

## **Annex 8.2\_a**

### **Guidance on Management Verifications**



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## INTRODUCTION

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The objective of this document is to provide general principles and guidance on the requirements of the verifications the controllers carry out. It covers the regulatory requirements, the general principles and the purpose of management verifications and it provides guidance for controllers and beneficiaries. It also provides guidance in specific areas, namely legality of public procurement, aid schemes, environment, the principles of equality and non -discrimination and the requirements for audit trail. Furthermore, in Annex8.2\_b\_T2 the document provides an indicative **Verifications Control Checklist** which is filled in by the controllers. In Annex 8.2\_b\_T1 it provides the pattern of **Certificate of Verified Expenditure** which is signed for the expenditure verified. It also provides the **Table of Verified Expenditure** (Annex 8.2\_b\_T4) that the beneficiaries use to submit their expenditure to the controllers who also fill this in. As this document provides general guidance for the controllers and the beneficiaries, each Member State could provide more detailed guidance and additional specific questionnaires/checklists incorporating, if needed, additional requirements of the specific national legislative framework (i.e. Law, official Decisions, etc.).

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## *1. GENERAL*

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### *1.1. REGULATORY REQUIREMENTS*

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Under the European Territorial Cooperation objective (ETC), the European Regional Development Fund focuses its assistance on the development of cross-border economic, social and environmental activities, the establishment and development of trans-national cooperation and the reinforcement of the effectiveness of regional policy.

Pursuant to Article 125 of Regulation (EU) No 1303/2013 and Article 23 of Regulation (EU) No 1299/2013, the responsibility for carrying out management verifications in the framework of a Cooperation Programme lies with the Managing Authority. This is the requirement to confirm that the co-financed products and services have been delivered and that expenditure declared by the beneficiaries has been paid and that it complies with applicable law, the cooperation programme and the conditions for support of the operation. Management verifications comprise Administrative Verifications in relation to payment claims of project beneficiaries for reimbursement of EU contribution and On-the Spot Verifications for confirming that the operation has actually taken place.

Alternatively, pursuant to Article 23 of Regulation (EU) No 1299/2013, this responsibility may be taken up by the cooperating countries of the Programme, member-states or non-member-states. In this case, every country sets up a control system making it possible to verify the delivery of the co-financed products and services, the soundness of the expenditure declared for operations or parts of operations implemented on its territory and the compliance of such expenditure and of related operations, or parts of those operations, with Union and national rules.

The controllers carry out verifications of the legality and regularity of the expenditure declared by each beneficiary participating in the operation. The Managing Authority shall satisfy itself that the expenditure of each beneficiary participating in an operation has been validated/verified by a designated controller referred to in Article 23 (4) of Regulation (EU) No 1299/2013.

Pursuant to Article 23 (5) of Regulation (EU) No 1299/2013, in case the delivery of the products and services co-financed can be verified only in respect of the entire operation, the verification shall be performed by the controller of the Member State where the lead beneficiary is located or by the Managing Authority.

Every cooperating country may choose a centralised or a decentralised first level control system. This system is described in the relevant documents of the First Level Control System of each country and it is included in the description of the Management and Control System of the Programme.

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## *1.2 GENERAL PRINCIPLES AND SCOPE OF MANAGEMENT VERIFICATIONS*

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According to Article 125 of EC 1303/2013 verifications or management verifications comprise two important procedures namely, administrative verifications (desk-based verifications) and on-the-spot verifications of individual operations. **Administrative verifications**, which apply to 100% of the declared expenditure, are not sufficient on their own to give assurance on all elements concerning the legality and regularity of the expenditure. For this reason, it is necessary that **on-the-spot verifications** are carried out. The goal of the administrative and on-the-spot verifications is to insure the reality of the operation, the delivered products, the declared expenditure and services are in full compliance with the terms and references of the Subsidy Contract, that the beneficiary's Table of Expenditure is correct and the actions and declared expenditure are in line with the community and the national rules.

All applications for reimbursement by beneficiaries, whether intermediate or final applications, should be subject to administrative verifications in compliance with the first level control system of each participating country based on an examination of the claim and relevant supporting documentation such as invoices, delivery notes, bank statements, progress reports, timesheet, etc.

***Each cooperating country (both member-state and partner country) may further specify the supporting documents and the required documents that beneficiaries must submit, as described in part 3 of the present Guidance.***

The administrative verifications should check:

- The correctness of the declared expenditure according to the application form.
- That expenditure relates to the eligible period.
- That the expenditure relates to the approved operation.
- Compliance with programme conditions.
- Compliance with the approved financing rate, where applicable.
- Compliance with national and Community eligibility rules.
- Adequacy of supporting documents and of the existence of an adequate audit trail.
- Compliance with State aid rules, environmental rules and equal opportunity and non -discrimination requirements.
- Compliance with EC and national public procurement rules.
- The respect of EC and national rules on publicity.

The on the spot verifications must be carried out in order to verify that the project is actually implemented and that there is full compliance of the deliverables, products or/and services, with the terms of the Subsidy Contract (and the approved Application Form). The economic and physical progress of the project, the compliance of the community rules on publicity, the accuracy of the data provided by the beneficiary in progress reports and the audit trail are verified.

In addition to the present guidance, which is common for the controllers of the cooperating countries, the methodology used by controllers for carrying out verifications may be set out in the procedure Manuals issued by the relevant authority of each country and which should identify which points are checked in the administrative verifications and which in the on-the-spot verifications respectively.

On-the-spot verifications are carried out according to the approach of each cooperating country and it may be performed on a sample basis. The selected sampling methodology used by the FLC shall be justified and accepted by the Managing Authority. It is reviewed each year and reported to the Managing Authority. Following Managing Authority's guidelines, in the periodic reports, all the required information for the verification of expenditure (i.e. number of on the



spot verifications in the reporting period and relevant conclusions) shall be reported with particular emphasis to the detected irregularities.

The sampling method adopted for on-the-spot-verifications will be based on risk factors such as:

- budget project budget;
- type of project;
- size of the partnership;
- type of beneficiary (legal entity and organisational type);
- number of projects implemented by the beneficiary types of eligible expenditure;
- inclusion of private bodies in the partnership;
- comparison of works planned and implemented (taking account of delays);
- indications of management problems;

### **Documenting management verifications**

All management verifications should be properly documented. The document records should state the operation performed, the date of the verification, and the results of it.

