



**ENI CROSS-BORDER COOPERATION PROGRAMME
POLAND-BELARUS-UKRAINE 2014-2020**

GUIDELINES ON EXPENDITURE VERIFICATION

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Legal Framework

Common legal grounds:

1. Regulation (EU) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument;
2. 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;
3. The ENI Cross-Border Cooperation Programme Poland-Belarus-Ukraine 2014-2020 (applicable version as published on the Programme website).

Legal grounds for the Republic of Belarus:

4. Law of the Republic of Belarus No. 61-3 dated November 9, 2009 “On Ratification of the Framework Agreement signed by the Government of Belarus and the Commission of the European Communities”;
5. Decree of the President of the Republic of Belarus No. 485 dated December 23, 2016 “On the Draft International Treaty”;
6. Law of the Republic of Belarus No. 55-3 dated October 17, 2017 “On Ratification of the Financing Agreement for the cross-border cooperation (CBC)”;
7. Decree of the President of the Republic of Belarus No. 304 dated August 8, 2019 "On the implementation of agreements on cross-border cooperation financing;
8. Resolution of the Council of Ministers of the Republic of Belarus No. 661 dated September 26, 2019 "On the implementation of Decree of the President of the Republic of Belarus No. 304 dated August 8, 2019;
9. Law of the Republic of Belarus №56-3 dated July 12, 2013 “On Audit Activity”;
10. Decree of the President of the Republic of Belarus No. 460 dated October 22, 2003 “On International Technical Assistance provided to the Republic of Belarus” (as subsequently amended);
11. Resolution of the Council of Ministers of the Republic of Belarus No. 1513 dated November 26, 2004 “On Approving the Provision on the Procedure of Evaluation of the Progress and Effectiveness of International Technical Assistance Projects (Programs)” (as subsequently amended);
12. Resolution of the Council of Ministers of the Republic of Belarus No. 1522 dated November 21, 2003 “On Certain Measures Aimed at Implementing the Decree of the President of Belarus No. 460 dated October 22, 2003” (as subsequently amended);
13. Resolution of the Council of Ministers of the Republic of Belarus No. 889 dated October 22, 2015 “About coordination of the international technical cooperation with the European Union”.

Legal grounds for Ukraine:

14. Framework Agreement between the Government of Ukraine and the Commission of the European Communities of 03.09.2008 (Law of Ukraine dated 03.09.2008 No. 360-VI);
15. The Financing Agreement between the Government of Ukraine and the European Commission concerning Joint Operational Programme “Poland-Belarus-Ukraine 2014-2020” (ENI-CBC/2015/039-006) dated December 19, 2016;
16. Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Procedure for the Involvement, Use and Monitoring of International Technical Assistance" dated February 15, 2002, No.153;



17. Resolution of the Cabinet of Ministers of Ukraine “On Approval of the Procedure for the Creation of the National ENI CBC Management and Control System within ENI CBC Programmes 2014-2020” dated July 11, 2018, No.554;
18. The Order of the Ministry of Finance of Ukraine "On Approval of the Procedure for the Establishment of an Open List of Independent Auditors in the Framework of Joint Operational Programs of the Cross-Border Cooperation within the European Neighborhood Instrument 2014-2020" dated December 19, 2018, No. 1045;
19. The Order of the Ministry of Finance "On the Creation of the Commission for the competitive selection of independent auditors in the Framework of Joint Operational Programs of the Cross-Border Cooperation within European Neighborhood Instrument 2014-2020" (with changes) dated February 7, 2019, No. 51;
20. Resolution of the Cabinet of Ministers of Ukraine “On returning of unduly spent funds and unused part of the European Union grant provided for the project's implementation under Joint Operational Cross-Border Cooperation Programmes of the European Neighborhood Instrument 2014-2020” dated June 17, 2020, No.497;
21. Resolution of the Cabinet of Ministers of Ukraine “On approval of the Procedure for conducting inspections of expenditure compliance and verification incurred by main partners and/or partners (residents) during the implementation of projects under joint operational programs of the European Neighborhood Instrument 2014-2020” dated June 30, 2021, No.674.

Glossary of terms

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

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.

Belarusian Control Contact Point - set up in Belarus in order to support the Managing Authority in verification of expenditures declared by the Belarusian beneficiaries. Belarusian CCP signs service contract with Managing Authority. Roles and responsibilities of CCPs are described in the JOP (p. 4.8).

Beneficiary: each entity specified in the contract (and its annexes) who participates in the project and concludes the partnership agreement with the lead beneficiary.

Branch office of the Programme - three BOs are set up in the participating countries in order to assist the JTS in its functions. Each BO signs service contract with Managing Authority. Roles and responsibilities of BOs are described in the JOP (p. 4.5).

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

Cut-off date: means 24th February 2022, the date since when the expenditures incurred and paid by Belarusian beneficiaries are ineligible.

