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**THE POLAND-RUSSIA CROSS-BORDER COOPERATION PROGRAMME
2014-2020**

GUIDELINES ON EXPENDITURE VERIFICATION

Version 6.

**Approved by the JMC of the Poland-Russia CBC Programme 2014-2020
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**Legal grounds:**

1. Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighborhood Instrument (ENI);
2. Commission Implementing regulation No 897/2014 of 18 August 2014 laying down specific provisions for the implementation of cross-border cooperation (CBC) programmes financed under Regulation (EU) No 232/2014 of the European Parliament and the Council establishing the ENI with further amendments (hereinafter IR);
3. 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 Union's instruments for financing external action;
4. Commission Implementing Decision C(2016) 7864 of 08 December 2016 on the 'Joint Operational Programme (JOP) Poland-Russia 2014-2020 for the ENI CBC Programme for the years 2014-2020 to be financed from the general budget of the EU'.
5. Regulation (EU) 2022/2192 of the European Parliament and of the Council of 9 November 2022 laying down specific provisions for the 2014-2020 cooperation programmes supported by the European Neighbourhood Instrument and under the European territorial cooperation goal, following programme implementation disruption;
6. Agreement on financing and implementation of the Cross Border Cooperation Programme "Poland – Russia" 2014 – 2020.

Glossary of terms:

Auditor: an expert independent from the audited entity responsible for confirming that the project is being implemented according to the contract and its annexes through verification of expenditure, including detection of non-eligible expenditure and reporting detected irregularities to the Managing Authority (MA).

Audit trail: possibility to track the history of an economic operation from its registration in the financial and accounting system to documents, which are the basis for costs to be incurred and paid as well as economic events documented with this documentation, including those following applicable public procurement procedures.

Beneficiary: an entity indicated in the contract and its annexes, who participates in the Project under the conditions of the GC (by concluding the partnership agreement (PA) with the lead beneficiary (LB)).

Branch office of the Programme – a BO is set up in Russia in order to assist the JTS in its functions. BO signs service contract with Managing Authority. Roles and responsibilities of BO are described in the JOP (p. 3.4).

Contract – contract signed between Managing Authority and the beneficiary for implementation of the cross-border project (grant contract) and service project (service contract).

Subsidiary contract – signed with Polish beneficiaries in projects with the Russian lead beneficiary.

Cut-off date: means 24th February 2022.



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Lead Beneficiary: an entity signing the grant contract/service contract¹ with the Managing Authority and responsible for the financial and technical implementation of the project.

Eligible expenditure: expenditure or costs duly incurred by the lead beneficiary or beneficiary, in reference to implementation of the grant/service contract under the Programme, pursuant to the eligibility requirements defined in grant/service contract, the applicable provisions of EU regulations, Financing Agreements signed between EU, Poland and Russia and national regulations of the Lead Beneficiary/Beneficiary and the rules laid down in the Programme documents.

Financing Agreement: Agreement on financing and implementation of the Cross Border Cooperation Programme “Poland – Russia” 2014 – 2020 setting out conditions of financing and implementation of the Poland – Russia CBC Programme 2014 – 2020.

Non-eligible expenditure: each expenditure or cost, which cannot be recognised as eligible.

Irregularities: any breach of the contract or violation of the applicable law resulting from an action of omission by an entity engaged in implementing the Programme which cause or could cause a damage in the Programme budget by charging an unjustified item of expenditure to the Programme budget.

Partnership agreement – applies to cross-border projects only - agreement signed between the lead beneficiary and beneficiary(-ies) stipulating their roles and responsibilities in relation to the project implementation.

Programme: The Poland - Russia Cross-border Cooperation Programme 2014–2020.

Programme documents: documents approved by the MA or the Joint Monitoring Committee (JMC), applicable to the Programme implementation.

Project – cross-border project (based on the grant contract) and service project (based on the service contract).

Interim/Final Report: a report submitted by the LB to the Joint Technical Secretariat (JTS) according to the *Programme Manual Part II – Project Implementation* (applicable for the relevant call for proposals (CfPs)), supplement to the Programme Manual, the GC and the subsidiary contract, presenting progress in implementation of the entire project, including the financial and operational progress.

Implementing Regulation (IR): Commission Implementing Regulation (EU) no 897/2014 of 18 August 2014 laying down specific provisions for the implementation of CBC programmes financed under Regulation (EU) No 232/2014 of the European Parliament and the Council establishing the ENI.

Simplified cost options: *lump sums, flat-rates* which are co-financed in the form described in the art. 50 of the Implementing Regulation of the EC (EU) No 897/2014 of 18 August 2014. **SL2014** – a system to collect, record and store electronically data on each project.

¹ Provisions of these Guidelines apply mutatis mutandis to BO functioning on the basis of service contracts signed between BO and the MA. This means that auditor should check equivalent available documents, for ex. service contract instead of grant contract/project, tender offer instead of application form etc. Service contract is implemented only by one entity, so there is no partnership agreement in case of BO. Please note that service contract differs from grant contracts, therefore some provisions/annexes are different in case of BO verification. No expenditure can be accepted from the Russian BO, even from before the cut-off date as sufficient audit work has not been carried out in line with Article 28 of the ENI CBC Implementing Regulation (EU) No 897/2014 of 18 August 2014.



Fraud – any intentional act or omission concerning the use or presentation of false, incorrect or incomplete statements or documents which has as its effect the misappropriation or wrongful retention of Parties' financial contributions, non-disclosure of information in violation of a specific obligation with the same effect, the misuse of such funds for purposes other than those for which they are originally granted.

List of Acronyms:

AA - Audit Authority

AF – Application Form

BO – Programme branch office

CBC – Cross-border Cooperation

CfPs – Call for Proposals

CCP - Control Contact Point

EC - European Commission

GoA – Group of Auditors

ENI – European Neighbourhood Instrument

EU – European Union

IR - Commission implementing regulation 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 establishing the ENI

JOP – Joint Operational Programme of the Poland - Russia Cross-border Cooperation Programme 2014–2020 (08/12/2016).

GC – Grant Contract

JMC – Joint Monitoring Committee

JTS - Joint Technical Secretariat appointed as Intermediate Body

LB – Lead Beneficiary

MA - Managing Authority

NA – National Authority

PA – Partnership Agreement

**Introduction:**

Projects implemented within the Programme are subject to control by authorised institutions. The verification and the confirmation by the auditor of the regularity of expenditure, incurred within the project, is an important element of the control system. The Programme includes the control system in which each beneficiary either appoints its own auditor subject to approval by the CCP (in case of Polish beneficiaries) or select an auditor from the list of auditors drawn up by the CCP (in case of Russian beneficiaries). These Guidelines are addressed to the beneficiaries and auditors to provide them with necessary information about the auditor's responsibilities, the type and the scope of the verification and thus ensure that the expenditure incurred will be accepted by the JTS/MA.

NEW RULES AS A CONSEQUENCE OF THE WAR

Following the Russian military aggression against Ukraine, the European Commission has suspended cooperation with Russia within the European Neighbourhood Instrument Cross-Border Cooperation Programme Poland-Russia 2014-2020 (Programme). Consequently, the Agreement on financing and implementation of Cross Border Cooperation Programme "Poland – Russia" 2014-2020 signed between the Russian Federation, the Republic of Poland and the European Union and the payments to the Russian Beneficiaries have been suspended. On 12th November 2022 the Regulation (EU) 2022/2192 of the European Parliament and of the Council of 9th November 2022 laying down specific provisions for the 2014-2020 cooperation programmes supported by the European Neighbourhood Instrument and under the European territorial cooperation goal, following programme implementation disruption (Regulation 2022/2192) entered into force.