The Verifications Control Checklist will be utilised by the controllers as a guide for the management verifications. There must be a proper documentation for each question (ie. Supporting documents, bank transactions, suitable distribution of overheads and justified general expenses). Controllers' name, venue and date of verification must always be recorded. Publicity material for the operation should always conform to the requirements of the Operational Programme. The Verifications Control Checklist is provided in Annex 8.2\_b\_T2, attached herewith.

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## *2. GUIDANCE FOR CONTROLLERS*

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### *2.1. THE ROLE OF THE CONTROLLER*

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Article 125 of Regulation (EU) No 1303/2013 requires that the verifications shall cover administrative, financial, technical and physical aspects of operations, as appropriate.

Verifications shall ensure that the expenditure declared is real, that it is linked to the project, that the products or services have been delivered in accordance with the Subsidy Contract, that the applications for reimbursement by the beneficiary are correct and that the operations and expenditure comply with Community and national rules. They shall include procedures to avoid double-financing of expenditure with other Community or national schemes and with other programming periods.

The controllers must verify that the co-financed products and services have been delivered and that the expenditure declared by beneficiaries for operations has actually been incurred and complies with Community and national rules.

For this purpose, they perform administrative verifications in respect of each application for reimbursement by beneficiaries and on-the-spot verifications of individual operations, which could be carried out on a sample basis. Furthermore, the designated Controllers should verify that beneficiaries involved in the implementation of operations maintain either a separate accounting system or accounting code for all transactions relating to the operation. Beneficiaries should hence always refer to Programme as well as national guidelines to make sure that the respective expenses are eligible.

**Controllers shall:**

- verify that the expenditure incurred by the controlled beneficiary within the framework of the specific approved project
- verify the content of the physical and financial report, by assessing beneficiary's provided information/data, and/or carrying out interviews for clarifying or supplementing data with additional elements

- fill in the Verifications Control Checklist (an example of checklist is provided in Annex 8.2\_b\_T2)
- sign the "Certificate of Verified Expenditure" (a template is attached in Annex 8.2\_b\_T1)
- write down potential findings in detail and report them to the MA

The controller verifies that all required documents are in place, and proper use of funds exists. When certain provisions are not respected, the controller must provide the appropriate recommendations and relevant justifications, referring clearly to the rules which were violated. Then he/she signs the Certificate of Verified expenditure, according to the point 4 of the Ministerial Decree 109 283 / EYΘY 1012/4-11-2015 for setting up the Register of Controllers (ar. 43(3) of Law 4314/2014).

Each cooperating country may provide more detailed questionnaires/checklists than the attached, taking into account the specifications of national legislative framework.

Carrying out the verification, the controllers shall take into account:

- Programme documents, e.g. the Call for proposals, the Programme Manual, the Memorandum of Understanding (where available), the website of the Programme and/or other documents setting out the requirements for first level control.
- Data on the project, e.g. the approved application form and possible amendments, the Subsidy Contract, the Partnership Agreement etc.
- Data on the Management and Control System
- Data on legislation, regarding the beneficiary, e.g. the implemented national law and the beneficiary's regulations
- Data on the beneficiary and the project, e.g. beneficiary's procedure, previous certificates etc.
- National rules on competition, state aid and public procurement
- European Union documents e.g.:
  - European Parliament and Council Regulation (EU) No 1301/2013 of 17 December 2013 laying down general provisions on the European Regional Development Fund and on specific provisions concerning the investment for growth and jobs goal and repealing Regulation (EU) No 1080/2006,

- European Parliament and Council Regulation (EU) No 1303/2013 of 17 December laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, and the European Maritime and Fisheries Fund and repealing Council Regulation 1083/2006,
- European Parliament and Council Regulation (EU) No 1299/2013 of 17 December 2013 on specific provisions for the support from the European Regional Development Fund, to the European Territorial cooperation goal,
- COMMISSION IMPLEMENTING REGULATION (EU) No 1011/2014 of 22 September 2014 laying down detailed rules for implementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council as regards the models for submission of certain information to the Commission and the detailed rules concerning the exchanges of information between beneficiaries and managing authorities, certifying authorities, audit authorities and intermediate bodies,
- Commission Delegated Regulation (EU) No 481/2014 of 4 March 2014 supplementing Regulation (EU) No 1299/2013 of the European Parliament and of the Council with regard to specific rules on eligibility of expenditure for cooperation programmes
- Commission Implementing Regulation (EU) No 215/2014 of 7 March 2014 laying down rules for implementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund with regard to methodologies for climate change support, the determination of milestones and targets in the performance framework and the nomenclature of categories of intervention for the European Structural and Investment Funds

- Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC

When part of an operation is implemented outside the programme area but within the Union the article 70 of Regulation 1303/2013 and article 20 of Reg. 1299/2013 apply.

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## *2.2 GUIDANCE FOR CARRYING OUT VERIFICATIONS*

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The controller mainly examines the completeness of the submitted data by the beneficiary according to the attached Verifications Control Checklist (Annex 8.2\_b\_T2),

**1. The following are examined during control:**

1. the submission of the Table of Expenditure
2. the submission of the supporting documents
3. the submission of the Subsidy Contract and the approved application form
4. the submission of the Partnership Agreement
5. if the implementing organisation is the same to the beneficiary of the approved proposal. If the implementing organisation does not coincide with the beneficiary, an acceptable Programming Contract must be in force. In case expenditure has been realized by a body different from the body of the approved application form, through a Programming Contract, this procedure shall be in accordance with the procedures of the Programme
6. the in force regulatory framework, of the beneficiary was submitted
7. the legislation the beneficiary follows to recruit temporary staff or to pay his staff additional remuneration has been submitted

Point 3 to 7 documents are only required during the first submission for verification, unless there are modifications. Following, the controller proceeds to the examination of the data according to the specific issues described:

**2. Expenditure Compliance to approved project- Expenditure Realisation**

The compliance of expenditure to the project requires the following assessment:

- the declared expenditure is described in the approved application form and is distributed to the respective categories.
- The declared expenditure must be eligible under the referred category. If it is not, then it is moved to the appropriate category of expenditure.
- The categories of eligible expenditure per beneficiary are respected.
- expenditure is properly allocated to work packages and respective categories of eligible expenditure.