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

¹ Provisions of these Guidelines apply mutatis mutandis to BOs and Belarusian CCP functioning on the basis of service contracts signed between BOs/Belarusian CCP and the MA. This mean that auditor should check



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 and Belarus and Ukraine and national regulations of the Lead Beneficiary/Beneficiary and the rules laid down in the Programme documents.

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 EU budget by charging an unjustified item of expenditure to the budget of the Union.

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: Cross-Border Cooperation Programme Poland-Belarus-Ukraine 2014-2020.

Programme documents: documents approved by the Managing Authority or the Joint Monitoring Committee, applicable to the Programme implementation.

Progress Report: interim and/or final report submitted by the lead beneficiary to the Joint Technical Secretariat according to the Programme Manual (applicable for the relevant call for proposals) and the contract, presenting progress in implementation of the entire project, including the financial and operational progress.

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

Regulation: Commission Implementing Regulation (EU) no 897/2014 of 18 August 2014 laying down specific provisions for the implementation of cross-border cooperation programmes financed under Regulation (EU) No 232/2014 of the European Parliament and the Council establishing a European Neighbourhood Instrument.

Simplified methods for settling expenditure: lump sums, unit costs, flat-rates which are co-financing in the form indicated in art. 50 of the Implementing Regulation of the EC (EU) No 897/2014 of 18 August 2014.

equivalent available documents, for ex. service contract instead of grant contract/project, tender offer instead of application form etc. Each service contract is implemented by only one entity, so there is no partnership agreement in case of BOs/Belarusian CCP. Please note that service contracts differ from grant contracts, therefore some provisions/annexes are different in case of BOs/Belarusian CCP verification. The cut-off date of 24th February is applicable to Belarusian entities until further notice.



List of Acronyms:

AA - Audit Authority

BO – Programme branch office

CCP - Control Contact Point

EC - European Commission

GoA – Group of Auditors

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 ENI Cross-Border Cooperation Programme Poland-Belarus-Ukraine 2014-2020 (13/12/2016).

JTS - Joint Technical Secretariat appointed as Intermediate Body

MA - Managing Authority

NA – National Authority

Introduction

Projects implemented within the Cross-border Cooperation Programme Poland-Belarus-Ukraine 2014-2020 (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 Belarusian and Ukrainian beneficiaries). The 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 and engagement of Belarusian central authorities in the war against Ukraine, the EC has suspended cooperation with Belarus within the Programme. Consequently, all the payments to the Belarusian beneficiaries from MA have been suspended.

The Belarusian beneficiaries may continue projects under their own responsibility, bearing in mind that the EC has suspended payments to them and the Programme decided that any expenditure incurred and paid by them **from 24th February 2022** is ineligible. This applies to expenditure verification costs as well – Programme will not cover audit services costs incurred and paid by Belarussian beneficiaries since 24th February 2022.

Russian military aggression and engagement of Belarusian central authorities in the war against Ukraine significantly affected the implementation of 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 Joint Monitoring Committee, which regulate new rules of the Programme implementation. Of special attention are the *Supplement to the Programme Manuals related to suspension of the Financing Agreement* and new kinds of contracts (supplementary), signed with partners in projects with the Belarussian Lead beneficiary. New eligibility rules have been applied in the Programme which must be familiarize with by the auditors.



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.

This amendment of Guidelines is proceeded due to the changes being a consequence of the war.

The rules are in force as of 24th February 2022 until further notice.



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 contract.

The auditor's responsibility is to confirm the audit trail, including the confirmation that the services, deliveries or works have been 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 progress 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 in the Programme documents related to the eligibility of expenditure and in the contract;
- 3) has actually been incurred during the eligibility period of project expenditure, with respect to the cut-off date on 24th February 2022;
- 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 the auditor

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

- 1) verifying whether the progress report has been filled in correctly with regard to formal and accounting aspects;
- 2) verifying whether the expenditure declared complies with the contract, partnership agreement, i.e. whether it has been planned in the project and is settled in accordance with the eligibility rules and within the correct expenditure category;
- 3) verifying whether the lead beneficiary has transferred funds to the project partner(s) in accordance with the contract, supplementary contract and partnership agreement, with reservation to the rules applied as a consequence of the war (direct payments from the MA to project partners);
- 4) verifying whether the substantive scope of the project is being implemented in accordance with the schedule of the contract, including whether the required indicators have been achieved;
- 5) verifying whether the costs, expenditure and revenue of the project as well as 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;
- 6) verifying whether the contractors of services, deliveries and works under the project have been selected through the appropriate tender procedures, including compliance with the national public procurement law;
- 7) 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:



- a. MSWiA, link: <https://www.gov.pl/web/mswia/lista-osob-i-podmiotow-objetych-sankcjami>
 - b. 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>
 - c. 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>
- 8) verifying the compliance of the expenditure incurred with the national regulations and Programme requirements (regulations on state aid, visibility, publicity, environment protection and equal opportunities, if applicable);
 - 9) verifying documentation confirming the delivery of co-financed goods, services and construction works;
 - 10) verifying whether the expenditure has been actually incurred and paid, with the exception of simplified methods of expenditure settlement;
 - 11) 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 methods of expenditure settlement;
 - 12) 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;
 - 13) verifying the complete tender documentation for contracts awarded under the project in accordance with the national law;
 - 14) verifying the documentation of the selection of the subcontractor 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 requirements for contracts);
 - 15) verifying whether the award of contracts has complied with competition rules specified in Programme documents;
 - 16) verifying methods of archiving project documentation to ensure the documents are accessible in case of future controls;
 - 17) verifying whether the project beneficiary has implemented recommendations following the controls and audits carried out and whether it has remedied the irregularities if any have been found.