This significantly affected the implementation of the projects under the Programme and resulted in the need to apply new guidelines in response to the current situation. Auditors are requested to get familiar with the additional documents and procedures accepted by the MA and/or the JMC, which regulate the new rules of Programme implementation. Of special attention are the *Supplement no 2 to the Programme Manuals related to suspension of the Financing Agreement (can be further amended)*, the new kinds of contracts (subsidiary), signed with beneficiaries in projects with the Russian Lead Beneficiary, as well as Managing Authority's unilateral decisions issued for individual projects.

The Russian beneficiaries may continue the projects under their own responsibility, bearing in mind that the European Commission has suspended payments to them and no expenditure can be accepted from the Russian beneficiaries, even from before the cut-off date (i.e. before 24th February 2022) as sufficient audit work has not been carried out in line with Article 28 of the ENI CBC Implementing Regulation (EU) No 897/2014 of 18 August 2014. Therefore, based on the provisions of "*Supplement no 2 to the Programme Manuals related to suspension of the Financing Agreement*", the reports covering the Russian part of the project are not required to be submitted. In case the Russian LB submits the report covering the Russian part of the project, it shall not be processed.

The eligibility rules have been applied in the Programme which must be familiarized with by the auditors. Special rules concerning the support to Ukrainian refugees have been implemented in the Programme.

Auditors are strongly encouraged to contact the CCP or the MA in case of any doubts as regards the rules implemented due to the war.



1. AUDITORS AND THEIR RESPONSIBILITIES

1.1 Auditor's role

The purpose of the auditor's work is to ensure compliance of expenditure under the project with the national law and EU legislation (in case of expenditure incurred by Polish beneficiaries) as well as their compliance with the Programme requirements and provisions of the Financing Agreement, the contract, including its annexes.

The auditor's responsibility is to confirm the audit trail, including the confirmation that the services, deliveries or works have been delivered, completed, made or installed, and the expenditure declared by the beneficiaries has been paid by them. For this purpose, the auditor conducts an administrative accounting and substantive verification of the expenditure presented by the beneficiary in the project interim/final report, to ensure that the expenditure:

- 1) has been incurred in accordance with the provisions of the contract and the project budget;
- 2) is included in the catalogue of eligible expenditure being the part of the Programme documents related to the eligibility of expenditure and the contract;
- 3) has actually been incurred² during the eligibility period of project implementation;
- 4) has been incurred in accordance with the principles of sound financial management, in particular, the 'best value for money' principle;
- 5) has been documented correctly;
- 6) has been fixed in accounting documents.

1.2. Scope of expenditure verification by an auditor

The scope of verification by the auditor includes, in particular:

- 1) verifying whether the interim/final report has been filled in correctly with regard to formal and accounting aspects;
- 2) verifying whether the expenditure declared complies with the grant contract, the PA, and the Financing Agreement i.e. whether it has been planned in the project and is settled in accordance with the eligibility rules (including verification of the correctness whether the expenditure was made by the use of the EU and/or the Russian co-financing) and within the correct expenditure category;
- 3) verifying whether the LB has transferred pre-financing payments to the project beneficiaries in accordance with the contract, subsidiary contract and partnership agreement, limited by the rules applied as a consequence of the war (direct payments from the MA to project);

²Costs actually incurred - costs incurred during the implementation period of the project and paid before the submission of the final reports. They may be paid afterwards, provided they are listed in the final report together with the estimated date of payment. An exception is made for costs relating to final reports, including expenditure verification, audit and final evaluation of the project, which may be incurred after the implementation period of the project.



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- 4) verifying whether the substantive scope of the project is being implemented in accordance with the schedule of the GC, including whether the required indicators have been achieved;
- 5) verifying whether the costs, expenditure and revenue of the project have been correctly recorded in the financial/accounting system of the project beneficiary;
- 6) verifying whether the equipment, intangible assets purchased and the construction works completed have been delivered and correctly recorded in the financial/accounting system of the project beneficiary;
- 7) verifying whether the contractors of services, deliveries and works under the project have been selected through appropriate tender procedures, including compliance with the national public procurement law and procurement rules indicated in the Financing Agreement and in accordance with the institution's procurement plan (if applicable);
- 8) verifying whether the contractor of services, deliveries and works under the project has no relations with bodies and persons that directly or indirectly support the military actions in Ukraine or they are responsible for those actions. These bodies and persons which can be founded can be found in the attachments to the EU regulations:
 - MSWiA, link: <https://www.gov.pl/web/mswia/lista-osob-i-podmiotow-objetych-sankcjami>
 - COUNCIL REGULATION (EC) No 765/2006 of 18 May 2006 concerning restrictive measures against President Lukashenko and certain officials of Belarus, link: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006R0765&from=PL>
 - COUNCIL REGULATION (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine) link: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0269&from=PL;>
- 9) verifying the compliance of the expenditure incurred with the national regulations and Programme requirements, including the requirements related to the provisions related to the Russian Federation financial contribution (if applicable), visibility, publicity, environment protection, equality between men and women, equal opportunities and non-discrimination, provisions regarding the accessibility of disabled persons;
- 10) verifying documentation confirming the delivery of co-financed goods, services and construction works;
- 11) verifying whether the expenditure has been actually incurred and paid, with the exception of simplified cost options;
- 12) verifying whether a separate accounting system is kept or whether the appropriate accounting code is used for all transactions related to the project, except for simplified cost options;
- 13) verifying whether the project implementation progress has been clearly and fully reflected in the reports and whether there is immediate access to the record of activities that have been completed, verifying the appropriate documentation of goods deliveries, service provision and construction works both in progress and finished;
- 14) verifying the complete tender documentation for contracts awarded under the project in accordance with the national law;
- 15) verifying the subcontractor's selection documentation for contracts awarded under the project, the values of which are below the national thresholds for the application of public procurement procedures (taking into account the Programme and national requirements for contracts, if applicable respectively depending on nationality);



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- 16) verifying whether the award of contracts has complied with the principle of competitiveness specified in Programme documents;
- 17) verifying methods of archiving project documentation to ensure the documents are accessible in case of future controls;
- 18) verifying whether the project beneficiary has implemented recommendations following the controls and audits carried out and eliminated the irregularities, if any.

The auditor shall verify expenditure on the basis of the audit procedures they are bound to observe, specified in the Programme and in accordance with:

- 1) the International Standard on Related Services 4400, Engagements to Perform Agreed-upon Procedures Regarding Financial Information, in the version issued by the International Federation of Accountants (IFAC);
- 2) the Code of Ethics for Professional Accountants developed and issued by the IFAC's International Ethics Standards Board for Accountants.

1.2.1 Administrative verification by an auditor

During the administrative verification, the auditor checks whether:

- 1) the interim/final report has been filled in correctly in terms of formal and accounting aspects;
- 2) the required annexes to the interim/final report have been attached;
- 3) the interim/final report presents the progress of project implementation, including the achievement of the indicators (from both quantitative and qualitative point of view);
- 4) the beneficiary's expenditure presented in the report is correct and complies with the eligibility rules laid down in the *Programme Manual Part I – Applicant* (applicable to the respective CfPs)³;
- 5) the limit of expenditure for particular activity and budget headings has not been exceeded;
- 6) the correct exchange rate has been used to convert expenditure incurred in the national currency into euro (using the monthly accounting exchange rate of the EC of the month during which the expenditure was incurred);
- 7) the interim/final report does not contain the ineligible expenditure listed in the IR;
- 8) financial and accounting documents have been correctly described, correspond to the expenditure incurred and confirm it in terms of both the EU co-financing;
- 9) the LB and the remaining beneficiaries of the project have a separate accounting systems or separate accounts for all transactions related to the project, without prejudice to the rules of accounting applicable in the country;
- 10) in case of expenditure financed on the basis of simplified cost options – whether the conditions necessary to make payment in full to the partners have been fulfilled, including:
 - a. whether the value of the lump sum expenditure does not exceed the total approved lump sum value;
 - b. whether the activity corresponding to the lump sum payment has been implemented;
 - c. whether costs are not double-reported (e.g. the purchase covered by the flat-rate or lump sum financing has not also been financed as a direct cost under a different budget line);
 - d. whether the approved methodology⁴ has been used to establish the value of the lump sums and flat-rates ;

³In case of BO eligibility rules are described in the JOP (points 4.5 and 5.2) and the contract. The BO is subject for the same restrictions as regular projects and its expenditures are regarded ineligible.