The controller also examines whether the budget per specific expenditure category is available, taking into consideration the approved budget of the project and the expenditure that has already been verified in the specific category of expenditure. If there is no available budget, he/she examines whether the expenditure can be verified within the flexibility rule of the Programme, regarding the transfer of budget between categories of expenditure as specified in the Programme Manual.

In any case the lead beneficiary shall be informed and to conform.

If finally, the remaining budget in category of expenditure is not sufficient, then only the expenditure of the remaining budget is verified.

In order to verify the expenditure, the following are taken into consideration:

- The existence of the foreseen supporting documents in accordance to Member State legislation, e.g. invoices, dispatch notes, discharge notes
- payrolls, checks, bank extraits, bank deposits, remittances and other bank documents verifying that the expenditure has been realized and paid (reservation on depreciation). Expenditure is not verified when it is not accompanied by supporting documents.
- In case expenditure is paid in cash, accounting data from the cash register and the cash transactions shall be provided.

The following are further examined:

- Whether the expenditure is realized outside the eligible period as specified in the Subsidy Contract. If there are different dates for the eligibility of the physical and economic work of the project it is examined based on these.
- Whether the expenditure has been realized within the reporting period for verification. If the expenditure was realized during previous period, it is verified if it was not included in the previous requests for verification.

- If there are deliverables for the respective expenditure and in particular:
  - a) the existence of the deliverables or parts of the deliverables, the implementation of which is the responsibility of the beneficiary according to the Subsidy Contract and/or other documents of the project (e.g. minutes) is verified
  - b) the existence of certificates of acceptance and the certificate of acceptance of the deliverable from the lead beneficiary or from the responsible for the deliverable where the part of the deliverable produced by the beneficiary adds, is verified.

The deliverables are produced by the beneficiary either in house or by award to third party. Accordingly, the verification of personnel costs is linked to the verification of the deliverables.

In case it is required to verify expenditure without any deliverable, (e.g. in interim payments to third parties or personnel costs), it is necessary for the beneficiary to deliver the declared man-hours, like for instance draft deliverables and/or a lead beneficiary's certificate that the declared man-hours is justified in accordance with the physical progress of the project.

Expenditure that corresponds to uncompleted deliverable, e.g. cost for setting up or updating a website that is not operational and up to date, cost for non - operational or non -functional equipment etc. is verified, provided that the completion of the deliverable is verified when the project is completed.

### **3. Accounting report of the expenditure**

It is examined whether all expenditure is recorded coded at beneficiary's accounting system, in order to be recognisable either in a separate accounting system or there is sufficient accounting code subject to national accounting rules. Expenditure that is not registered in the accounting unit of the project is not verified, except if the recording is not possible, e.g. general costs, personnel cost etc.

### **4. No double funding of the declared expenditure**

The control aims also to ensure that the declared expenditure is not funded or has not been funded by other national or community source, according to article

65 (11) of Regulation (EU) 1303/2013. In order to verify that there is no double funding:

- the original documents issued shall bear a stamp with the acronym of the project, the programme and in case of shared expenditure the eligible amount. In case of depreciation cost a copy of the invoice of the purchase and the accounting registration in the accounting books shall be provided.
- the expenditure shall be registered in a separate, for the project, accounting unit
- the acronym and the Operational Programme must be reported in the public contracts.

## 5. Eligible costs

Specific rules on eligibility of expenditure for cooperation programmes are provided in the Commission Delegated Regulation (EU) No 481/2014 of 4 March 2014 supplementing Regulation (EU) No 1299/2013 of the European Parliament and of the Council.

The controllers should also take into account the following issues:

### 5.1 Staff costs

It is examined whether expenditure regarding personnel working for project activities corresponds to that work; additionally, whether the approved budget corresponds to the expenditure. The following are examined:

#### A. First case – Real costs

1. Whether there is a decision by the beneficiary's administration specifying the working team, the allocation of work, the working hours, the project manager and the person in charge for deliverables. The aforementioned could be replaced by labour contracts for each team member. The contracts must bear the approval and signature of the responsible body or person according to statutory.
2. Whether there exists a documented selection procedure and the labour contracts are in place.



3. Whether there are decisions of the management regarding the recruitment of staff with reference to the relevant legislation that specifies the recruitment process.
4. The existence of monthly timesheets, which prove the actual hours worked, the work venue and the description of each employee's work. These should be signed by the parties concerned.
5. Total hours worked per month, for each employee. Information on all other co-funded projects must be included. These are submitted at the end of the reporting period in printed and electronic version, properly signed. The estimation of cost is based on the real time of employment.
6. Reports on the produced, by the staff, work during the respective period. The reports should be verified by the person in charge for this activity.
7. Signed payrolls or payslips or proofs of bank deposits or other supporting documents.

**B. Second case – Simplified cost option**

Personnel costs are calculated as a flat rate according to article 19 of Reg. 1299/2013, and cannot exceed the percentage of 20% of the direct costs other than the staff costs of the operation.

## **5.2 Travel and accommodation**

It is examined whether the expenditure is linked to the project, if it is in the approved application form and the way it has been paid. For the documentation of expenditure of co funded project paid for travel and accommodation the following are examined:

1. Invitation and/or minutes, presenting the time, duration, venue as well as signed list of participants for all the days of the meetings.
2. Decision for travelling according to the institutional framework of the beneficiary.
3. Travel report/Report on the travel expenditure according to the institutional framework of the beneficiary.
4. The beneficiary's regulation on the level of the subsistence allowances, kilometre allowance for using private car, etc. according to the in-force legislation on each participating country.
5. Tickets, invoices of tickets and supporting documents for payment of tickets, toll invoices, invoices when using taxi or when renting a car or kilometre

allowance when using private car. In case of travelling by plane, boarding pass is also required.

