



INFORMATIVE NOTE ON HOW THE EXTERNAL AUDITOR SHOULD BE CONTRACTED

MEDITERRANEAN SEA BASIN PROGRAMME 2007-2013

CALL FOR STRATEGIC PROJECTS

October 2012



General principles

All projects financed by the ENPI CBC Mediterranean Sea Basin Programme will have to follow the rules set by the Grant Contract and its Annexes in terms of verification of expenditure.

In particular the following article must be taken into consideration:

Art. 7.4.3 of the Grant Contract (Special Conditions) modifying art. 15.6 of the General Conditions (Annex II to the Grant Contract) stating that “A report on the verification of the Action’s expenditure, produced by an auditor who meets the specific conditions of the Terms of Reference for the expenditure verification and satisfies EU Members States national control systems (where applicable), shall be attached to every request for payment irrespectively of the Grant Contract value and of the Beneficiary’s type, with the exception of the first pre-financing. The Beneficiary and its partners may decide to have different auditors for each partner and specify it in the Partnership Agreement. In this case, the Beneficiary will send one integrated report with all the factual findings from all auditors. This report will include the name of all auditors and each individual report will be included as an annex”.

Therefore as first step, the partnership must decide whether it wants to have a single external auditor or different auditors for each partner. The Beneficiary (Lead Partner) should make this choice together with its partners and communicate it to the Joint Managing Authority (JMA), through an official letter, as soon as possible. In taking this decision, the Beneficiary and its partners have to take into account that the auditors need a deep knowledge of the languages and national legislations of all countries represented in the partnership.

The auditor must be appointed through the rules of public procurement set by Annex IV. No internal auditors can be accepted.

External auditor requirements

The ENPI CBC Mediterranean Sea Basin Programme foresees the requirements for the external auditor in Annex VII “Expenditure Verification” to the Grant Contract. In particular the external auditor must respect one of the following conditions:

- The Auditor and/or the firm is a member of a national accounting or auditing body or institution which in turn is member of the International Federation of Accountants (IFAC).
- The Auditor and/or the firm is a member of a national accounting or auditing body or institution. Although this organisation is not member of the IFAC, the Auditor commits him/herself to undertake this engagement in accordance with the IFAC standards and ethics set out in ToR of Annex VII.
- The Auditor and/or the firm is registered as a statutory auditor in the public register of a public oversight body in an EU member state in accordance with the principles of



public oversight set out in Directive 2006/43/EC of the European Parliament and of the Council (this applies to auditors and audit firms based in an EU Member State).

- The Auditor and/or the firm is registered as a statutory auditor in the public register of a public oversight body in a Mediterranean Partner Country and this register is subject to principles of public oversight as set out in the legislation of the country concerned (this applies to auditors and audit firms based in a Mediterranean Partner Countries).

Selection of the external auditor

According to art. 14.1 of the General Conditions (Annex II to the Grant Contract) “.....Procedures to award subcontracts for goods/services/works used/provided/delivered during the implementation period, as referred to in the article 1.3 paragraph 3, may have been initiated but contracts may not be concluded by the Beneficiary or its partners before the start of the implementation period of the Action, provided the provisions of Annex IV were respected”.

In particular the Beneficiary and partners must take into consideration all the following points:

- They have to follow Annex IV “Award Procedures” to the Grant Contract in order to contract the external auditor¹. Please note that the procedures described in this Annex IV apply to all organizations of all the participating countries. The only exceptions are mentioned in art. 7.3.4 and art. 7.3.5 of the Grant Contract (Special Conditions) modifying respectively art. 8.2 (exception in case of EU public administrations that will use their national procurement rules) and 8.3 (exception in case of international organization) of the said Annex IV “Award Procedures”;
- They have to use the Terms of References for the contracting of the external auditor set in Annex VII “Expenditure Verification” to the Grant Contract. Since the number of expenditure verification reports is linked to the amount of funds spent, **the JMA suggests to foresee in the ToRs** that the external auditor will perform any other additional expenditure verification report, more than the yearly report, as the case may be.

Please note that for Beneficiaries and partners from EU member states, the external auditor will have to check 100% of the expenditures.

¹ Please note that the rule of nationality and origin set in art. 7.3.1 and 7.3.2 of the Grant Contract (Special Conditions) modifying respectively art. 2.1 and 2.2 of the above annex IV “Award Procedures” must be always respected irrespectively of the nature and geographic location of the organization.



National Control Systems (for EU subjects only)

If an EU member state foresees a national control system, according to the conditions in section 3.3.2 of the Joint Operational Programme, please note that:

- this control is additional to the external audit expenditure verification;
- no Programme funds can be used to cover expenditure verification required by national control system;
- EU Beneficiaries and/or EU partners should make sure that the external auditor satisfies the applicable national control system requirements (as the case may be), in order to avoid inconsistencies. The request of further pre-financing will have to be accompanied only by the expenditure verification report, meaning that any requirement by a national control system is additional and not linked to the procedure for requesting of pre-financing.

In any case the following conditions set by the Programme shall be met:

- 1) The auditor must be an external auditor;
- 2) The auditor must fulfill the requirements set by Annex VII.

In order to satisfy the EU Members States national control systems (where applicable), **it is highly recommended** to foresee in the ToR for the contracting of the external auditor set in Annex VII “Expenditure Verification” that the external auditor sends a copy of the expenditure verification report and the financial report to the representative of the national control system of the interested country.

Conditions for receiving the first pre-financing

Art. 5.2 of the Grant Contract (Special Conditions) states that “The audit firm which will carry out the verification referred to in Article 15.6 of Annex II will be communicated by the Beneficiary to the Joint Managing Authority as soon as possible (name, address, telephone and fax number). The transfer of the first pre-financing foreseen in the Contract will be suspended until the above-mentioned communication has been provided”.

In order to avoid delays in receiving the first pre-financing, Beneficiaries are recommended to consider the following steps:

- a) To start the contracting procedure, if possible, before the Grant Contract is signed with the (JMA), but without signing the contract with the external auditor before the Grant Contract is signed and the project has not started its activities (see also art. 14.1 of the General Conditions mentioned above)²;

² Please note that the costs related to the recruitment of the external auditor (i.e. publication in the newspapers if foreseen etc.) **will not be eligible** since the contract with the JMA has not been signed and the project has not started its activities.



b) After the signature of the Grant Contract with the JMA, to sign the contract with the external auditor and to provide the JMA with the external auditor details (only the one of the Beneficiary). To this regard, the JMA suggests to use the two format annexed to this note:

1. Model legal representative declaration on external auditor, in which the Beneficiary states that it has signed the contract with its external auditor (providing also its details) and that it has verified the compliance of the auditor with the requirements set in annex VII.

2. Model external auditor declaration in which the external auditor certifies that it meets the requirements and it accepts the conditions set by Annex VII (together with the auditor certificate).

Moreover, the Beneficiary is requested to send a paper copy of the contract signed with the external auditor.

It is highly suggested that the Partnership Agreement is stated that once the Beneficiary has received the first pre-financing, this will be transferred to the respective partner only if the latter has provided to the Beneficiary the name of the external auditor and the certificate/documents proving that it has the requirements set by Annex VII. The Beneficiary will have to make sure that each partner has contracted the external auditor in compliance with the requirements set by Annex VII to the Grant Contract.

Accordingly, each partner can follow the step described in point a) and sign the contract with the external auditor only after the Grant Contract between the Beneficiary and the JMA has been signed.

Further information will be provided by the JMA during training seminars with the Beneficiaries.