The auditor shall verify expenditure based on 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 the auditor

During the administrative verification, the auditor checks whether:



- 1) the report has been filled in correctly in terms of formal and accounting aspects;
- 2) the required annexes to the report have been attached;
- 3) the 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 and documents regulating the Programme rules as a consequence of the war (applicable to the respective call)²;
- 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;
- 7) the report does not contain the ineligible expenditure listed in the Implementing Regulation 897/2014;
- 8) financial and accounting documents have been correctly described, correspond to the expenditure incurred and confirm it;
- 9) the lead beneficiary and the remaining beneficiaries of the project have a separate accounting system 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 settlement methods – 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 approved lump sum value;
 - b. whether the activity covered by the lump sum payment has been implemented;
 - c. whether costs are not double-reported (e.g. the purchase covered by the flat-rate financing has not also been financed under a different budget line);
 - d. whether the approved methodology has been used to establish the value of the lump sums and flat-rates;
 - e. in case of value modification of cost category which was the base for flat-rate calculation: whether the value of the flat-rate has been changed proportionally.

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

The auditor shall administratively verify the report on the basis of information included, among others, in:

- 1) the contract including annexes and all addendum or modifications, including the additional – supplementary contracts signed by the MA with project partners as a consequence of the war;
- 2) the partnership agreement concluded between the lead beneficiary and the beneficiary(-ies) of the project including all annexes, addendum or modifications, with reservation to rules applied as a consequence of the war (partnership agreements with Belarussian partners no longer in force);
- 3) the progress report, including all annexes;

² In case of Ukrainian BOs. eligibility rules are described in the JOP (points 5.5 and 5.10) and the contract. Belarussian BO and the CCP are subject for the same restrictions as regular Programme projects, and their expenditures are regarded ineligible until further notice.



- 4) in case of expenditure financed on the basis of real costs – documents confirming the regularity and eligibility of expenditure included in the 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 simplified settlement methods – approved methodology

1.2.2 Verification of public procurement by the auditor

The public procurement rules set in the Programme Manual (applicable for respective call for proposals³) 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:

- the Programme Manual including procurement procedures set out in art. 53 to 56 of the Regulation;
- national rules;
- internal rules of the partner organization.

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

To confirm correctness of the procedures governed by 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:
 - 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 did not distort competition in the relevant market and that there was no modification of the object of the initial contract);
- 3) the terms of reference sufficiently specified, including clear information for candidates on award and weighting criteria, and all possible 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;

³ In case of BOs in Ukraine 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) as well as with the Programme procurement guidelines for service contracts (valid at the moment of procurement launch). In case of BO in Poland contracts shall be awarded in accordance with Article 37 of Implementing Regulation. Procurements by BOs shall be limited to ordinary running costs and costs for communication and visibility activities. Belarusian BO and the CCP are subject for the same restrictions as regular programme projects, and their expenditures are regarded ineligible until further notice.



- 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 and to limit the risk of ineligible expenditure, 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 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 the Programme requirements.

In the case of Ukrainian and Belarusian 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 in the Cross-Border Cooperation Programme Poland-Belarus-Ukraine 2014-2020 constituting Annex 1.

In the 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 contracts⁴.

1.2.3 Form of administrative verification carried out by the auditor

The administrative verification of project expenditure may be carried out by the auditor at office (the beneficiaries provide documents confirmed as true to the original copies – on desk control) and/or at the project implementation site/at the beneficiary's offices, based on original documents – on-the-spot control.

The verification covers 100% of expenditure reported by the beneficiary.

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

⁴ The Regulation of the Minister of Economic Development and Finance of 22 February 2017 on the conditions for value reduction, financial corrections and expenditure incorrectly incurred in connection with granting contracts (Dz.U. 2017 poz. 615) amending the Regulation of the Minister of Development of 29 January 2016 on the conditions for value reduction, financial corrections and expenditure incorrectly incurred in connection with granting contracts (Dz.U. - Journal of Laws – of 2016, item 200) and amendments thereto.



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 providing clarifications to auditors within the time limits set by the auditors.

The administrative verification on-the-spot/at the beneficiary's office is obligatory in case of purchase of fixed assets by the beneficiary for the value equal to or higher than 5000 EUR gross. This type of verification should be carried out before the final report submission.

