



MINISTRY OF DEVELOPMENT,
PUBLIC WORKS AND ADMINISTRATION

Directorate MA European Territorial Cooperation
Programmes
Black Sea Basin MA Unit
Bd. Libertății nr. 16, sector 5
București, cod poștal 050706

Tel: 0372 111 323
blacksea-cbc@mdrap.ro
www.mlpa.ro
www.blacksea-cbc.net

Revision 2/ February 2021

of

INSTRUCTION No.15

laying down specific provisions for the expenditure and revenue verification of a grant contract funded under the ENI CBC Black Sea Basin Joint Operational Programme 2014-2020

TO: Beneficiaries of the ENI CBC Black Sea Basin Programme 2014-2020

FROM: Iulia Hertzog, Head of the Managing Authority for the Joint Operational Programme Black Sea Basin 2014-2020

Having regard to:

- The European Commission Programming Document for EU support to ENI Cross-Border Cooperation (2014-2020),
- Commission Implementing Regulation (EU) No 897/2014 of 18 August 2014 laying down specific provisions for the implementation of cross-border cooperation programmes financed under Regulation (EU) No 232/2014 of the European Parliament and the Council establishing a European Neighbourhood Instrument, in particular art. 32, which requires that expenditure shall be examined by an auditor or by a competent public officer being independent from the beneficiary,
- Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the European Union's instruments for financing external action,
- Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument,
- Regulation (EU, Euratom) 1046/2018 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU)



MINISTRY OF DEVELOPMENT,
PUBLIC WORKS AND ADMINISTRATION

No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012,

- The provisions of Article 4.11 of the Grant Contract between the Managing Authority and the Beneficiary of a grant under the ENI CBC Black Sea Basin Joint Operational Programme 2014-2020,

MANAGING AUTHORITY HAS ISSUED THE FOLLOWING INSTRUCTION:

Section 1
Definitions

For the use of this Instruction and complementary to the definitions of the EU implementing Regulations (IR) no.897/2014, the following definitions shall apply:

- a) 'Beneficiary (ies)' means a legal person to whom a grant has been awarded for a project in partnership with other entities (all partners become beneficiaries when the grant contract is signed); it refers collectively to all Beneficiaries of a project, including the Lead beneficiary;
- b) 'Control Contact Points' (CCPs) means the national body appointed by each participating country, which supports the MA in the control tasks linked to project expenditure verification;
- c) 'Controller' means any auditor or competent public officer, contracted or appointed, as the case, to examine whether the costs and revenues declared by the beneficiary are real, accurately recorded and eligible in accordance with the contract;
- d) 'electronic Monitoring System' (eMS) means the on-line system for the submission, approval, management and administration of projects;
- e) 'Expenditure and revenue verification report' means the report elaborated by a controller in eMS, on the expenditure and revenue verification, describing the methodology of verification, the amounts declared and certified, the factual findings and recommendations, by the case. In eMS, the outcome of verification is called 'FLC Certificate';
- f) 'First Level Control (FLC)' - equivalent of Controller in eMS;
- g) 'Joint Technical Secretariat' (JTS) means the structure responsible for assisting the programme management bodies in carrying out their duties. The Romanian South-East Regional Development Agency (SERDA) is hosting the Joint Technical Secretariat for the Joint Operational Programme Black Sea Basin 2014-2020;
- h) Lead Beneficiary means the Beneficiary designated by the beneficiaries involved in a project responsible for signing the contract with the Managing Authority, for coordinating the process of implementation of that specific



MINISTRY OF DEVELOPMENT, PUBLIC WORKS AND ADMINISTRATION

project and which assumes the full legal and financial responsibility towards the Managing Authority

- i) 'Managing Authority' (MA) means the authority appointed by the participating countries as responsible for managing the Programme; the Romanian Ministry of Development, Public Works, and Administration is the Managing Authority for the ENI CBC Black Sea Basin Joint Operational Programme 2014-2020 ;
- j) 'National Authority' (NA) means the national counterpart of the Managing Authority in each participating country, bearing the ultimate responsibility for supporting the MA in the implementation of the Programme on its own territory;
- k) 'National legislation' means the legislation of the state where the beneficiary is established (registered and located);
- l) 'participating countries' means all Member States and CBC partner countries taking part in the programme.