6. The use of taxi or the rent of a car shall be justified according to the in-force National legislation on each participating country.
7. Hotel invoices and supporting documents for hotel payment only for their stay (room service is not included) and for those travelling who should be mentioned in the hotel invoice by name. In case voucher is issued a copy of it should be submitted with the travel agency invoice.
8. Subsistence allowances (only for staff) according to the institutional framework of the beneficiary.
9. When field work or similar activities are foreseen, these should be explicitly described in the approved application form and prior to their commencement the beneficiary shall approve a total plan (programme) for this purpose. In any case the results of the field work should be kept and should be attached to the travel report.
10. In case of travelling outside the eligibility area of the Programme the decisions of the approved bodies of the Programme justifying these trips.
11. In case beneficiaries or participants from countries outside the EU travel to the eligible area of the Programme in order to participate to events, justification from the responsible person of the beneficiary or the responsible person for the activity for their participation.

In case of public procurement for the organisation of workshops, conferences, meetings etc. the following are also examined:

- Photographs in case of workshops, conferences etc.
- Contracts and documents for the award procedure (call, tenders, evaluation, decision etc.)
- Invoices which should state the project and the Programme
- Certificate of acceptance of products and services
- Documents of payment

### **5.3 Publication, information, promotion**

It is examined whether the expenditure is linked to the project, if it is in the approved application form and the way it has been paid. For the documentation of expenditure of co funded project paid for publication, information and promotion the following are examined:

1. Contracts and documents for the award procedure (call, tenders, evaluation, decision etc.)
2. Certificate of acceptance of products and services
3. Invoices and dispatch notes which should state the project and the Programme
4. Documents of payment
5. Deliverables of the services offered
6. Website of the Programme
7. Invitation and agenda
8. Minutes
9. Signed list of participants
10. Photographs of the events

The publicity and information documents that are addressed to the general public, shall respect the rules on publicity of Regulation 1303/2013 (community emblem, Programme logo, co funding from ERDF).

#### **5.4 Equipment and depreciation**

It is examined whether the expenditure

- is related to the project,
- is included in the approved application form
- concerns the total value of purchase or depreciation.

The date of purchase is examined in relation to project's duration. Finally, it is documented if the equipment is operational. The following elements are examined:

1. Contracts and documents of the award procedure are in place (call, tenders, evaluation, decision etc.)
2. Certificate of product approval
3. Product Registration in the accounting system
4. Invoices with Serial Number of equipment.
5. Documents of payment
6. Licenses to set and operate the equipment, where required.

In addition to the aforementioned for the documentation of depreciation the following are examined:

1. Documentation of the method for depreciation according to the national accounting rules
2. Method for partitioning the use of the equipment in the project

### **5.5 External experts**

It is examined whether the expenditure is linked to the project, if it is in the approved application form and the way it has been paid. For the documentation of expenditure of co funded project paid for external experts the following are examined:

1. Contracts and documents for the award procedure (call, tenders, evaluation, decision etc.)
2. Receipts or invoices which state the project
3. Deliverables and certificate of acceptance of deliverables
4. Documents of payment

### **5.6 Preparation costs**

Preparation costs must follow the special eligibility rules set out in the Programme documents, e.g. Call for proposals. Preparation cost is eligible if it has been realised between 1 January 2014 and the date of submission of the Application.

### **5.7 Office and Administrative expenditure (Overheads)**

It is examined whether the expenditure is related to the project, is included in the approved application form, and follows the Operational Programme rules. For the documentation of direct expenditure, the following are examined:

- invoices, receipts and documents of payment.
- description of the methodology and the basis for allocation of overheads (where required)

in case of indirect expenditure (article 68, Reg. 1303/2013), it is examined the documentation of methodology for the allocation. Additionally, it is examined if the flat rate (up to 15%) is defined in the call for project proposals and is correctly applied.

### **5.8 Public works and services**

It is examined whether the expenditure is related to the project, it is included in the approved application form and the way of payment. It is also examined whether the required design studies and licenses were submitted. The following documents are examined:

1. Contracts and award procedure documents (call, tenders, evaluation, decision etc.)
2. Certificate of acceptance
3. Invoices, contractor's accounts, summary tables of works
4. Documents of payment
5. The required by the national legislation on environment licenses, is respected (where required)
6. In case of public projects implemented in house, diary of works.

## **6. Compliance with the public procurement rules**

The beneficiary's compliance with the provisions of the community and national legislation on public procurement rules is examined. Specific guidelines are provided in Chapter 2.3.

## **7. Compliance with the community policies**

The existence of the required, by the community and national legislation in force, studies and licenses is examined. In case these are not available the expenditure is not verified. The control takes into account the provisions foreseen in the project and the relevant legislation on state aid, environment, the principles of equality and non -discrimination according to the specific guidance provided in Chapters 2.4, 2.5 and 2.6.

## **8. Respect of the community rules on publicity in all documents and deliverables of the beneficiary**

The controller examines the respect of the provisions of the Regulations on the ERDF and the Programme publicity rules. It is examined whether all deliverables and all documents bear in a visible part the project logo, the Programme logo, the ERDF co funding and the Community emblem, according to the Programme provisions and the provisions of Regulation 1303/2013.

## **9. Other controls**

### **Control of revenue generating projects.**

The controller examines the generation of revenue from the management of the deliverables according to articles 61 and 65 (8) of Reg. 1303/2013.

1. The following shall apply to operations which generate net revenue after their completion. For the purposes of this Article 'net revenue' means cash in-flows directly paid by users for the goods or services provided by the operation, such as charges borne directly by users for the use of infrastructure, sale or rent of land or buildings, or payments for services less any operating costs and replacement costs of short-life equipment incurred during the corresponding period. Operating cost-savings generated by the operation shall be treated as net revenue unless they are offset by an equal reduction in operating subsidies. Where not all the investment cost is eligible for co-financing, the net revenue shall be allocated pro rata to the eligible and non-eligible parts of the investment cost.