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

- 1) whether the co-financed goods and services have been delivered,
- 2) whether the actual progress of the project corresponds to the information presented in the reports and whether the expenditure declared by the beneficiary in connection with the project implementation has really been incurred and complies with the requirements of the Programme as well as EU and national rules (if applicable),
- 3) whether separate accounting records are kept for the purposes of the project,
- 4) whether the originals of the documents, presented by the beneficiary for the administrative verification, are available,
- 5) whether the conditions of documentation storage and archiving, including ensuring the audit trail, have been met,
- 6) whether the information and visibility requirements are fulfilled, which is checked by visually 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 assets inventory number,
 - d) verifying the correct marking of assets in accordance with the Programme visibility rules.
- 7) 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 (applicable to the respective call for proposals) 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 progress 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 3⁵ to these Guidelines for projects and Annex 3a for service contracts (BOs/Belarusian CCP), with the restriction that expenditures of the Belarusian BO and the CCP are ineligible as of 24th February 2022 until further notice.

The verification of the compliance of the procedure with the national public procurement regulations is additionally documented by the auditor by filling in and signing a checklist for public procurement control. The template of the minimum scope of the checklist for public procurement 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 since 01/01/2021) for Polish procedures, Annex 5 for Belarusian procedures (not applicable as of 24th February 2022), Annex 6 and Annex 6a for Ukrainian procedures.

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 13 to the Guidelines) during verification of public procurement procedures. The auditor before beginning of control process has to send Annex 13 to the beneficiary in order to inform a beneficiary 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 finalised 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 14 to these Guidelines Annex 13 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 authorised 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 fulfil the independence requirements of the IFAC's Code of Ethics for Professional Accountants.

In addition, the auditor's independence is defined as their organisational independence from the institutional structures and the operational activities of the beneficiary, including activities carried out as part of the project. The impartiality and independence shall be infringed in case of provision of assurance, advisory or consulting services concerning the activities of the beneficiary within two years preceding the start of providing the project verification service, with the exception of providing services concerning the verification of projects financed from the European Neighbourhood and Partnership Instrument and the European Neighbourhood Instrument.

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 interest, when the 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.

⁵ In case of Polish beneficiaries, the auditor shall fill in also the checklist constituting Annex 12 or Annex 12a should the expenditure be subject to the principles of competitiveness.



The auditor's independence and impartiality is seen 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, MA, AA, and CCP.

The verification can start only after the previous signing of the declaration of impartiality and confidentiality constituting Annex 7 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 organisation 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) 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 the public procurement law application, including, among others, issuing written legal opinions, representing before the National Appeals Chamber.
- 3) The auditor must have an adequate knowledge of English which corresponds to no less than B2 of the Common European Framework of Reference for Languages.

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.), whereas each point 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).

IMPORTANT!!!

Before selecting the 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 Ukrainian auditors' qualifications

Following criteria for auditor selection shall be met:

1. The subject of audit activity should be a legal entity included in the register of audit firms and auditors conducted by the Audit Chamber of Ukraine.
2. A subject of audit activity must have worked in the Ukrainian audit service market for not less than five years.
3. Auditors (employees of the audit firm) must have experience in auditing international technical assistance projects or cooperation projects with international donors and must possess the necessary knowledge of public procurement procedures..
4. A subject of audit activity that claims to conduct expenditure verification and provide audit services to beneficiaries of grant funds must have successfully passed the quality control of audit services.
5. Auditors (employees of the audit firm) who will be involved in audits and provide other auditing services to beneficiaries of grant funds must be certified in Ukraine and have at least one of the following international qualifications: CAP, CIPA, ACCA, IAB, CIMA.
6. Auditors (employees of the audit firm) who will be involved in audits and provide other auditing services to beneficiaries of grant funds must speak English at a level not lower than B2, as confirmed by an international certificate (IELTS, TOEFL, ESOL, CPE, BEC Higher) or by a self-declaration of an auditor confirming an adequate knowledge of English at a level not lower than B2 (self-declaration shall be filled in in English, no form-based).

Each auditor shall meet all the criteria.

1.3.2.3 Belarusian auditors' qualifications – not applicable since 24th February 2022 until further notice

The auditor must meet the following criteria:

- 1) have excellent knowledge of the legislation of the Republic of Belarus in the field of audit, accounting, taxation, as well as the legislation related to international technical assistance;
- 2) be registered in the Unified State Register of Legal Entities and Individual Entrepreneurs and be included in the List of Audit Organizations published by the Ministry of Finance of the Republic of Belarus (http://www.minfin.gov.by/ru/auditor_activities/scroll_audit_org/);
- 3) have at least 5 years' working experience on Belarusian market;
- 4) have experience auditing ITA projects;
- 5) carry out auditor checks with application of the International Financial Reporting Standards (IFRS);
- 6) have full proficiency in the English language.

1.3.3 Auditor approval procedure

1.3.3.1 Approval procedure in Poland

The beneficiary is responsible for selecting the 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) documents confirming the auditor's qualifications, e.g. certificates⁶,
- 2) documents determining the scope of tasks and the area of the auditor's responsibility, e.g. an agreement.
- 3) 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 checklist template for the auditor's approval is Annex 8 to these Guidelines. The template of the auditor's approval decision is attached as Annex 9.