⁴ Calculation method provided in the project budget attached to the project application and described in the Programme Manual part I



- e. whether the value of the flat-rate has been changed proportionally in case of costs modification under the category which was the base for flat-rate calculation.

In addition, the auditor of the LB also confirms that the payment has been made by the LB to other beneficiaries, with reservation to the rules applied as a consequence of the war (direct payments from the MA to project beneficiaries).

The auditor carries out the administrative verification of the interim/final report based on the information included, among others, in:

- 1) the grant contract including annexes and all addenda or modifications including the MA's unilateral decisions and subsidiary contracts signed by the MA with Polish beneficiaries as a consequence of the war;
- 2) the PA concluded between the LB and the beneficiary(-ies) of the project including all annexes, addenda or modifications with reservation to rules applied as a consequence of the war;
- 3) the interim/final report, including all annexes;
- 4) in case of expenditure financed on the basis of real costs – documents confirming the regularity and eligibility of expenditure included in the interim/final report, including:
 - a) accounting evidence of the expenditure incurred (invoices, bills etc.) and documents confirming the payment (e.g. bank statements);
 - b) contracts with contractors for deliveries, services or works;
 - c) acceptance protocols for delivery of goods, services or works and other documents confirming acceptance or completion of works (operation permit etc.);
 - d) other documents necessary to confirm the regularity and eligibility of expenditure;
- 5) In case of expenditure financed on the basis of lump sums - the calculation method for arriving at the lump sums that has been approved in the project budget application (to verify the correct application of the method in the individual projects).

1.2.2 Verification of competition and public procurement by an auditor

The public procurement rules set in the *Programme Manual Part I– Applicant* (applicable for proper call for proposals⁵) define the tendering and publicity procedures applicable to different threshold values. Depending on the origin of a beneficiary, the following levels have to be taken into consideration:

- Programme Manual I and II including procurement procedures set out in art. 52.2, 53 to 56 of the Regulation and programme specific rules;
- Financing Agreement;
- national law and rules;
- internal rules of the partner organization.

As a matter of principle, the stricter rules must always be applied.

In order to confirm the correctness of procedures, being a subject of the applicable public procurement rules, the auditor verifies tender documents, which depending on the threshold usually consist of the following:

- 1) the protocol of the public procurement procedure including:

⁵ In case of BO contracts shall be awarded in accordance with Title VII Chapter 4 of Implementing Regulation (EU) No 897/2014 with the exception of Article 52(1) and rules adopted for the Programme and defined in the service contract. Procurements by BO shall be limited to ordinary running costs and costs for communication and visibility activities.



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- justification for the procedure chosen in the light of the identified needs,
 - evaluation of the offers in the light of the previously announced award and weighting criteria,
- all its annexes;
- 2) the contract announcement, including all possible modifications (with evidence that it has not distort competition in the relevant market and that there has been no modification of the object of the initial contract);
 - 3) the terms of reference, including clear information for candidates on award and weighting criteria, together with all annexes;
 - 4) request for offers or procurement publication/notice;
 - 5) the public contract agreement including all possible modifications;
 - 6) the bids including the required annexes;
 - 7) the contents of questions and answers – if applicable;
 - 8) the payment of the tender bond – if applicable;
 - 9) the document appointing the Tender Commission – if applicable;
 - 10) the announcement of the rejection and selection of the most beneficial bid;
 - 11) the announcement of awarding the public contract.

Recommendation:

To ensure smooth expenditure verification, it is recommended to provide the auditor with the public procurement documentation once the contract has been signed with the contractor, but before the expenditure has been incurred.

Due to the risk of imposition of financial corrections, it is recommended to oblige the auditor to provide advisory services with regard to the ex-ante assessment of public procurement procedures.

The ex-ante assessment can constitute an optional verification carried out on request of the beneficiary by the auditor independently of the administrative verification, and thus such assessment plays a preventive role, helping the beneficiary avoid the negative consequences of possible breaches of national public procurement regulations, EU legislation (applies to Polish beneficiaries) and Programme requirements.

In the case of Russian beneficiaries, after the auditor has identified breaches of national regulations or Programme requirements applicable to public procurement, it shall reduce the amount of eligible expenditure in accordance with the Guidelines on Financial Corrections of the Poland – Russia CBC Programme 2014 – 2020 provided in Annex 1.

In case of Polish beneficiaries, the auditor shall apply the up-to-date Regulation of the relevant Minister on the conditions for value reduction, financial corrections and expenditure incorrectly incurred in connection with granting contracts.

1.2.3 Forms of administrative verification carried out by an auditor

The administrative verification of project expenditure may be carried out by an auditor at an office – a desk check – (the beneficiaries provide documents confirmed as true to the original copies) and/or



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at the project implementation site/at the beneficiary's offices – on-the-spot-verification -, based on original documents. The verification covers 100% of expenditure reported by the beneficiary.

The beneficiary submits the project interim/final report in English, while the documentation confirming the regularity of expenditure is in national languages.

The auditor should have access to all documents related to project financing (and accounting systems) as well as to all project-related records and databases, results and outcomes.

Beneficiaries are responsible for delivering the required documentation and provide clarifications to auditors within the time limits set by the auditors.

The administrative verification in form of the on-the-spot verification (at the beneficiary's office) is obligatory in case of purchase of fixed assets by the beneficiary for the unit value equal to or higher than 5000 EUR gross. This type of verification should be carried out until the end of the project implementation, before the final report is submitted.

The on-the-spot verification includes, in particular, checking the following:

- whether the co-financed goods and services have been delivered;
- whether the actual progress of the project corresponds to the information presented in the interim/final reports and whether the expenditure declared by the beneficiary in relation to the project implementation has really been incurred and complies with the requirements of the Programme as well as EU and national rules (if applicable);
- whether separate accounting records are kept for the purposes of the project;
- whether the originals of the documents, presented by the beneficiary for the administrative verification, are available;
- whether the conditions of documentation storage and archiving, including ensuring the audit trail, have been met;
- whether the information and visibility requirements are fulfilled, which is checked by examining the assets (fixed assets/equipment, repair works/construction works completed) purchased as part of project implementation, including:
 - a) verifying the correct usage of the assets – whether they are used in accordance with the designated purpose, as well as the assumptions and objectives of the project;
 - b) determining the location and the person using the assets;
 - c) verifying the assets inventory number;
 - d) verifying the correct marking of assets in accordance with the Programme visibility rules.
- whether the project activities, outputs and results respect the provisions regarding the accessibility of disabled persons;
- in the case of works contracts, whether:
 - a) there are documents confirming the ownership right to the land and/or buildings or the right to manage/use the land and/or building in which the works will be carried out;
 - b) all EU requirements (if applicable) and national requirements applicable in the case of investment/infrastructure project implementation, have been fulfilled (e.g. building permission, notification of works component or other equivalent documents, environmental decisions, environmental impact report, operation permit).



1.2.4 Post-control documentation

The correctness of control activities and the scope of the carried out administrative verification is confirmed by the auditor's signature on a certificate, specifying the approved amount of eligible expenditure. The document confirms that the expenditure comply with the rules of expenditure eligibility laid down in the *Programme Manual Part I – Applicant* (applicable to the respective CfPs) and the contract, as well as documents and procedures implemented in the Programme as a consequence of the war.

