be in accordance with the existing standards in force for legislative drafting. Furthermore, for completing this part you should take into account the secondary legislation on the procedures and standards for legislative drafting in the Government of the Republic of Kosovo.

1. If the explanatory note is seeking approval of a draft law, summarize the contents of the draft law in plain language.
2. Attach a copy of the draft law as an annex to the explanatory note

#### ***Administrative instructions***

If the purpose of the administrative instruction is to issue instructions, directions or schedules, explain why these are needed.

- a. Include a copy of the instructions or directions or schedule
- b. Explain who will receive these instructions and when

***Administrative or Organization Decision (when the explanatory note is about another topic)***

1. If the explanatory note is seeking approval of an administrative or organizational decision, summarize the contents,
2. Attach a copy of directives, organization design or other relevant material as an annex.

**Chapter 2: Expenditures**

1. Every explanatory note should be accompanied by a Fiscal Impact Assessment, unless the Ministry of Finance has confirmed during the first stage of review that there is no fiscal impact.

**Chapter 3: Impact**

1. Explain the anticipated or probable effect of this proposal. Describe what you think will happen if it is approved.
2. Explain the effect of not approving

**Chapter 4: Consultation**

1. Explain exactly who has been consulted. List the bodies that were consulted, and tell when and how
2. Explain what they advised. List the comments or advice and explain whether the advice was accepted or rejected and the reasons

**Chapter 5: Recommendation**

Include a recommendation to the Government. Make the wording of the recommendation specific. It must cover:

1. What will be done
2. By whom
3. When
4. At what cost

**Chapter 6: Communication:**

1. Explain how the new administrative decision or the new or amended law will be communicated to the public.
2. If the explanatory note is about a new strategy, explain in detail how the strategy is to be communicated to the public and the stakeholders.

## **PART 6: REVIEW OF DECISION MAKING DOCUMENTS**

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The Rules of Procedure require that there are two levels of review of draft documents for decision making.

1. Preliminary review must be conducted in accordance with article 7 of the Rules of Procedure of the Government (including first stage review by the GCS, OLSS, SPO, Ministry for European Integration and Ministry of Finance.
2. Second review of reviewed document by GCS, OLSS, SPO, Ministry for European Integration and Ministry of Finance. These ministries should appoint an individual to review concept papers and explanatory notes.

The ministry is responsible to

1. Make a list of bodies that should be consulted, including the GCS, OLSS, SPO, Ministry for European Integration and Ministry of Finance.
2. Send the concept paper or explanatory note to these ministries for comment. Give them a deadline for responding (in accordance with the Rules of Procedure of the Government). Ask for a formal “sign off” that indicates agreement with the recommendation or for any concerns that might require changes to the document
3. Receive and review comments
4. Change paper if necessary or appropriate
5. Submit the paper to the GCS with a list of the ministries that were asked to comment and those that did comment

The final draft should then be signed by the Minister and submitted to the Government meeting for approval in accordance with the Rules of Procedure of the Government.