The eligible expenditure of the operation to be co- financed from the Programme shall be reduced in advance taking into account the potential of the operation to generate net revenue over a specific reference period that covers both implementation of the operation and the period after its completion. The potential net revenue of the operation shall be determined in advance by one of the following methods chosen by the managing authority for a sector, subsector or type of operation:

(a) application of a flat rate net revenue percentage for the sector or subsector applicable to the operation or in any of the delegated acts referred to in the second, third and fourth subparagraphs;

(b) calculation of the discounted net revenue of the operation, taking into account the reference period appropriate to the sector or subsector applicable to the operation, the profitability normally expected of the category of investment concerned, the application of the polluter-pays principle and, if appropriate, considerations of equity linked to the relative prosperity of the Member State or region concerned.

Where it is objectively not possible to determine the revenue in advance based on any of the methods set out previously, the net revenue generated within three years of the completion of an operation, or by the deadline for the submission of

documents for programme closure fixed in the Fund-specific rules, whichever is the earlier, shall be deducted from the expenditure declared to the Commission. In general, the verification of expenditure shall take into account the provisions of paragraphs 6 and 7 of article 61, Reg. 1303/2013.

2. The following shall apply to operations which generate net revenue during implementation. According to article 65(8), Reg. 1303/2013, "The eligible expenditure of the operation to be co-financed from the Programme Funds shall be reduced by the net revenue not taken into account at the time of approval of the operation directly generated only during its implementation, not later than at the final payment claim submitted by the beneficiary. Where not all the costs are eligible for co-financing, the net revenue shall be allocated pro rata to the eligible and non-eligible parts of the cost". This clause does not apply to operations with total eligible costs less than 50,000 euro. In accordance to the above article, the verifications "net revenues" shall comprise all operations with eligible costs above 50,000 euro.

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### *2.3 GUIDELINES FOR VERIFICATIONS OF PUBLIC PROCUREMENT*

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Verifications in relation to public procurement should aim to ensure that EC public procurement rules and related national rules are complied with and that the principles of equal treatment, non -discrimination, transparency, free movement and competition have been respected throughout the entire process.

Chapter 3 provides specific guidance on public procurement to be used by beneficiaries. This is particularly useful where beneficiaries are involved in 'one-off' contracts and lack relevant experience. Guides and explanatory notes on the Community rules for public procurement have been produced by the European Commission and provide useful information and explanations. ([http://ec.europa.eu/internal\\_market/publicprocurement/index\\_en.htm](http://ec.europa.eu/internal_market/publicprocurement/index_en.htm))

In cases of public contracts, the controllers focus on checking:

- The appropriateness of the procurement method;
- The compliance with the principles of transparency, non-discrimination, equal treatment and effective competition;
- The interdependence between the different contract phases;
- That appropriate selection and award criteria used.

Although there are specific publicity requirements in the EC public procurement rules, even where contracts fall below the EC thresholds or where services are subject only to a limited application of Directive 2014/24/EC or of Directive 2014/25/EC, an adequate level of publicity of the contract should be respected.

Particular areas of the tender evaluation and award procedures where Member States may provide specific guidance to beneficiaries include:

- compliance with the publishing procedures, sufficient degree of publicity
- compliance with the fundamental principles of the EC Treaty (transparency, non-discrimination, equal treatment)
- separation between the selection phase and award phase of the procurement procedure
- correct application of selection criteria and award criteria
- modifications of the contract award at implementation stage which have no substantial impact
- in house contracts.

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## *2.4 GUIDELINES FOR VERIFICATIONS OF STATE AID SCHEMES*

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Aid schemes may pose problems as regards management verifications due to the following:

- increased control risk (i.e. the inherent complexity of the rules governing the aid scheme, the nature of those recipients – i.e. SMEs – with the risk of a potentially weaker control environment etc.);
- specific eligibility criteria;
- specific provisions concerning the final date of eligibility of expenditure.

There are several key risk areas which should be checked by management verifications in the area of State aid, namely:

- that the aid scheme has been notified to and approved by the Commission or that it is covered by either a block exemption or satisfies the de-minimis rules whereby the aid scheme does not need to be notified;
- that the undertakings in receipt of the aid satisfy the conditions of the aid scheme as approved by the Commission or that the nature of the operations covered by a block exemption satisfy the particular exemption conditions;



- that there is no overlapping of aid from different sources which could breach the de-minimis rule or the applicable rules on the cumulation of aid. The ceiling for the aid covered by the de-minimis rule is in general €200,000 over any 3-year fiscal year period and for activity in the road transport road is €100.000.

State Aid schemes are applicable to Greek beneficiaries only. Applicants may also consult the relevant Greek National Authority to obtain more specific information on rules and limitations concerning State Aid.

More information can be found at:

[http://ec.europa.eu/competition/state\\_aid/modernisation/notice\\_aid\\_en.html](http://ec.europa.eu/competition/state_aid/modernisation/notice_aid_en.html)

The INTERACT programme has also summarised a list of questions and answers on this topic:

[http://admin.interacteu.net/downloads/9263/Questions\\_Answers\\_ETC\\_and\\_State\\_Aid\\_April\\_2015.pdf](http://admin.interacteu.net/downloads/9263/Questions_Answers_ETC_and_State_Aid_April_2015.pdf)

Applicants may also consult the relevant national authorities to obtain more specific information on rules and limitations concerning State aid.

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## *2.5 VERIFICATIONS IN THE ENVIRONMENT AREA*

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Verifications in the environment area should, where relevant, verify that the beneficiary has complied with the relevant Directives by checking whether the relevant consents have been obtained from the competent national authorities in accordance with the applicable procedures. The competent national authorities are responsible for ensuring that EU environmental legislation is correctly applied, and for taking appropriate steps accordingly if this is not the case.

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## *2.6 EQUALITY AND NON-DISCRIMINATION*

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Pursuant to Article 125 of Regulation (EU) No 1303/2013, verifications should check that operations respect and promote equality between men and women and that the integration of the gender perspective has been applied during the

various stages of implementation of the Funds. This involves a gender mainstreaming approach ensuring that all measures and operations openly and actively take into account their effects on the respective situation of women and men, with a view to overcoming inequalities. All programmes and operations should contribute to improved equality between men and women, and should be able to demonstrate this impact in this respect, prior to, during and after implementation. In addition, verifications should also check that appropriate steps have been taken to prevent any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation during the various stages of implementation of the Funds and, in particular, in the access to them. Checklists used for management verifications should therefore, where relevant, include questions dealing with the respect of the principles of equality and non-discrimination. Management verifications should check the actual performance of co-financed measures against the target indicators included in the operational programme throughout the programming period.