Section 2 General framework

1. The provisions laid down in this Instruction are **mandatory** for all beneficiaries of a grant contract under the ENI CBC Black Sea Basin Joint Operational Programme 2014-2020.
2. In accordance with the terms and conditions of the Grant Contract, each Beneficiary is responsible for providing to the MA (through the JTS), sufficient and adequate information, both financial and non-financial, in support of the Interim and Final reports.
3. The expenditure and revenue verification shall be performed through the Programme electronic Monitoring System (eMS).
4. Controllers shall have access to the information contained in the Interim and Final reports uploaded by the Beneficiaries in the Programme electronic Monitoring System (eMS) and, consequently, to the list of expenditure and related supporting documents.
5. The national procedures for selection or appointment of controller shall ensure the avoidance of conflict of interests between the controller and the beneficiary.
6. Each Interim and Final report , filled in by the beneficiaries in the eMS, has to be accompanied by an expenditure and revenue verification report issued by a Controller confirming that expenditures and revenue introduced in the eMS and submitted in the financial report meet the eligibility requirements set by the Programme.
7. In order to mitigate the risk of considerable financial losses due to exchange rate fluctuations, the beneficiaries may consider submitting to the Controllers more than one financial report with expenditure included. In this case, the Controllers shall not



MINISTRY OF DEVELOPMENT,
PUBLIC WORKS AND ADMINISTRATION

- perform the verification of the respective expenditure until receiving the Interim/Final report (technical and financial data).
8. The Instruction describes the main aspects which should be considered by both the Beneficiaries and Controllers as part of the expenditure and revenue verification process, the tasks to be performed by the controllers, the procedure to be followed and how the results of the verification should be reported.
 9. All Beneficiaries shall insure that the controllers are aware of and apply the rules and procedures as laid down in this Instruction.
 10. The Beneficiary shall make available to the Controller a copy of the original Grant Contract with its annexes, the Partnership Agreement, their amendments and other relevant information;
 11. The Controller shall access the Interim/Final Report (which includes a narrative and a financial report), filled in by the Beneficiary in the eMS. These reports shall be made available to the Controller as soon as finalised, so that to allow sufficient time for verification, within the given deadline for submitting the Interim/Final reports to the MA (through JTS), by the Lead Beneficiary.
 12. The Beneficiary is responsible for informing in written the Controller that the Interim/Final report is available in eMS for verification. In this respect, the Beneficiary shall notify the Controller on the day of report submission. Steps to be followed by Beneficiaries are presented in Annex 5 - Guide on Reporting in the electronic Monitoring System (eMS) for Lead Partners and Project Partners of the Project Implementation Manual.
 13. Beneficiaries should have all original supporting documents (see Annex 3 to this Instruction) available at the controller's requests. They will closely cooperate with them during the verification process. The most important factor which influences the duration of verification by the Controller is the completeness and consistency of the submitted supporting documents. Therefore, the Beneficiaries shall keep adequate evidence of the supporting documents and present them in an accurate order, as described in Annex 5 - Guide on Reporting in the electronic Monitoring System (eMS) for Lead Partners and Project Partners of the Project Implementation Manual;
 14. Additional obligations for the controller and the beneficiary towards the Control Contact Point might be required by the law of the country of the beneficiary.

Section 3 Selection of the Controller

1. In case of centralized system, the controller is appointed by the Control Contact Point (CCP) in the participating country. Each beneficiary shall obtain information on the name and contact details of the controller in charge with the project, from the CCP.



MINISTRY OF DEVELOPMENT, PUBLIC WORKS AND ADMINISTRATION

2. In case of de-centralized system, the controller shall be:
 - a. appointed by the Control Contact Point (CCP) from a short or a long list established by the CCP, *or*
 - b. selected by the beneficiary from a short or a long list established by the CCP following the applicable procurement procedures.
3. In case the expenditure verification is externalised as described under paragraph 2, the Beneficiary shall conclude a service contract with the controller, regulating at least the following aspects: responsibilities of the controller (as described in the section 4), description of the agreed procedure, minimum standards and ethics, reporting requirements, aspects related to administrative and financial penalty or consequences on the controller in case of low quality control reports.
4. An indicative Template of Service Contract, containing at least the **minimum mandatory requirements**, is presented in Annex 2.
5. In the case the controller is selected according to the above paragraph 2.b, the Beneficiary will inform the controller about the latter's obligation to create an eMS account, after signing the service contract. Once the account is created, the Beneficiary will contact the national CCP, requesting the role of controller for that eMS account.