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 the approval of the auditor. Consequently, the auditor selection procedure should start immediately **after receiving a notice that the project has been approved for co-financing.**

IMPORTANT!!!

The beneficiary should submit an application for auditor approval no later than within three months from the date of grant contract signature, so if the CCP does not give its approval, the procedure of auditor 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 Ukraine

In line with point 4.8 of the JOP the Ukrainian CCP shall preselect independent auditors, which includes:

- launching a call for expression of interest by auditors;
- quality check of compliance with the requirements by auditors (in cooperation with the Audit Chamber of Ukraine);
- creation of an open long list of independent auditors that may be selected by beneficiaries for project expenditure verification;
- introducing changes to the list (adding or removing of auditors).

⁶ For the purpose of proving the knowledge of English, the presentation of a self-declaration is permitted.



Procedure of selection of auditors by Ukrainian beneficiaries

Public entities, starting from 19.04.2020, obliged to apply the Ukrainian legislation on procurement in the course of the procurement of services of an audit, in particular:

- for services with a value of UAH 200 000 or more using one of the procedures provided for in Article 13 of the Ukrainian Law “On public procurement” (as amended by the Law of 19.09.2019 № 114-IX, which entered into force on 19.04.2020) (hereinafter – the Law);
- for services with a value of UAH 50 000 or more but less than UAH 200 000 - beneficiaries carry out simplified procedure using electronic procurement system (ProZorro) in the manner prescribed by Article 14 of the Law;
- for services with a value of less than UAH 50 000 - using an electronic procurement system or without the use of an electronic procurement system with obligatory publication in ProZorro of the report on the procurement contract concluded without the use of the electronic procurement system (the procedure for sub-threshold procurement is defined by the Instruction on the use the electronic procurement system in case procurement cost is less than the threshold stipulated in the part three of Article 3 of the Law, approved by the order of SE “PROZORRO” dated 19.03.2019 № 10, as amended by the order of SE “PROZORRO” dated 17.04.2020 № 18).

Private entities (NGO) obliged to apply Programme rules on procurement, in particular:

- for services with a value of less than EUR 2 500 the Beneficiary may place orders on the basis of a direct award;
- for services with a value of EUR 2 500 or more but less than EUR 20 000 the Beneficiary may place orders on the basis of a single tender;
- for service with a value of EUR 20 000 or more but less than EUR 300 000 shall be awarded by means of a competitive negotiated procedure without publication.

Only the auditors from the approved list may submit proposals. The list is available on the Programme's website under Documents - Implementation phase, as well as on the website of the Ministry of Finance of Ukraine - https://mof.gov.ua/uk/284-do_uvagi_auditoriv.

Each Ukrainian beneficiary of the project must inform the Ukrainian Control Contact Point (Ministry of Finance of Ukraine) about the auditor chosen to carry out the expenditure verification of that beneficiary by sending an e-mail to the UA CCP with filled in and signed Annex No 8a.

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 Regulation 897/2014 and are obliged to use the procedure of the examination of expenditure in accordance with the standards indicated in this article.

1.3.3.3 Approval procedure in Belarus – not applicable since 24th February 2022 until further notice

In line with point 4.8 of the JOP the Belarusian CCP shall preselect independent auditors, which includes:

- coordinating the development of criteria for drawing up the list of auditing companies, whose services Belarusian partners should use to verify expenditure under the projects in accordance with requirements and the IR (jointly with the Ministry of Finance and others concerned);



- coordinating the drafting and approval of the list of auditing companies taking due account of previously developed criteria (jointly with the Ministry of Finance and others concerned);
- submitting this list to the MA and to the NA, as well as ensuring its actualisation during the Programme implementation.

The Belarusian CCP will apply the open tender procedure for the process of selection of the list of auditors for the Programme .

The open tender procedure will ensure that the auditors included into the list are both willing and able to perform their functions within the Programme.

The process will include the following steps:

- Announcement of the tender (media, web-site of the Center of the EU International Technical Assistance (ITA) Centre in Belarus, direct contacting of the leading service providers).
- Receive and analyze proposals from the applying auditors (approximately one month).
- Selection of the auditors to be included into the list of auditors (approximately one month). This step may include contracting external short-term experts.

The selection of the auditors will be done based on the criteria listed under point 1.3.2.3 of these Guidelines. Any auditor to be included into the list must comply to all of the listed criteria. Those selected will be the ones demonstrating the best scores.

The list includes points for each criterion. Those points would be summed up during the selection process. Those auditors enjoying the highest scores will be included into the list of auditors of the Programme:

- Have official registration (5 points);
- Have at least 5 years' working experience on Belarusian market (1 point per year);
- Have experience auditing ITA projects (1 point per project/contract);
- Have employees (auditors) knowing foreign languages (English) (2 points per employee);
- Have international certificate (5 points).

The CCP will draft a report on the process of the selection of the auditors for the Programme within ten days after the finalization of the process.

This report will be included into the monthly report due to submission after the selection procedure is finalized and into the final report of the project.