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## *2.7 AUDIT TRAIL*

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At the Managing Authority/Joint Secretariat the following documentation shall be held:

a) The decisions of the Monitoring Committee referring to the approval of the project selection criteria and of the material related to the call for proposals, the Application Forms submitted by the potential beneficiaries, the evaluation assessment forms filled in by the Joint Secretariat and the decisions regarding the approval of the projects. For the selected projects, the MA/JS maintains the Subsidy Contracts and the partnership Agreements.

b) All documentation relevant to the implementation of projects (progress and financial reports, any other reporting documents submitted by the lead beneficiaries supporting the request for reimbursement and documents proving the payment transfer from the Paying Authority, to the lead beneficiaries).

The lead beneficiary keeps a full file of the project (Subsidy Contract, Partnership Agreement, relevant documents of the verified expenditure of the beneficiaries, copies of the receipts of each beneficiary) as well as the documents proving the transfer of the payment to the beneficiaries. It is the lead beneficiary's responsibility to ensure an adequate audit trail which implies that the lead beneficiary has an overview of:

- Who paid
- What was paid
- The date on which payment was made
- The person who carried out the verifications
- The location where the relevant documents are stored.

The lead beneficiary must ensure that all beneficiaries keep the documents linked to the project for which the total eligible expenditure is less than EUR 1,000,000, in an ordered and safe way for a period of three years from 31 December following the submission of the accounts in which the expenditure of the operation is included. In the case of operations other than those referred to in the previous subparagraph, all supporting documents shall be made available for a two-year period from 31 December following the submission of the accounts in which the final expenditure of the completed operation is included. The filed documents can be either the originals or the certified as original copies on commonly used data media (in accordance with national legislations).

Each beneficiary keeps all data regarding the legal commitments of the part of the project he has to implement: terms of reference, call for tender, proof of publication, decision of the evaluation committee, contracts and annexes (technical requirements), financial plan, deliverables, payment proofs and other accounting documents, all documents related to the verification carried out by the controller and the documents that he has sent to the Lead beneficiary and the MA/JTS. Each beneficiary must ensure that all accounting documents linked to the project are available and that they are filed separately.

The following at least shall be considered as commonly accepted data:

- (a) photocopies of original documents;
- (b) microfiches of original documents;
- (c) electronic versions of original documents;
- (d) documents existing in electronic version only.

The procedure for certification of conformity of documents held on commonly accepted data carriers with the original document shall be laid down by the national authorities and shall ensure that the versions held comply with national legal requirements and can be relied on for audit purposes. Where documents exist in electronic version only, the computer systems used must meet accepted

security standards that ensure that the documents held comply with national legal requirements and can be relied on for audit purposes.

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### *3 GUIDANCE FOR BENEFICIARIES*

#### *3.1 THE EXPENDITURE REPORTING PROCEDURE*

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The lead beneficiary submits to the Joint Secretariat (JS) progress reports on project implementation activities in accordance with the timetable referred to in the approved Application Form and the Programme Manual as in force.

Payment requests for project expenditure actually made will derive from the relevant reporting period progress reports consisting of activities report and a financial report. Prior to filling in a progress report, the lead beneficiary will collect the expenditure made by all beneficiaries including itself, which must be accompanied by the relevant verifications signed by the competent controller of the respective country. The verified expenditure of all beneficiaries must be attached to the relevant progress reports. The lead beneficiary will use the official forms (Progress Reports) as in force, which are provided by the MA.

Should the beneficiaries delay in submitting to the lead beneficiary their activity and financial reports, the lead beneficiary will still abide by the deadlines for submission. Should the beneficiaries delay in submitting to the lead beneficiary their Table of Expenditure, the lead beneficiary will add the missing information to the statement of the next reporting period, except if the Call for proposals foresees another procedure.

The beneficiary submits to the controller for verification the Table of Expenditure of Annex III in which he/she fills in the relevant data (white parts). He/she also submits all the necessary documents required for the documentation of the realisation of the expenditure and the documents of Chapter 3. The controller is designated according to the provisions of the First Level Control System of the member state/partner country. The controller should verify the soundness of the expenditure declared, the delivery of products and services concerned according to the Application Form and their compliance with the community and national rules according to specific guidelines provided in Chapter 2. The verification should equally ensure that double financing is avoided. The controller confirms the eligibility of all expenditure, and does not verify expenditure which are not supported by the respective documentation.

The beneficiaries shall submit their request for verification preferably on a trimester basis. The controller fills in the Table of Expenditure, signs the

Certificate of Expenditure and forwards these documents to the beneficiary, who, in turn, forwards them to the lead beneficiary. A copy of these documents is kept on the premises of the beneficiary. The verification must be finalised within a period of three months from the date of receipt of the request for verification.

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### *3.2. BENEFICIARY'S SUPPORTING DOCUMENTS*

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In order to verify the expenditure, the beneficiary must submit to the controller the supporting documents required in this chapter.

#### **1. Completeness of the folder**

1. The approved Application Form
2. The Subsidy Contract
3. The Partnership Agreement
4. The Agreement to cooperate, where required
5. The regulatory framework of the beneficiary's operation in force and the legislation the beneficiary follows for recruiting temporary staff or paying its staff additional remuneration.
6. The Table of Verified Expenditure of Annex 8.2\_b\_T4, filling in accordingly the white parts
7. Supporting documents of the expenditure (as described below)
8. The necessary documents, as in the Programme Manual, for expenditure declared in a budget line that does not exist in the approved application form, where required
9. The necessary documents, as in the Programme Manual, for the use of the flexibility rule, where required.

Documents 1- 5 are submitted only during the first request for expenditure verification.