The template of the certificate is Annex 2 to these Guidelines.

The verification of the project interim/final report is documented by the auditor by filling in and signing a checklist. The template of the minimal scope of such a checklist is Annex 3⁶ to these Guidelines for projects and Annex 3a for service contracts (BO). (not applicable).

The verification of the compliance of the tendering procedures with the national public procurement regulations is additionally documented by the auditor by filling in and signing a checklist for public procurement's control. The template of the minimum scope of the checklist for public procurement's control is attached as Annex 4 (referring to the public procurements initiated till 31/12/2020) and Annex 4a (referring to the public procurements initiated from 01/01/2021) – for Polish procedures and Annex 5 – for Russian procedures (not applicable).

Applicable only in case of Poland

Following art. 559 and art 600 of the Public Procurement Law Act, being in force since 1 January 2021, auditors of Polish beneficiaries are obliged to use a questionnaire (Annex 12 to the Guidelines) during verification of public procurement procedures. The auditor before beginning of control process has to send Annex 12 to the beneficiary in order to inform about the scope of public procurement audit and receive information from a beneficiary whether the audited public procurement was a subject to control by the President of the Public Procurement Office or another controlling body.

When verification of the public procurement procedure is authorize the auditor has to send its results to the Polish CCP (by e-mail to address wk@cpe.gov.pl) in a form of Annex 13 to these Guidelines. Annex 12 to the Guidelines filled in by the beneficiary also needs to be forwarded by auditor to the Polish CCP. The CCP will publish results of the public procurement procedure verification on its website.

The auditor is obliged to use the templates mentioned above. The auditor is authorized to use additional tools.

1.3 Requirements applicable to the auditors

1.3.1. Auditor independence

Regardless of ISRS 4400 stipulating that independence is not necessary in relation to agreed-upon procedures, it is required that the auditors fulfils the independence requirements of the IFAC's Code of Ethics for Professional Accountants.

In addition, an auditor's independence is defined as his or her 13 authorized13n13l independence from

⁶ In case of Polish beneficiaries the auditor shall fill in the checklist constituting Annex 11 should the expenditure be subject to the principles of competitiveness



institutional structures and from operational activities of the beneficiary, including activities carried out as part of the project. The impartiality and independence shall be infringed in cases when an auditor has provided assurance, advisory or consulting services relating to the beneficiary's activities within two years preceding the start of project verification service, with the exception of services concerning the verification of projects financed by the European Neighbourhood and Partnership Instrument (ENPI) and the ENI.

The independence shall be breached by holding shares or other titles of ownership of the beneficiary being audited. The impartiality shall be infringed by the occurrence of a conflict of interest⁷, when an impartial and objective fulfilment of the function by the auditor is compromised due to family or emotional reasons, political sympathies or belonging to a state, an economic interest or any other common interest with the beneficiary being audited, providers of services to the verified project or entities involved in implementing the Programme. Such situations shall include actions or relationships, which may be contrary to the beneficiary's interest.

An auditor's independence and impartiality is considered as avoiding any situation that could lead to a conflict of interest, including avoiding situations in which even a theoretical possibility exists that personal interest may outweigh the result of the verification.

The auditor shall disclose to the CCP all significant facts they are aware of, which, if they were not disclosed, could interfere with the perceived objectivity and independence of the verification, they carry out.

The auditor must also be independent from other entities responsible for implementing the Programme, including the JTS, the MA, the AA, and the CCP.

The verification can start only after the previous signing of the declaration of impartiality and confidentiality constituting Annex 6 to these Guidelines.

1.3.2. Auditor qualifications

1.3.2.1 Polish auditors' qualifications

- 1) The auditor must fulfil at least one of the following requirements:
 - a) be a member of the national authority or body for accounting and audit, which is the member of the IFAC;
 - b) be a member of a national accounting or audit authority or entity. If this organization is not an IFAC member, the auditor must commit to work in accordance with IFAC standards and codes of ethics and must hold at least one of the following certificates: CIA, CGAP, ACCA, CIMA;
 - c) be registered as an auditor in the register of auditors maintained by the National Council of Statutory Auditors.
- 2) The auditor who will verify projects in which purchases will be made on the basis of public procurement law must, in addition, fulfil at least one of the following requirements:

⁷ In order to avoid a conflict of interests, persons who conduct the auditor's activities may not have personal or capital ties with the contractors (beneficiaries). They should be impartial and objective. For conflict of interest, definition of capital and personal ties, please check the Programme Manual I, Chapter "The conflict of interest".



- a) have carried out controls of the correctness of at least 10 public procurement procedures covered by the public procurement law;
 - b) have provided at least 10 legal advisory services concerning public procurement law application, including, among others, issuing written legal opinions, representing before the National Appeals Chamber.
- 3) Each auditor must have an adequate knowledge of English which corresponds to no less than B2 of the Common European Framework of Reference for Languages.

Projects in which purchases under the public procurement law are planned should contract an auditor fulfilling requirements for public procurement procedures verification mentioned under point 2. The qualifications listed in points 1 and 2 may be proven by two auditors (e.g. cooperating under the civil law with another auditor, a cooperation agreement, a firm with several auditors etc.). Qualifications listed under letters (1 – a, b, c, 2 – a, b) must be fulfilled entirely by one auditor (i.e. situations in which e.g. one auditor confirms completing 5 controls and the other also confirms completing 5 controls will not be considered as the fulfilment of the above conditions).

If the project does not foresee purchases under the public procurement law, the correctness of carrying out procedures below the public procurement law thresholds set in the Programme Manual and other relevant documents will be verified by an auditor fulfilling the requirements set in points 1 and 3.

IMPORTANT

Before selecting an auditor, the beneficiary must estimate and plan public procurement procedures within the project including identification of their subject, object and timeframes, to avoid the situation in which a selected auditor will not be entitled to verify the public procurement procedures.

1.3.2.2 Russian auditors' qualifications – not applicable

- 1) The auditor must fulfil at least one of the following requirements:
 - a) be a member of the national authority or body for accounting and audit, which is the member of the IFAC;
 - b) be a member of a national accounting or audit authority or entity. If this organization is not an IFAC member, the auditor must commit to work in accordance with IFAC standards and codes of ethics and must hold at least one of the following certificates: CIA, CGAP, ACCA, CIMA;
 - c) be registered as an auditor in the register of auditors maintained by the National Council of Statutory Auditors.
 - d) be registered as an auditor in the register of auditors and audit organisations of Self-Regulatory Organization (SROs) of auditors, registered in the Russian Federation.
- 2) When verifying public procurement, the auditor must, in addition, fulfil at least one of the following requirements:
 - a) have carried out controls of the correctness of at least 10 public procurement procedures covered by the public procurement law;
 - b) have provided at least 10 legal advisory services concerning public procurement law application, including, among others, issuing written legal opinions, representing before the



National Appeals Chamber.

- 3) Each auditor must have an adequate knowledge of English which corresponds to no less than B2 of the Common European Framework of Reference for Languages.

Projects in which purchases under the public procurement law are planned should contract an auditor fulfilling requirements for public procurement procedures verification mentioned under point 2. The qualifications listed in points 1 and 2 may be proven by two auditors (e.g. cooperating under the civil law with another auditor, a cooperation agreement, a firm with several auditors etc.). Qualifications listed under letters (1 – a, b, c, 2 – a, b) must be fulfilled entirely by one auditor (i.e. situations in which e.g. one auditor confirms completing 5 controls and the other also confirms completing 5 controls will not be considered as the fulfilment of the above conditions).

If the project does not foresee purchases under the public procurement law, the correctness of carrying out procedures below the public procurement law thresholds set in the Programme Manual and other relevant documents will be verified by an auditor fulfilling the requirements set in points 1 and 3.