Belarusian beneficiaries will contract auditors from those included into the above-mentioned List.. Depending on the binding thresholds, Belarusian beneficiaries shall follow one of the procurement procedures, stipulated in the *General rules of procurement by beneficiaries within the PBU projects (Annex X to the Programme Manual - part 1)* to select an auditor from the above-mentioned List.

1.3.3.4 Expelling auditors

The CCP shall withdraw the approval/remove the auditor from the list 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 authorised to control the project, or the failure to submit notes on irregularities;



- a refusal to be controlled by the JTS/CCP and other authorised control institutions;
- if ineligible expenditures are found by other entities authorised to control, if the auditor does not perform the re-verification of expenditures previously approved with a view to the occurrence of the same type of ineligible expenditures or 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 progress report is submitted to the JTS for approval, it must be verified by the 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 the auditor for the given beneficiary may be considered eligible within the project and presented for the final approval to the JTS.

To ensure transparency, all documents confirming the verification of expenditure by the auditors must be available for additional project controls to be carried out by other authorised 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 authorised entity) based on the documents collected during the expenditure verification process.

The lead beneficiary receives post-control documents from all beneficiaries, which confirm that auditors have carried out the verification, including:

- the original certificates (Annex 2) signed by the auditors together with Progress Reports (narrative report and last sheet of the financial report - List of expenditure). Narrative report and the List of expenditure included in the given report shall be signed by the auditor in order to provide an audit trail of checking the above documents. The auditor should place a signature at the envisaged placeholder 'Checked during the expenditure verification'.
- the checklists for individual beneficiaries' reports signed by auditors (Annex 3⁷);
- the checklists for public procurement controls (if applicable) signed by the auditors (Annexes 4, 4a, 5, 6);
- the checklists for the verification of competitiveness principles for Polish beneficiaries (if applicable) signed by the auditors (Annex 12 or Annex 12a).

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

Having received the above post-control documents (in case due to the war not all documents were sent to the lead beneficiary, he/she works on available data or omits partners' documents), the lead beneficiary drafts a consolidated narrative and financial project progress report, presenting data of all beneficiaries (including the lead beneficiary). Then the following documents are forwarded to the JTS:

- consolidated report;
- original certificates (Annex 2) together with Progress Reports (narrative report and the List of expenditure included in the given report signed by the auditor) for each project partner;

⁷ Annex 3a in case of BOs/Belarusian CCP, with reservation to the cut-off date



- the checklists for individual beneficiaries' reports signed by auditors (Annex 3⁸) together with all checklists signed 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 supplementary contracts as well as Supplement to the Programme Manual must be observed.

The JTS should verify the report within the deadline of 21 days. 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 without undue delay after clarifications from the beneficiary have been received.

After the JTS has approved the report, the request for payment is sent to the Managing Authority Department responsible for proceeding with payments.

2.2 Deadlines for the Progress Report preparation and the verification by the auditor⁹

When submitting reports that are subject to certification the lead beneficiary has to respect the following deadlines:

- Interim Progress Report - no later than 1 year after the entry of the grant contract into force this report is submitted to the JTS (it may be submitted earlier – once 70% of the prefinancing payment has been spent) – not applicable to micro-projects, with reservation to the rules applied due to the war;
- Final Progress Report - no later than within 3 months from the end of the project implementation period this report is received by the JTS, with reservation to the rules applied due to the war.

Coordination of work between the project beneficiaries and auditors falls under the responsibility of the lead beneficiary. It is recommended that the entire process of preparation and delivery of the consolidated narrative and financial project progress report, the request for payment and control documents issued by all auditors to the JTS, does not exceed 3 months¹⁰, with reservation to the rules applied due to the war. Recommendations concerning the organization of work related to the preparation of Progress Reports within 3 months are presented below.

Due to their responsibilities in the expenditure verification system, the auditors 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 months. Consequently, it is recommended that the individual narrative and financial progress report of the project should be provided to the auditor no later than 14 calendar days after the end of the reporting period. In case of Ukrainian auditors/beneficiaries the rules may be affected by the war, thus are not applicable.

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.

⁸ Annex 3a in case of BOs/Belarusian CCP, with reservation to the cut-off date

⁹ Point 2.2 does not apply to Programme BOs/Belarusian CCP, they have 2 months to submit their financial report. Deadlines for expenditure verification should be negotiated with respective BO/Belarusian CCP. The cut-off date applies to the Belarussian BO and CCP.

¹⁰ Deadline for the Final Report receipt by the JTS is indicated in the grant contract and makes 3 months from the project implementation period end.



In addition, it is recommended that the beneficiary draft 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 lead beneficiary) 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). In case of Ukrainian beneficiaries the rules may be affected by the war, thus are not applicable.

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. The on-the-spot verification may be performed in cooperation of the Ukrainian BO as well as in collaboration with the Polish and/or Ukrainian CCPs¹¹. This verification is carried out at the offices of the lead beneficiary/beneficiary of the project or at any other location connected with project implementation. 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-the-spot verification plan^{12,13}. In exceptional cases, it may also be carried out at the request of the Managing Authority, in particular in connection with a suspicion of occurrence or actual occurrence of irregularities having the nature of financial fraud.