#### **2. Compliance of the expenditure with the project - realization of the expenditure**

1. Supporting documents or copies of these e.g. invoices, dispatch notes, discharge notes, payrolls, checks, bank extracts, bank deposit, remittances and other bank documents which prove that the expenditure has been realised and paid (reservation on the depreciation). In case expenditure is paid in cash, accounting data of the cashier is provided and the cash movements or the equitable documentation according to the national accounting rules.
2. The necessary documents, as in the Programme Manual, when there is an amendment in the approved application that the expenditure has been agreed and that the progress of the beneficiary's work justifies the level of expenditure. The certificate must be original, signed and stamped and it must mention the level of expenditure per budget line.
3. Certificates of acceptance of the deliverables by the beneficiary or the lead beneficiary or by the person in charge of the deliverable, in which the part of the deliverable produced by the beneficiary forms part.
4. In case the controller is required to verify expenditure where there is no deliverable, e.g. in interim payments to third parties or personnel cost, data from which the declared man-hours are derived, e.g. interim progress reports approved by the beneficiary or the person in charge of the deliverable are submitted.

### **3. Supporting documents per budget line**

#### **3.1 Staff cost**

For the documentation of expenditure of the co funded project paid for staff cost, the following are submitted:

1. Decision of the beneficiary 's management which specifies the working team, including specific reference to the staff who will work for the project, the division of work, the allocation of working hours, the project manager and the person in charge for accepting the activities/deliverables. The aforementioned could be replaced by labour contracts for each member of the working team which are approved and signed by the responsible body or person according to the institutional framework of the beneficiary.
2. Labour contracts and data on the selection procedure (e.g. Call, evaluation, decisions etc.) when staff have been hired for the project.
3. Decisions of the management regarding the recruitment of staff with reference to the relevant legislation that specifies the recruitment process.

4. Monthly timesheets, which present the actual hours worked, the venue of the work and the nature of the work per employee. These should be signed by the employee, the beneficiary's responsible and the responsible for the activity.
5. Data on the total hours worked per month and date, , per each employee working on the project broken down to all the co funded activities/projects he/she has been involved. These are submitted at the end of the value period in printed and electronic version, signed by the employee and validated by the responsible of the beneficiary. The determination of the cost of the shared personnel is conducted based on the actual total time of employment and the total personnel cost of the beneficiary.
6. Reports on the produced, by the staff, work during the respective period. The reports should be verified by the responsible for the activity.
7. Signed payrolls or payslips or proofs of bank deposits or other supporting documents.

In case of flat rate, there is no requirement for expenditure justification (ie. Personnel time sheets). The required documents are only the project team and the project reports.

### **3.2 Travel, accommodation and meetings**

For the documentation of expenditure of co funded project paid for travel and accommodation the following are submitted:

1. Invitation/Agenda and/or minutes, presenting the time, duration, venue as well as signed list of participants for all the days of the meetings.
2. Decision for travelling according to the institutional framework of the beneficiary.
3. Travel report/Report on the travel expenditure according to the institutional framework of the beneficiary.
4. The beneficiary's regulation on the level of the subsistence allowances, the kilometre allowance for using private car etc.
5. Tickets, invoices of tickets and supporting documents for payments of tickets, toll invoice, invoices of taxi when using taxi or when renting a car or kilometre allowance for using private car when private car is used. In case of travelling by plane, boarding pass is also required.
6. The use of taxi or the rent of a car shall be justified when there is no public transport (including strikes etc.) or the beneficiary is travelling to subsequent



destinations or because it is the most economic way of travelling. In case of insufficient justification, the value of the most economic mean of travelling is paid.

7. Hotel invoices and supporting documents for hotel payment only for their stay (room service is not included) and for those travelling who should be mentioned by name in the hotel invoice. In case voucher is issued a copy of it should be submitted with the travel agency invoice.

Cost for travelling and accommodation of external experts is paid according to the aforementioned rules only when this is explicitly in their contracts.

8. Subsistence allowances (only for staff)
9. When field work or similar activities are foreseen the programme of field work that the body has approved prior to their commencement shall be submitted, the results of the field work should be kept and should be attached to the travel report.
10. In case of travelling outside the eligible Programme area, decisions by the approved Programme bodies are required.
11. In case beneficiaries or participants from countries outside the EU travel to the eligible area of the Programme in order to participate to events, justification from the responsible of the beneficiary and the responsible for the activity for their participation.

In case of public procurement for the organisation of workshops, conferences, meetings etc. the following are also examined:

1. Photographs of workshops, conferences etc.
2. Contracts and documents for the award procedure (call, tenders, evaluation, decision etc.)
3. Invoices which should state the project and the Programme
4. Certificate of acceptance of products and services
5. Documents of payment

The publicity and information documents that address the general public shall respect the rules on publicity of Regulation 1303/2013 (Community emblem, Programme logo, ERDF co funding)

### **3.3 Publication, information, promotion**

For the documentation of expenditure of co funded project paid for publication, information and promotion the following are submitted:

1. Contract and documents for the award procedure (call, tenders, evaluation, decision etc.)
2. Certificate of acceptance of products and services
3. Invoices and dispatch notes which should state the project and the Programme
4. Documents of payment
5. Deliverables of the services offered
6. Website of the Programme
7. Invitation and agenda
8. Minutes
9. Signed list of participants
10. Photographs of the meeting

The publicity and information documents that address the general public shall respect the rules on publicity of Regulation 1303/2013 (Community emblem, Programme logo, ERDF co financing). The publicity limitations of Directives 24/2014 and 25/2014 apply to public procurements with value estimated to be equal or greater than the thresholds. In public procurements with value estimated to be lower than the Directives thresholds, national public procurement legislation applies.

### **3.4 Equipment and depreciation**

For the documentation of expenditure of co funded projects paid for equipment the following are submitted:

1. Contract and documents for the award procedure (call, tenders, evaluation, decision etc.)
2. Certificate of acceptance of products
3. Registration of the equipment in the accounting system according to the national accounting rules (e.g. Register of fixed assets presenting the registration of the equipment)
4. Invoices and dispatch notes with reference to the Serial Number of the equipment.
5. Documents of payment
6. Licenses to set and operate the equipment, where required.

In addition to the aforementioned, for the documentation of depreciation the following are submitted:

1. Documentation of the method for depreciation according to the national accounting rules
2. Method of partitioning the use of the equipment in the project.