1.3.3. Auditor approval procedure

1.3.3.1. Approval procedure in Poland

The beneficiary is responsible for selecting an auditor in accordance with the appropriate public procurement procedures and ensuring that the auditor fulfils requirements on auditor independence and qualifications laid down, respectively, in points 1.3.1 and 1.3.2 of these Guidelines.

IMPORTANT

At the stage of drafting the documentation on auditor selection, it is recommended to foresee the possibility to withdraw from/terminate the signed contract for project expenditure verification if the auditor is not approved by the CCP or introduce a note that the agreement will be signed only after the CCP approval is issued.

The auditor specified by the beneficiary must be approved by the CCP. In order to receive the approval, the beneficiary presents a checklist indicating the proposed auditor, and:

- 1) declaration of impartiality and confidentiality of the auditor;
- 2) documents confirming the auditor's qualifications, e.g. certificates⁸;
- 3) documents determining the scope of tasks and the area of the auditor's responsibility, e.g. an agreement;
- 4) in case of public procurement controls, it is necessary to present additional documents confirming that the auditor fulfils the conditions for verifying public procurement procedures, e.g. a list of services carried out.

The positive assessment of the candidate by the CCP shall be documented by issuing a document confirming the auditor's approval and sending it to the beneficiary and the JTS. The CCP should send the approval of the auditor to the beneficiary within 21 working days from receiving documents from the beneficiary considering there is no need for clarifications/additional documents.

⁸ For the purpose of proving the knowledge of English, the presentation of a self-declaration is acceptable



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The LB is responsible for informing the JTS about auditors selected in the project by all partners after it has been approved by the CCP. The checklist template for the auditor's approval is attached as Annex 7 to these Guidelines. The

template of the auditor's approval decision is attached as Annex 8.

If the beneficiary cannot guarantee the independence of the project auditor or the auditor's qualifications do not meet the minimum requirements, the CCP has the right to request the change of the proposed auditor.

Project expenditure may not be verified and reported before an approval of an auditor. Consequently, the auditor's selection procedure should start immediately **after receiving a notice that the project has been approved for co-financing.**

IMPORTANT

A beneficiary should submit an application for an auditor's approval not later than within three months from the date of GC signature, in case the CCP does not give its approval, the procedure of the auditor's selection can be repeated before the deadline for submission of the 2nd request for payment to the JTS.

1.3.3.2. Approval procedure in the Russian Federation – not applicable

In line with point 3.6 and 3.7 of the JOP the Russian CCP shall set up the criteria for the auditors and the official register of auditors meeting the criteria. The beneficiaries shall select the auditors from the afore-mentioned register.

A Register of auditors and a Register of auditing companies are approved by the Ministry of Finance of the Russian Federation can be found on the Ministry of Finance of Russia's official website:

https://www.minfin.ru/ru/performance/audit/reestr_audit/

The Registers contain verified auditors and auditing companies. The process of selecting them will also be held in accordance to the national legislation on a competitive basis. Russian beneficiaries

Being the public institutions shall select the auditors via tender procedures. The tender procedures for project activities can be carried out only after signing of the partnership agreement and the grant contract.

Participating countries are responsible for ensuring that independent from beneficiaries auditors or civil servants selected for the purpose of verifying expenditure incurred by beneficiaries from the territory of a given country, meet the minimum scope of competence specified in art. 32 of the IR and are obliged to use the procedure of the examination of expenditure in accordance with the standards indicated in this article.

IMPORTANT

Russian beneficiaries should provide the JTS with information on the auditor's selection not later than within three months from the date of GC signature.



1.3.3.3. Expelling auditors

The CCP shall withdraw the approval/remove the auditor from the list of auditors and request their replacement, in particular if the MA/JTS/CCP finds:

- significant irregularities in the amount approved by the auditor;
- major errors in expenditure verification, including repetitive shortcomings of similar nature, which indicate that a given area covered by the verification has not been controlled;
- failure to cooperate, including not providing clarifications, information or documents on request and within the deadlines laid down by the MA/JTS/CCP and other entities 18 authorized to control the project, or the failure to submit notes on irregularities;
- a refusal to be controlled by the JTS/CCP and other 18 authorized control institutions;
- if ineligible expenditure is found by other entities 18 authorized to control, if the auditor does not perform the re-verification of expenditure previously approved with a view to the occurrence of the same type of ineligible expenditure or the non-performance of other control follow-up recommendations which affect the verification carried out;
- evidence of a conflict of interest and loss of impartiality in relation to the project beneficiary.

2. EXPENDITURE VERIFICATION

2.1. Expenditure verification stages

Before the interim/final report is submitted to the JTS for approval, it must be verified by an auditor. Every beneficiary selects its own auditor responsible for the administrative verification of expenditure for the part of the project implemented by that beneficiary.

Only expenditure verified and approved by an auditor for a given beneficiary may be considered eligible within the project and presented for the final approval of the JTS.

In order to ensure transparency, all documents confirming the verification of expenditure by auditors must be available for additional project controls to be carried out by other 18 authorized entities. The auditor is obliged to document the course and the results of the verification in a way that will enable a reassessment of the verification (by another auditor or another 18 authorized entity) based on the documents collected during the expenditure verification process. The LB receives post-control documents from all beneficiaries, which confirm that auditors have carried out the verification, including:

- the original certificates signed and dated by auditors together with interim/final reports (together with the list of expenses included in the given report signed by the auditor (last sheet of the financial report – List of expenditure)) verified by auditors (Annex 2);
- the checklists for individual beneficiaries' reports signed and dated by auditors (Annex 3⁹);
- the checklists for public procurement controls (if applicable) signed and dated by the auditors (Annexes 4, 4a, 5);
- the checklists for the verification of competitiveness principles for Polish beneficiaries (if applicable) signed and dated by the auditors (Annex 11 or Annex 11a).

The above-mentioned rules may not be applicable due to the new procedures implemented as a consequence of the war. The subsidiary contracts as well as supplements to the Programme Manual

⁹ Annex 3a in case of BO is not applicable



must be observed.

Having received the above post-control documents (the LB drafts a consolidated narrative and financial project report, presenting data of all beneficiaries (including the LB)).

Then the following documents are forwarded to the JTS:

- consolidated report;
- original certificates (Annex 2) together with the list of expenditure included in a given report signed and dated by the auditor (last sheet of the financial report – List of expenditure) for each project partner;
- the checklists for individual beneficiaries' reports signed and dated by auditors (Annex 3¹⁰) together with all checklists signed and dated by the auditors (public procurement controls, verification of competitiveness principles etc.).

The above-mentioned rules may not be applicable due to the new procedures implemented as a consequence of the war. The subsidiary contracts as well as supplements to the Programme Manual must be observed.

The JTS verifies the report **within 21 working days from the next day of receiving the electronic version** of the report. In the projects with the Russian LB, the JTS will start the verification procedure after receiving the e-version of the last required individual interim report from any of the Polish Beneficiaries. The JTS might start verification of already submitted individual interim report(s) before the last required individual report is provided, if the deadline for submitting the last required individual interim report exceeds six months from the day of registration at the JTS of the first received individual interim report in the given project.

Verification of the report (including its scope and all the deadlines associated with it) by the JTS follows the rules laid down in the JTS Procedures Manual. If clarifications from the beneficiary are necessary, the deadline for the verification is suspended and further verification is continued within 21 working days from the next day of receiving the beneficiary's clarifications.

After the JTS has approved the report in the SL2014, the JTS informs the MA of its approval via email. The MA in accordance with the article 32.2 of the IR takes the final decision as to the regularity of the submitted report, which includes the amount of all the expenditures verified and approved by external auditors. At this stage, the MA may ask the JTS for clarifications or corrections, it may return the report for corrections to the LB or to the auditor. The MA confirms correctness of the report in the system, i.e. SL2014, before the payment may be further proceeded.