Section 4 Main responsibilities of the controller

All Controllers have the following main responsibilities:

- to create an eMS account;
- to perform the agreed-upon procedures as specified in Section 5 below;
- to keep record of all expenditure and revenue verification requests received from the beneficiaries prior to the Interim/Final report and to perform verification on them only when receiving the Technical and Financial Interim/Final Reports, if the case¹;
- to perform verification on all expenditures and revenues (100%) and as well as the legality and regularity of the declared expenditure. Verification process shall ensure that the expenditure declared is real, accurate, identifiable and verifiable, that the products and services have been delivered and that the expenditures comply with the Programme and EU and national rules; on-the-spot checks should be performed at least once during the projects' lifetime, at the latest for the verification of expenditure included in the final report. to ask for clarification and validate only the verified costs. In exceptional cases, if the Beneficiaries are not able to deliver the necessary explanations and/or the additional documents as part of the clarifications to the Controller, within the set deadline, the related

¹ If Beneficiaries submitted expenditure verification requests with the view of mitigating the risk of losses due to exchange rate variations



- costs can be excluded/ suspended from the Interim Report and claimed in the next reporting period, by the case;
- to provide expenditure and revenue verification reports and, if the case, a Report on suspected and/or established fraud or corruption through the Programme electronic Monitoring System (eMS);
 - to detail within the expenditure and revenue verification reports (FLC Certificate) the factual findings resulted following the verification procedures performed;
 - In case an irregularity may be suspected by the controller, he/she shall suspend the respective expenditure, include this in the Expenditure verification report and inform the NA (see art.31.3 of the IR 897/2014) which shall immediately notify the MA;
 - the examination shall be performed in accordance with:
 - the International Standard on Related Services ('ISRS') 4400 Engagements to perform Agreed-upon Procedures regarding Financial Information as promulgated by the IFAC;
 - the IFAC Code of Ethics for Professional Accountants, developed and issued by IFAC's International Ethics Standards Board for Accountants (IESBA).

Section 5

Specific Procedures to be followed

Sub-section 5.1

General Procedures

5.1.1 Terms and conditions of the Grant Contract

The Controller obtains an understanding of the terms and conditions of the relevant documents and he/she should request clarification from the Beneficiary in case it finds that the terms and conditions are not sufficiently clear.

5.1.2 Financial Report for the Grant Contract

The Controller verifies that the Financial Report, complies with the following conditions of Articles 5.3 and 11.3 of the Grant Contract:

- covers the eligible costs and revenue of the Project as a whole, regardless of which part of it is financed by the European Union;
- is drawn up in the currency (Euro) and the language of the Grant Contract (English);

5.1.3 Rules for Accounting and Record keeping

The Controller examines – when performing the procedures listed in this Instruction – whether the Beneficiary has complied with the rules for accounting and record keeping of Articles 11.2 of the Grant Contract, namely, that the accounts:



- a) are an integrated part of or an adjunct to the Lead Beneficiary and the Beneficiaries' regular system;
- b) comply with the accounting and bookkeeping policies and rules that apply in the country concerned;
- c) enable revenue and expenditure relating to the project to be easily traced, identified and verified.

5.1.4 Reconciling the Financial Report to the Beneficiary(ies)'s Accounting System and Records

The Controller reconciles the information in the Financial Report to the Beneficiary's accounting system and records (e.g. trial balance, general ledger accounts, sub ledgers etc.).

In this respect, the Lead Beneficiary and the Beneficiaries shall prepare and keep appropriate reconciliations, supporting schedules, analyses and breakdowns for inspection and verification.

5.1.5 Exchange Rates

The Controller verifies that the expenditure is declared in original currency of the invoice/bill, and that the financial report is stated in Euro. The conversion rate into Euro of the costs incurred in other currencies is made automatically by the eMS using the monthly accounting exchange rate of the European Commission of the month during which the expenditure was submitted to the Controller in accordance with Article 4.15 of the Grant Contract.

Sub-section 5.2 Procedures to verify Expenditure

5.2.1 Eligibility of Costs

The Controller verifies, for each expenditure item, the eligibility criteria set out below.

(1) *Actual costs incurred (Article 8.1 to the Grant Contract)*

The Controller verifies that the actual expenditure for each item was incurred and paid by the Beneficiary(ies). The Controller should take into account the conditions for actual costs incurred as set out in Article 8.1 to the Grant Contract letter a). For this purpose the Controller examines supporting documents (e.g. invoices, contracts) and proof of payment, proof of work done, goods received or services rendered and he/she verifies the existence of assets if applicable. A list with Indicative supporting documents is described in Annex 3.



If sufficient supporting evidence is not available, the expenditure will be considered ineligible.

(2) *Implementation period (Article 2 of the Grant Contract)*

The Controller verifies that the expenditure for each item was incurred during the implementation period of the Project.