### **3.5 External experts**

For the documentation of expenditure of co funded project paid for external experts the following are submitted:

1. Contract and documents for the award procedure (call, tenders, evaluation, decision etc.)
2. Receipts or Invoices which they state the project
3. Deliverables and certificate of acceptance of deliverables
4. Documents of payment
5. Photographs in case of workshops, conferences etc.

### **3.6 Office and Administration expenditure (Overheads)**

For the documentation of expenditure of co funded project paid for overheads the following are submitted:

- In case of simplified cost proof that the adopted flat rate is in accordance with program rules or /and subsidy contract, and not exceed the limit set in Art. 68(1) of Reg. 1303/2013 (15%). In case of indirect cost of article 68 of 1303/2013 Regulation they are submitted the proof that the method is based on a fair, equitable and verifiable calculation .
- In case of real cost, the following are submitted:
- invoices, receipts and documents of payment.

### **3.7 Public works and Services expenditure**

For the documentation of expenditure of co funded project paid for public goods and services the following are submitted:

1. Contract and documents for the award procedure (call, tenders, evaluation, decision etc.)

2. Certificate of acceptance of products
3. Invoices, contractor's accounts, summary tables of works
4. Documents of payment
5. The required by the national legislation licenses (environmental authorisations, permission to set and operate equipment where required)
6. In case of public projects implemented in house, diary of works.

#### **4. Compliance with the Regulations publicity rules on documents and deliverables**

The beneficiary should respect the provisions of the Regulations on ERDF publicity rules and the Programme publicity rules. It is examined whether the deliverables and the documents bear in a visible part the project logo, the Programme logo, the ERDF co financing and the Community emblem according to the Programme provisions and the provisions of Regulation 1303/2013.

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### *3.3 GUIDELINES FOR COMPLIANCE WITH THE PUBLIC PROCUREMENT RULES*

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Award of public procurement shall comply with community and national rules of public procurement as well as with the principles of equal treatment, non-discrimination, and transparency in order to ensure conditions of real competition at all stages.

According to community legislation, award of public procurement shall be in line with the fundamental principles of the Treaty of the European Union and the main liberties of Internal Market. The principles of equal treatment and non-discrimination imply obligation for transparency based on sufficient level of publicity, in order to open the market to competition for the benefit of any potential contractor.

The Court of Justice of the European Union (CCJEU), in numerous decisions, has ruled, even in cases of contracts falling out of the scope of the Directive 2004/118 that "the contracting authorities when they conclude them, are bound to respect the fundamental principles of the Treaty generally and the principle of non - discrimination on nationality specifically, which implies the obligation of

transparency which will allow the contracting authority to be certified for the respect of this principle”<sup>1</sup>

According to the EU case law, the obligation of transparency requires a company based on another Member State to have access to appropriate information on the contract prior to its award, in order to, if the company wishes, be in a position to express its interest for the mentioned contract.<sup>2</sup>

In order to achieve respect of the principle of transparency, the foreseen activities on publicity, imply the obligation to explicitly and in a unique way determine the terms and references for participation, the control procedure for the qualitative selection criteria and the evaluation of the award criteria, which makes it unacceptable to amend substantial terms of the call following its publication.<sup>3</sup>

### **Conducting tendering procedures**

In case the total budget of the public procurement is equal or above the thresholds of the Community Directives as in force, the implementation bodies and the beneficiaries shall respect the provisions of the community legislation.

In any case the beneficiaries shall, in every tendering procedure, respect the fundamental principles of the Treaty. Specifically, the procedure and the stages of the tendering procedure shall be explicitly described in the Calls. The following discrete stages shall be described in the structure of the Call:

- Right of participation control, i.e.
  - ✓ Candidate personal situation control
  - ✓ Professional occupation relevant to the tendered project,
- Qualitative selection criteria evaluation, i.e.
  - ✓ Evaluation of technical/occupation skills and/or
  - ✓ Evaluation of economic/financial adequacy
- Evaluation of the award criteria, i.e.
  - ✓ Evaluation of the technical offer
  - ✓ Evaluation of the economic offer

The stages of qualitative selection of the participants and the selection of the contractor for the award of the contract are absolutely discrete and based on different types of criteria. At the stage of control of the right of participation and of the qualitative selection criteria, the criteria are regarding and focus on the

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<sup>1</sup> ECJ 342/2008

<sup>2</sup> ECJ 231/2003

<sup>3</sup> ECJ 448/2001

contractor, whereas at the stage of the award criteria those are regarding and focus exclusively on the submitted offer.

The technical specifications, i.e. the qualitative characteristics of the works, the financing and the outputs of the contract that shall be achieved shall also be described in detail in the text of the Call. The technical specifications may include different requirements, e.g. quality of production, performance, use, security, methodologies and technical ways of implementation, appearance etc. It is recommended that during the awarding procedure, provided that the following are in accordance with the national law and the provisions of public procurement of the implementing bodies and the beneficiaries, that all required supporting documents/certificates, are requested only by the temporary economic operator and not by all participants. During the submission stage of offers it is recommended that the participation of the candidates is certified through a formal declaration about the fulfillment of the conditions on quality choice (certificate of non-bankruptcy, criminal records, social security and tax declarations etc.) as described in the Call. All terms, references and criteria shall be explicitly and in a unique way described in the Calls.

It should be stressed that bodies which are "non-profit" organizations, associations, societies, legal entities and which are considered as non - governmental organizations, must follow the public procurement legislation when they participate as project beneficiaries.

### **Assurance of no contract splitting during public procurement**

According to the provisions on concluding public procurement, the implementation of a project with contract splitting and the award of partial contracts in order to avoid conducting a unique tendering procedure (indicative: international, open, regular etc.) of the total budget, is not legal. The indications and criteria on the existence of contract splitting have been set and specified by the national legislation. Specifically, according to the CJEU case rule the estimation on splitting the budget of the project to individual sections shall be assessed based on the economic and technical function of the outputs of the works included in the contracts (see ruling of C-16/98, Commission vs France).

(\*): tendering procedures for contracting works/goods/services of the same kind depend on the total budget of the items of the same kind which has been approved under the specific

expenditure category even in case a separate procurement procedure per item/s has been opted for.