If the MA decision is positive the JTS issues the payment order and sends it to the Department of Budget for the payment to be made.

2.2. Deadlines for the interim/final report preparation and the verification by an auditor¹¹

When submitting reports that are subject to certification, the LB must respect the following deadlines:

- The first interim report shall be submitted no later than 1 year after the start of implementation of the Project (it may be submitted earlier – once 70% of the pre-financing payment has been spent);
- Final report (narrative and financial parts) submitted to the Joint Technical Secretariat not later than 3 months after the end of implementation.

¹⁰ Annex 3a in case of BO is not applicable.

¹¹ Point 2.2 does not apply to Programme BO, they have 2 months to submit their financial report. Deadlines for expenditure verification should be negotiated with respective BO.



Coordination of work between the project beneficiaries and auditors falls under the responsibility of the LB. It is recommended that the entire process of preparation and delivery to the JTS of the consolidated narrative and financial project report, the request for payment and control documents issued by all auditors to the JTS, does not exceed 3 months¹²¹². Recommendations concerning the organization of work related to the preparation of interim and final reports within 3 months are presented below.

Due to the responsibility of the auditors in the expenditure verification system, they should receive the documentation confirming the regularity of expenditure incurred by the beneficiary duly in advance. The expenditure verification by the auditor is assumed to take about 1.5 month. Consequently, it is recommended that the individual narrative and financial interim/final report of the project should be provided to the auditor no later than 14 calendar days after the end of the reporting period.

At the same time, the efficiency of the verification greatly depends on the quality and completeness of the documentation drawn up by the beneficiary as well as smooth and prompt submission of clarifications and documents.

In addition, it is recommended that the LB drafts a consolidated narrative and financial report within 21 calendar days from the end of the verification by the auditors (including the time necessary to transfer the original post-control documents from individual beneficiaries to the LB) and submit the required documentation without any delay to the JTS (about 7 days are needed for the delivery of original documents by post to the JTS premises).

2.3. On-the-spot verification by the JTS

The JTS is in charge of the on-going monitoring of project implementation. As part of its monitoring duties, the JTS carries out, among others, on-the-spot verification.

On-the-spot verifications on the Polish side are performed by:

- 1) JTS in a scope of Annex 9a. Checklist for on-the-spot verifications Part I – the JTS;
- 2) PL CCP in a scope of Annex 9b. Checklist for on-the-spot verifications Part 2 – the CCP (template).

This verification is carried out at the offices of the LB/beneficiary of the project or at any other location related to the project implementation. In duly justified cases, when on-the-spot verification at the offices of the LB/beneficiary is impossible (e.g. because of the restrictions introduced by the authorized bodies), the verification may be conducted remotely, e.g. using the on-line tools, after obtaining prior acceptance of the MA for such a way of performing on-the-spot activities.

Part of the verification duties (as specified in Annex 9, part b) may be performed as a desk-check. During such controls the implementation of the entire project or part of it is verified.

The on-the-spot verification scope includes:

- 1) verifying the actual implementation of the project and the actual substantive progress;
- 2) verifying and confirming the activities carried out and their compliance with the contract as well as the information presented in project progress reports;
- 3) an analysis of the project outputs and achievement of project objectives.

The on-the-spot verification shall be carried out using a sample of projects specified in the annual on-

¹² Deadline for the Final Report receipt by the JTS is indicated in the GC and makes 3 months after the project implementation period



the-spot verification plan¹³¹⁴. In exceptional cases, it may also be carried out at the request of the MA, in particular in cases of a suspicion of occurrence or actual occurrence of irregularities having the nature of financial fraud.

Projects are selected for an annual on-the-spot verification plan based on a risk analysis¹⁵. The methodology of selecting a sample for on-the-spot verification is specified in the JTS procedures. Within the framework of the methodology, the JTS also takes into account the results of the project quality assessment.

The main topics taken into account as part of the quality assessment are as follows:

- project implementation progress;
- project implementation delays;
- errors and gaps in reports;
- suspected infringements during project implementation;
- information on control and management risks at the LB/beneficiary institution (frequent changes in management, poor communication with the JTS and between beneficiaries, etc.);
- information from the LB/beneficiary, the MA or another institution regarding the problems in the project;
- numerous ineligible expenditure declared by the beneficiary in its reports;
- results of conducted monitoring visits.

A project may be included in an annual on-the-spot verification plan upon the request of the LB/beneficiary.

The scope of on-the-spot verification shall comply with the attached control checklist (Annex 9 for projects / Annex 9a for service contracts).

Regardless of the above on-the-spot verification, the JTS may also conduct monitoring visits to the project. Monitoring visits may be performed in cooperation with Polish CCP. The scope of the monitoring visit is limited. The JTS /CCP staff members performing the monitoring visit verify only selected elements of project's implementation (e.g. promotional event, conferences, workshops, seminars, action workgroup meetings, location of investment, tender documentation etc.).

2.3.1 Control procedure for the JTS

- 1) CCP informs auditor, JTS and beneficiary about the quality check with an official letter. The quality check is conducted at the auditor as a part of an on the spot verification of supporting documents. The CCP may perform the verification on the spot or as a desk based verification.
- 2) After being notified by the CCP on the quality check, the JTS informs the relevant beneficiary, whose auditor is to be subject of the CCP quality control, at least 5 working days in advance about the on the spot check to be conducted by the JTS at the beneficiary. The JTS underlines its own responsibility for the entire on-the spot verification of the implementation of the project and a fact, that verification of the supporting documents will be performed by CCP (as a part of on the spot check) through the quality check on the beneficiary's auditor. The JTS letter includes information on a planned date of the on-the-spot verification, its general scope as well as the

¹³The Annual On-the-spot Verification Plan shall be drawn up in accordance with the rules laid down in the JTS Procedures Manual.

¹⁴ With exception of the Technical Assistance project implemented by the BO.

¹⁵ With exception of the Technical Assistance project implemented by the BO



- composition of the JTS (names of the control unit members). This letter shall be understood as an authorization for the control unit to perform the on-the-spot verification.
- 3) The CCP quality control of the auditor and the JTS on the spot verification of the beneficiary are conducted in parallel.
 - 4) Having carried out verification, the CCP prepares and sends to the auditor a Quality check report containing a list of the irregularities and errors found, possible questions or recommendations. Quality check report should be sent to the auditor not later than within 2 months from the start of the verification (start date – letter informing the auditor about control). The CCP sends a copy of a quality check report to the beneficiary.
 - 5) The auditor together with the beneficiary has the right to appeal against the quality control results contained in the Quality check report. The CCP reviews the appeal and prepares the Final Quality check report and sends it to auditor, beneficiary and the JTS.
 - 6) If the Quality check report contains a finding of ineligible expenditure, the CCP prepares a note on this irregularity (the amount is agreed with the JTS) and sends to the JTS.
 - 7) If a project is during its period of implementation and it is still possible to deduct irregular expenditure from the next report, the JTS deducts them from the next payment for the project by using appropriate information provided in an Irregularity Note. The MA records the amount recovered in the SL2014. The JTS shall notify the lead beneficiary in writing of the irregular expenditure and the reduction of the payment. Similarly, if a project is at its final stage of implementation, the JTS, deducts the irregular expenditure indicated in an Irregularity Note. When the deduction of the irregular expenditure from the interim/final balance payment is not possible (or the amount to be recovered exceeds the amount to be paid), the MA makes a decision on sending a call for payment to the lead beneficiary. Similarly, if irregular expenditure is found in the project by the JTS, an auditor or another external institution after the final balance has been already approved, the MA issues a call for payment to the lead beneficiary and recovers the amounts unduly paid. If the lead beneficiary does not make the repayment within the deadline set by the Managing Authority, the MA will increase the amounts due by adding interest, as stipulated in the grant contract.
 - 8) Having carried out on-the-spot check on the implementation of the projects and after receiving the final Quality check, the JTS prepares and sends to the beneficiary On-the-spot Verification Report. On-the-spot verification Report is also sent to the auditor of the beneficiary for the information purposes.
 - 9) The cover letter to the On-the-spot Verification Report must obligatorily contain a note that the LB/beneficiary can make justified written objections to the content JTS On-the-spot verification report within 14 calendar days of its receipt. It is no longer possible for the beneficiary to refer to the CCP Quality check report (the beneficiary has the opportunity to appeal at the stage of the appeal procedure to the results of the quality control).
 - 10) The beneficiary has 14 calendar days from the receipt date of the Report to respond and to send the required information, documents, etc. to the JTS.
 - 11) If the JTS does not find shortcomings or irregularities during the on-the-spot control, and the LB/beneficiary does not make objections to the contents of the On-the-spot Verification Report and sends the signed Report copy to the JTS, the report submitted to the beneficiary shall be final. If the beneficiary does not respond or does not sign the On the-spot verification report within 14 calendar days, the report is considered final.