The projects are selected for the annual on-the-spot verification plan basing on a risk analysis¹⁴. The methodology of selecting the sample for on-the-spot verification is specified in the JTS procedures. As part of the methodology, the JTS also considers 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 lead beneficiary/beneficiary institution (frequent changes in management, poor communication with the JTS and between beneficiaries etc.);
- information from the lead beneficiary/beneficiary, the MA or another institution regarding the problems the project;
- numerous ineligible expenditure declared by the beneficiary in its reports;
- results of conducted monitoring visits.

¹¹ With exception to the verification of the TA projects of the Belarussian CCP and BOs. In case the Belarussian CCP or BOs project are to be verified, the check is performed solely by the JTS.

¹² The Annual On-the-spot Verification Plan shall be drawn up in accordance with the rules laid down in the JTS Procedure Manual.

¹³ With exception of the Technical Assistance projects implemented by the Belarussian CCP and the BOs.

¹⁴ With exception of the Technical Assistance projects implemented by the Belarussian CCP and the BOs.



The project may be included in the annual on-the-spot verification plan upon the request of the lead beneficiary/beneficiary.

The beneficiary is notified of the date of the on-the-spot verification at least five working days before its start date. This notice is sent by email or fax.

The scope of on-the-spot verification shall comply with the attached control checklist (Annex 10a for projects / Annex 10c 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 and Ukrainian CCPs. Monitoring visits can be also performed by Ukrainian BO with the prior approval of the JTS, and the JTS shall be informed about their results. Their scope is limited to visiting events organised as part of the project, such as meetings, conferences, seminars, festivals, trainings, etc. Monitoring visits are to confirm that the events organised as part of the project took place and may take place in response to information about problems in the project.

Post-control procedure

- 1) Having carried out an on-the-spot verification, within 30 calendar days the JTS prepares and sends to the beneficiary an On-the-spot Verification Report containing a list of the irregularities and errors found, possible questions or recommendations.
- 2) The cover letter to the On-the-spot Verification Report must obligatorily contain a note that the lead beneficiary/beneficiary can make justified written objections to the contents of the Report within 14 calendar days of its receipt.
- 3) 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.
- 4) If the JTS does not find shortcomings or irregularities during on-the-spot control, and the lead beneficiary/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.
- 5) If the lead beneficiary/beneficiary submits objections to the contents of the Report, the JTS shall consider them 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 send it to the beneficiary within 14 calendar days;
 - or
 - b) If the JTS rejects the objections made by the controlled entity – it shall draw up a written position on the objections and send it to the beneficiary within 14 calendar days.
- 6) If the lead beneficiary/beneficiary withdraws from its objections, the JTS shall not consider them.
- 7) During the consideration of the objections referred to in point 5 above, the JTS shall carry out additional control activities or request the lead beneficiary/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 lead beneficiary/beneficiary regarding deadline prolongation without delay.
- 8) If the On-the-spot Verification Report contains a finding of ineligible expenditure, the JTS sends a note on this irregularity to the MA.
- 9) 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 respective 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 ineligible e.g. during the project implementation monitoring, as a result of financial verification of expenditure 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 authorised and competent authorities i.e. the JTS, the EC and the AA and Ukrainian GoA, and/or as a result of control activities performed by an auditor.

In case of finding an ineligible expenditure previously approved – regardless of who had found the ineligible expenditure (e.g. AA, Ukrainian GoA), **the auditor** of the respective Beneficiary shall promptly notify the JTS and the lead beneficiary of the project.

In such case, the auditor shall prepare and submit an Irregularity Note (Annex 11) to the JTS within 5 working days from the date of the administrative finding of the irregularity. After its initial revision, the Irregularity Note is promptly forwarded by the JTS to the MA.

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

The stage of finding an irregularity	Findings in writing	The date of administrative finding
Project progress report verification	A checklist of the project progress report	Date of Certificate signature
On-the-spot verifications by the JTS, verifications by other authorised 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:

Center of European Projects

CBC Programme Poland-Belarus-Ukraine 2014-2020

Domaniewska 39A

02-672 Warsaw, Poland

email: pbu@pbu2020.eu.

The auditor 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 respective CCP as regards the ineligible expenditure 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 during its period of implementation and it is still possible to deduct ineligible expenditure from the next report, the JTS, following an agreement with the MA informs the MA of the irregularity, and follows the instructions of the MA provided in the MA's official letter regarding a particular



irregularity. As a general rule, the JTS deducts the ineligible amount from the next payment by using appropriate information provided in an Irregularity Note and an official letter of the MA requesting the deduction of an ineligible amount. The MA records the amount recovered in the SL2014 and requests the JTS to notify the beneficiary in writing about the deduction.

Similarly, if a project is at its final stage of implementation, the JTS, deducts the ineligible amount indicated in an Irregularity Note and an official letter of the MA requesting the deduction from the final balance payment.