The following exceptions are made:

- costs for studies and documentation for projects including an infrastructure component, required during the evaluation stage (feasibility studies) which may be incurred after the approval date of the Programme (18 December 2015);
- costs relating to final reports including expenditure verification, audit and final evaluation reports of the Project and which may be incurred after the implementation period of the Project, but no later than 31st of December, 2023.

(3) *Budget (Article 3 of the Grant Contract)*

The Controller verifies that the expenditure for each item included in the Financial report corresponds with and is indicated in the budget of the Grant Contract or in the latest approved amended project budget in force at the date of report submission by the Beneficiary.

(4) *Necessary (Article 8.1 - iv.c)*

The Controller verifies whether it is plausible that the expenditure for each item was necessary for the implementation of the project and that it had to be incurred for the contracted activities of the project by examining the nature of the expenditure with supporting documents.

(5) *Records (Article 8.1 - iv.d)*

The Controller verifies that expenditure for each item is recorded in the Beneficiary's accounting system and was determined according to the accounting standards and the usual cost accounting practices applicable to the Beneficiary;

(6) *Applicable legislation (Article 8.1 - iv.e)*

The Controller verifies that expenditure complies with the requirements of tax and social security legislation where this is applicable.

(7) *Justified (Article 8.1 - iv.f and iv.g)*

The Controller verifies that expenditure for each item is substantiated by evidence (see section 5.3.1 Verification evidence) and supporting documents in accordance with the Indicative supporting documents listed in Annex 3 and it complies with the principles of sound financial management, in particular efficiency, economy and effectiveness.



(8) *Valuation*

The Controller verifies that the monetary value of the expenditures agrees with underlying documents (e.g. invoices, salary statements). The controller should not check the exchange rate as the conversion into Euro is automatically made by eMS.

(9) *Classification*

The Controller examines the nature of each expenditure item and verifies that the expenditure item has been classified under the correct budget or sub-budget line and under the correct Group of Activities of the Financial Report.

It is also important that the classification of expenditure is consistent from one financial reporting period to another.

(10) *Compliance with Procurement rules applicable at Programme and national level and rules regarding Nationality and Origin*

The Controller verifies whether the Beneficiary has concluded in line with the principles for procurement, implementation contracts with contractors as set out in Article 9 of the Grant Contract and to which expenditure (sub)budget line(s) or expenditure item(s) this applies.

For this purpose the Controller inspects the underlying documents of the procurement and purchase process.

Where the Controller finds issues of non-compliance, he/she reports the nature of such issues as well as their financial impact in terms of ineligible expenditure. When examining supporting documents the Controller takes into account the risk indicators listed in Annex 4.

(11) *Compliance with the information and visibility rules of the Programme*

The controller checks whether the Programme requirements regarding information and visibility have been respected.

(12) *Eligible area*

Controller verifies all expenses have been incurred in the Programme eligible area or outside the eligible area. According to the grant contract: *“total share of grant used for activities implemented outside the Programme area may not exceed maximum 15% of the grant”*.

5.2.2 Eligible Direct Costs (Article 8.2 of the Grant Contract)

1. The Controller verifies that expenditure items which are recorded under one of the direct costs budget lines (1, 3, 4, 5, 6) of the Financial Report, are covered by the



direct costs as defined in Article 8.2 by examining the nature of these expenditure items.

2. The Controller verifies that duties, taxes and charges, including VAT which are recorded under direct costs are **not recoverable** by the Beneficiary(ies), according to his Declaration (Annex 7). The Controller obtains evidence that the Beneficiary(ies) cannot reclaim the duties, taxes or charges, including VAT through an exemption system and/or a refund *a posteriori*.

5.2.3 Indirect costs (Article 8.3)

The Controller is not required to verify the actual costs on which flat-rate financing are based. According to Article 8.3 of the Grant Contract, flat-rate funding in respect of indirect costs does not need to be supported by accounting documents. The Beneficiary should keep the documents and record them in the accounting system.

The controller should verify only that the approved amount for office and administration has not been exceeded by the Beneficiary.

The final amount for indirect costs at project level shall be calculated by the MA at the end of the project proportionally with the certified expenditures and may differ from the amount estimated initially in the budget, but it may not exceed the amount and percentage at project level.

5.2.4 In kind contributions (Article 8.4)

The Controller verifies that the costs in the Financial Report do not include contributions in kind. Any contributions in kind, do not represent actual expenditure and are not eligible costs.

5.2.5 Non-eligible costs (Article 8.5)

The Controller verifies that the expenditure for an item does not concern an ineligible cost as described in Article 8.5 of the Grant Contract.