- 12) If the LB/beneficiary submits objections to the content of the Report, the JTS shall consider them
- 13) within 14 calendar days from the date of receiving these objections, and:
 - a. If the JTS finds them partially or fully justified – it shall draft the final version of the Report, including a written position regarding the objections and shall send it to the beneficiary ;
 - or
 - b. If the JTS rejects the objections made by the controlled entity – it shall draw up a written position on the objections and shall sent it to the beneficiary.
- 14) If the LB/beneficiary withdraws from its objections, the JTS shall not consider them.
- 15) During the consideration of the objections the JTS shall carry out additional control activities or shall request the LB/beneficiary to present documents or provide additional clarifications. In each case when the JTS takes the above action, this suspends the deadline (14 days) until such clarifications or documents have been received or by the day when the JTS completes additional control activities. In this case, the JTS notifies the LB/beneficiary of deadline prolongation without delay.
- 16) The JTS fills in the information regarding the on-the-spot verification and quality control in the SL2014 within 7 working days after the control is completed by the JTS and CCP, i.e. 7 working days from signing the lates documents (On-the-spot verification Report or Quality check report) by the last party.
- 17) If the JTS formulates post-control recommendations, the method of their implementation is subject to the JTS verification through ‘correspondence verification’ (based on the documents provided by the beneficiary) or via on-the-spot follow-up verification. The JTS decides on the method of verifying post-control recommendations, taking into account the nature of the recommendations issued.

The scope of the control has been further described in the *Programme Manual* (applicable for the proper call for proposals).

2.4. Reporting irregularities

During the project implementation period, as well as after its completion, there may be some cases when expenditure approved by an auditor is found as irregularity, e.g. during the project implementation monitoring, as a result of financial verification of expenditure or the on-the-spot verification or during the project sustainability period, i.e. after the project’s end. In particular, the requirement to report irregularities may arise as a consequence of verifications and controls conducted by authorized and competent authorities, i.e. the JTS, the CCP, the MA, the EC and the AA and/or as a result of control activities performed by the project’s auditor.

In case of finding an irregularities previously approved – – regardless of who had found them (e.g. AA,), the auditor of the respective project shall promptly notify the JTS and the LB of the project.

In such cases, the auditor shall prepare and submit an Irregularity Note (Annex 10) to the JTS within **5 working days from the date of the administrative finding of the irregularity**. After its detailed revision, the Irregularity Note is promptly provided by the JTS to the MA.

For any irregularities identified by an auditor or other authorized control bodies, the date of the administrative finding is:



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The stage of finding an irregularity	Findings in writing	The date of administrative finding
Project report verification (applies to expenditure previously approved in the report)	A checklist of the project report	Date of Certificate signature
On-the-spot verification by the JTS, checks by other authorized entities	On-the-spot verification report/ post control information	Date of signing the final version of the on-the-spot verification report/post control information

The Irregularity Note should be posted to:

**Joint Technical Secretariat
of the Poland-Russia Cross-border Cooperation Programme 2014-2020
Center of European Projects
14 Głowackiego Street
10-448 Olsztyn**

email: plru@plru.eu

The auditor or other control body that issued an Irregularity Note shall also follow the instructions of the JTS/MA laid down in the response to the Irregularity Note and/ or shall revise the note at a request of the JTS/MA. The auditor shall closely cooperate with CCP as regards the irregularity and provide all necessary explanations.

With respect to any findings of external controls, the auditor shall furthermore cooperate closely with the project partner and provide explanations in the deadlines set by the control bodies.

If a project is at its implementation stage and it is still possible to deduct irregular expenditure from the next payment to the beneficiary, the JTS deducts them from the next payment for the project by using appropriate information provided in an Irregularity Note.

The MA records the amount recovered in the SL2014. The JTS shall notify the lead beneficiary in writing of the irregular expenditure and the reduction of the payment.

Similarly, if the project is at its final stage of implementation, the JTS deducts the irregular expenditure indicated in an Irregularity Note.

When the deduction of the irregular expenditure from the interim/final balance payment is not possible (or the amount to be recovered exceeds the amount to be paid) the MA makes a decision on sending a call for payment to the LB.

Similarly, if irregular expenditure is found in the project by an auditor or another external institution after the final balance has been already approved, the MA issues a call for payment to the LB and recovers the amounts unduly paid.

If the lead beneficiary does not make the repayment within the deadline set by the Managing Authority, the MA will increase the amounts due by adding interest, as stipulated in the grant contract.

The Irregularity Note (template) is attached as Annex 10.



2.5. Procedure for reporting objections to the result of the auditor's verification

A beneficiary has the right to appeal from the result of the auditor's verification to the JTS.

The JTS shall examine the beneficiary's objections within not more than 21 calendar days from the date of receiving the objections.

In the process of examining the objections, the JTS has the right to perform additional verification, request additional documents or clarifications. In each case when the JTS takes the above action, this suspends the deadline (21 days), until such clarifications or documents have been received or by the day when the JTS completes additional control activities. The JTS shall promptly notify the beneficiary about the prolongation of the deadline.

The result of the JTS' control shall be final and the beneficiary shall not have the right to further appeal the JTS' objections. The expenditure recognized as eligible in consequence of resolving the objections shall be approved by an auditor in the next report in which they shall be presented again by the beneficiary (does not apply to the final report). In situations when the beneficiary's appeal, related to expenditures declared in the final report, are recognized as valid by the JTS, the beneficiary shall submit the final report again, including the expenditure that JTS has confirmed eligible. As provided by art. 48 of the IR, all costs incurred should be paid before the submission of the final report. They may be paid afterwards, provided they are listed in the final report together with the estimated date of payment.

3. PROJECT VERIFICATION BY OTHER ENTITIES

3.1 Quality controls by the CCP – not applicable to the Russian projects from 24th February 2022 until further notice

The Polish CCP controls the quality of the administrative verification by an auditor. The purpose of the control is to ensure correctness of the auditors' verification.

Auditors are selected for the quality control based on the sample of projects selected by the JTS for on-the-spot verification¹⁶. Furthermore, the quality control may be launched after finding out about some existing or potential irregularities in the administrative verification of an auditor. The quality control may be conducted as an administrative verification or on-the-spot verification.

The CCP shall have the right to request from an auditor: clarifications, accounting documents and other additional documents confirming eligibility of expenditure.

An auditor has an obligation to be subject to the CCP control and deliver documentation necessary for the control confirming eligibility of expenditure.

In case of a quality control in the form of an on-the-spot verification, the auditor shall ensure availability of facilities required for the control activities.

Furthermore, the CCP shall revise checklists and certificates prepared by auditors with the list of expenditure in terms of their compliance and reliability, including requests for additional clarifications regarding expenditure already certified and changes made by the auditor to the post-control documentation. During quality control the CCP verifies the existence of the supporting documents delivered by the beneficiary to the auditor (e.g. invoice, protocols, public procurement procedures, agenda, minutes and list of participants of meetings held, promotional material, studies, work contract

¹⁶ With exception of the Technical Assistance project implemented by the BO, which is verified once during contract implementation period.



etc.) which allow to verify whether the checks documented by the auditor in the checklist were done properly.

As a result of the performed quality control the CCP fills in Annex 9b to the Guidelines on Expenditure Verification as well as relevant checklists to the public procurement procedure. The control ends with preparing the Quality check report (Annex 14 to the Guidelines). The scan of the Report, signed by the CCP, as well as the copies of the checklists are forwarded to the JTS in the deadlines specified by the JTS.

All weaknesses and errors detected during quality check shall be communicated with the auditors. The results, included in the above-mentioned Quality Check Report shall be then sent to the JTS.

Control shall be performed during the contract execution period on the basis of an on-going analysis of project reports.

3.1.1. Start of a quality check:

The Auditor will be informed at least 5 working days in advance about on-the-spot/on-desk verification by letter sent by email. The CCP sends a copy of the letter to the JTS and a beneficiary.

The letter includes information on a planned date of the check, its general scope as well as the composition of the control team (names). This letter shall be understood as an authorisation for the control unit to perform the check.

Reports as well as costs to be verified by the CCP during the quality check are selected using sampling methodology as described in Annex 15. During the verification of the quality standards of audit works the CCP employee(s) clarifies questions with the auditor/JTS/MA.

3.1.2. Quality check report:

Quality check report should be sent to the auditor not later than within 2 months from the start of the verification (the start date is indicated in the letter informing the auditor about the control). The CCP sends a copy of a quality check report to the beneficiary.

The cover letter must obligatorily contain an information that the auditor:

- a) can make justified, written objections against the result of the quality check report, within 14 working days of its receiving (appeal procedure),
- b) is obliged to contact a beneficiary in order to cooperate under an appeal procedure and prepare position/objections against the result of the quality check report,
- c) present objections, if any, as a common position of auditor and beneficiary, or separately, if the position of auditor and a beneficiary is different. If the beneficiary did not provide any position, the auditor includes this information in response to the result of the quality check.

3.1.3. Post control procedure:

1. The auditor has 14 calendar days from the receipt date of the quality check report to respond and to send the required information, documents, etc. to the CCP.
2. If the auditor does not make objections to the contents of the Quality check report and sends the signed Report copy to the CCP, the quality check report submitted to the auditor shall be final.
3. If the auditor submits objections to the contents of the quality check report, the CCP shall



consider them within 14 calendar days from the date of receiving the auditor's appeal, and:

- a) If the CCP finds them partially or fully justified – it shall draft the final version of the quality check report including a written position regarding the objections and send it to the auditor within 14 calendar days;
 - or
 - b) If the CCP rejects the objections made by the auditor – it shall draw the final version of the quality check report, including a written position regarding the objections and send it to the auditor within 14 calendar days. The quality check report submitted to the auditor shall be regarded as final.
4. During the consideration of the objections referred to in point 3 above, the CCP shall carry out additional control activities or request the auditor to present documents or provide additional clarifications. In each case when the CCP takes the above action, this suspends the deadline (14 days) until such clarifications or documents have been received or by the day when the CCP completes additional control activities. In this case, the CCP notifies the auditor regarding deadline prolongation without delay.
 5. The CCP sends a copy of a final quality check report to the JST and the beneficiary. If the Quality check report contains a finding of ineligible expenditure, the CCP prepares a project of an irregularity note and submits it to the JTS. The amount of irregularity is agreed with the JTS. JTS sends an irregularity note to the MA. If the auditor withdraws its objections, the CCP shall not consider them.
 6. If the CCP formulates post-control recommendations, the method of their implementation is subject to the CCP verification through "correspondence verification" (based on the documents provided by the auditor) or via on-the-spot follow-up verification. The CCP decides on the method of verifying post-control recommendations, taking into account the nature of the recommendations issued.

3.2. Other controls or audits carried out by authorised entities

Apart from the controls mentioned above, performed on regular basis by the JTS/CCP and the AA, project controls may also be conducted by other authorities, both national and European ones, authorised to control entities delivering projects financing from the EU funds, e.g. the EC, the European Court of Auditors (ECA), the European Anti-Fraud Office (OLAF) or national control bodies, e.g. the Supreme Audit Office, customs and tax offices, the Public Procurement Office, Central Anti-Corruption Bureau in Poland, etc.

Russian beneficiaries may also be subject for additional controls of the Russian national authorities, with respect to spending the Russian co-financing granted to them.

In case of the above-listed controls, the auditor and the beneficiary shall accept to be controlled for correctness of performance of their obligations within the project.

During the control, the auditor and the beneficiary shall make available all the documents they may have, provide any explanation which may be needed by the date given by the controlling entity and actively cooperate with the control team.

Should irregularities be found as a result of above-mentioned controls, the auditor shall prepare the Irregularity Note and send it to the JTS, according to the procedure described in chapter 2.4.



3.3. Auditor's cooperation with the CCP/JTS and other entities

Each beneficiary should ensure cooperation between an auditor and entities authorised to control and audit the project, in particular when finding any ineligible expenditure at the stage of verifying the consolidated report by the JTS and also in case of any existing or potential irregularities, including financial fraud and after the report is approved by the JTS and the payment is carried out.

In addition, an auditor should participate in trainings and seminars on eligibility of expenditure under the Programme.

A failure to meet auditor's obligations arising from these Guidelines shall result in withdrawing the approval of the auditor (PL)/removal from the auditors' list (RU) and, therefore, making impossible approval of expenditure by the JTS. National Authority in the Russian Federation shall be informed of any financial fraud or objections towards the performance of Russian auditors within due time.

IMPORTANT

A contract with an auditor should include, at least:

- a) the purpose, the scope and the elements of the auditor's verification compliant with these Guidelines;
- b) the obligation to submit notes on irregularity;
- c) the auditor's obligation to cooperate with the JTS/CCP/MA/AA and other authorised control entities;
- d) the obligation to provide clarifications, answers, submit documents on request of the JTS/CCP/MA/AA and other control authorities within deadlines specified by the control entities;
- e) the obligation of impartiality and confidentiality according to the scope specified in these Guidelines.

Template contract has been published on programme website www.plru.eu

The template contract is not compulsory and is only of recommendation nature.

IMPORTANT

Any irregularities found by the CCP/JTS in the reports approved by an auditor, an incorrect scope of verification carried out by an auditor, an auditor not cooperating with the CCP/JTS during the project implementation, as well as an auditor not being able to provide clarifications and answers to the questions posed by the CCP/JTS within the requested deadlines may result in a delay of payments or loss of the co-financing by the beneficiary. Therefore, it is highly recommended to define in the contract with an auditor contractual penalties:

- the scope of liability and the scope of services at least corresponding to the scope specified in these Guidelines,
- sensible correlation between responsibility and quality, accuracy and timely confirmation of expenditure correctness,
- availability of the auditor, including the obligation to communicate with the CCP/JTS, other authorised control entities and beneficiaries until the final balance payment is received,
- the beneficiary given the right to withdraw from a contract with an auditor or change an



auditor in cases of finding any ineligible expenditure in the expenditure confirmed by an auditor and in case of withdrawal of the auditor's approval (PL) by the CCP/removal of the auditor from the list of auditors (RU) and the right to request a replacement of an auditor.

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