5.2.6 Revenues of the Action

The Controller examines whether the revenues which should be attributed to the project (including grants and funding received from other donors and other revenue generated by the Beneficiary as part of the project) have been allocated to the project and disclosed in the Financial Report, according to beneficiary's Declaration. The controller is not expected to examine the completeness of the revenues reported.

Sub-section 5.3

Instructions on Specific Procedures to be Performed



5.3.1 Verification evidence

1. When performing the verification of expenditure and revenues as described in Section 5.2, the Controller may apply techniques such as inquiry and analysis, (re)computation, comparison, other clerical accuracy checks, observation, inspection of records and documents, inspection of assets and obtaining confirmations.
2. The Controller obtains verification evidence from these procedures to draw up the report. Verification evidence is all information used by the Controller in arriving at the factual findings and it includes the information contained in the accounting records underlying the Financial Report and other information (financial and non-financial).
3. For the purpose of the procedures listed in Section 5.2, all records, accounting and supporting documents:
 - shall be easily accessible and filed so as to facilitate their examination;
 - shall be available in the original form or in the form of copies, including in electronic form;
 - should be available in documentary form, whether paper, electronic or other medium (e.g. a written record of a meeting is more reliable than an oral presentation of the matters discussed). Electronic documents can be accepted only where:
 - the documentation was first received or created (e.g. an order form or confirmation) by the Beneficiary(ies) in electronic form; or
 - the Controller is satisfied that the Beneficiary uses an electronic archiving system which meets established standards (e.g. a certified system which complies with national law).
 - should preferably be obtained from independent sources outside the entity (an original supplier's invoice or contract is more reliable than an internally approved receipt note);
 - which is generated internally is more reliable if it has been subject to control and approval;
 - obtained directly by the Controller (e.g. inspection of assets) is more reliable than evidence obtained indirectly (e.g. inquiry about the asset).
4. If the Controller finds that the above criteria for evidence are not sufficiently met, he/she should detail this in the factual findings.
5. The Beneficiary will allow any external Controller to carry out verifications on the basis of supporting documents for the accounts, accounting documents and any other document relevant to the financing of the project. The Beneficiary gives access to all documents and databases concerning the technical and financial management of the project;



6. The list of types and nature of evidence used by the Controller while performing the expenditure and revenue verification shall be annexed to the expenditure and revenue verification report.

5.3.2 Verification coverage

Under the ENI CBC Black Sea Basin Joint Operational Programme 2014-2020, all (100%) expenditures and revenues reported by the Beneficiary in the Financial Report shall be verified by the Controller and indicated if they are eligible in accordance with the grant contract and EU and national legislation.

Sub-section 5.4 Reporting

- 5.4.1 The report on the expenditure and revenue verification shall describe the purpose, the agreed-upon procedures and the factual findings of the engagement in sufficient detail to enable the Beneficiary (or Lead Beneficiary) and the Managing Authority to understand the nature and extent of the procedures performed by the Controller and the factual findings reported by the Controller. When undertaking the expenditure and revenue verification, the Controller shall use the Check-list presented in Annex 5 to this Instruction, which shall be filled in and attached to the expenditure and revenue verification report.
- 5.4.2 In addition to this report, if the case, a report on suspected and/or established fraud or corruption shall be elaborated and sent directly to the National Authority of the respective country without any need of informing the concerned beneficiary.
- 5.4.3 The use of the Template of Report on expenditure and revenue verification (as provided by the eMS) and on the suspected and/or established fraud or corruption) (Annex 6 to this Instruction) is compulsory.
- 5.4.4 Requests for clarification sent to the Beneficiary and answers received and/or any other relevant documents that cannot be directly correlated to an expenditure shall be attached to the expenditure and revenue verification report.

Section 6 Final provisions

1. Control Contact Points in each participating countries will monitor the quality of the work done by the Controllers (especially in the case of decentralized system).



MINISTRY OF DEVELOPMENT,
PUBLIC WORKS AND ADMINISTRATION

Annexes to this Instruction:

Annex 1 - How Expenditure Verification is organised in each ENI CBC BSB JOP 2014-2020 participating country

Annex 2 - Template of Service Contract between the Beneficiary and the Controller

Annex 3 - List of Indicative supporting documents required for Expenditure Verification

Annex 4 - Procurement Risk Indicators

Annex 5 - Control check-list

Annex 6 - Template of Report on suspected and/or established fraud or corruption

Annex 7 - General Declaration by the Lead beneficiary - Beneficiary

Annex 8 - Declaration on the worked number of hours