When the deduction of ineligible amounts 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 ineligible 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 lead beneficiary and recovers the amounts unduly paid.

As a general rule, if the due amount is not settled by the Lead Beneficiary by the payment due date indicated in a call-for-payment, the MA deducts the principal amount along with the interest from the next payment.

If the amount due is higher than the amount of the next payment to the Lead Beneficiary, or for some other reason, the deduction from the next payment is not possible, the MA takes actions to recover the payment due, using all possible legal means.

The Irregularity Note (template) is attached as Annex 11.

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

The 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 to provide the documents or additional 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 deadline prolongation.

The result of the JTS control shall be final and the beneficiary shall not have the right for further appeal from the JTS objections. The expenditures recognized as eligible in consequence of resolving the objections shall be approved by the auditor in the next report in which they shall be presented again by the beneficiary (does not apply to the final report).

3 PROJECT VERIFICATION BY OTHER ENTITIES

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

The CCP controls the quality of the administrative verification by an auditor¹⁵. The purpose of the control is to ensure correctness of the auditors' verification.

¹⁵ In case of Belarussian CCP the quality control will be performed by the JTS to avoid conflict of interests between Belarussian CCP and the auditor selected to verify Belarussian CCP expenditures.



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 by the 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 the auditor clarifications, accounting documents and other additional documents confirming eligibility of expenditure.

The auditor has the obligation to become the subject of the control and deliver documentation necessary for the control and confirming eligibility of expenditure.

In case of a quality control in the form of an on-the-spot verification, the beneficiary 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 for expenditure covered by certificates 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 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 10b 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 15) 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 progress reports.

Reports as well as costs to be verified by the CCP during the quality check are selected using sampling methodology as described in Annex 16.

Applicable for Ukraine¹⁷

Attention!

¹⁶ With exception of the Technical Assistance projects implemented by the Belarussian CCP and the BOs, which are verified once during contract implementation period.

¹⁷ Due to the Article 40 of the Law of Ukraine "On Auditing Financial Statements and Auditing Activities", the quality control of audit services of auditing entities is conducted by the Quality Assurance Inspection of the Audit Public Oversight Body of Ukraine or by the Audit Chamber of Ukraine. The quality control is focused on compliance with international auditing standards, the effectiveness of the internal quality control system, adherence to legal requirements.

Due to the Article 4 of the Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Procedure for the Creation of the National ENI CBC Management and Control System within ENI CBC Programmes 2014-2020" dated July 11, 2018, No.554, the quality control can be conducted at the MA/JTS request in the case of suspicion of improper performance by independent auditors their duties. Also, we would like to inform that an audit company has to pass successfully the quality control in order to be included in the List of Independent Auditors. It is one of the criteria due to the Order of the Ministry of Finance of Ukraine "On Approval of the Procedure for the Establishment of an Open List of Independent Auditors in the Framework of Joint Operational Programs of the Cross-Border Cooperation within the European Neighborhood Instrument 2014-2020" dated December 19, 2018, No. 1045.



Quality control of audit services of auditing entities in Ukraine is carried out by the Quality Assurance Inspection of the Audit Public Oversight Body of Ukraine or by the Audit Chamber of Ukraine under the Law of Ukraine “On Auditing Financial Statements and Auditing Activities”, or in the exceptional case on the MA/JTS request in the event of suspicion of improper performance by independent auditors their duties.

On-the-spot verification project’s beneficiaries should be performed in accordance the Resolution of the Cabinet of Ministers of Ukraine “On approval of the Procedure for conducting inspections of expenditure compliance and verification incurred by main partners and/or partners (residents) during the implementation of projects under joint operational programs of the European Neighborhood Instrument 2014-2020” dated June 30, 2021, No.674. The Ministry of Finance of Ukraine together with the State Audit Office of Ukraine carries out the inspections of the project’s beneficiaries, based on the sample of projects selected by the MA/JTS for the annual plan for the on-the-spot verification or on the MA/JTS request.

As a result of the performed inspections, the CCP fills in Annex 10b to the Guidelines on Expenditure Verification. The control will be finalized with an On-the-spot verification report (Annex 17) to the Guidelines.

The MA/JTS request the CCP to fill in the checklist for public procurement (Annex 6), if the reason for the on-the-spot control are the irregularities/suspicion of irregularities in the public procurement procedures.

Post control procedure for CCP– not applicable to the Belarussian projects since 24th February 2022 until further notice:

- 1) 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).
- 2) The cover letter must obligatorily contain a note that the auditor can make justified written objections to the contents of the Report within 14 calendar days of its receipt.
- 3) The auditor has 14 calendar days from the receipt date of the Report to respond and to send the required information, documents, etc. to the CCP.
- 4) If the CCP does not find shortcomings or irregularities during control, and the auditor does not make objections to the contents of the Quality check report and sends the signed Report copy to the CCP, the Report submitted to the beneficiary shall be final.
- 5) If the auditor submits objections to the contents of the Report, the CCP shall consider them within 14 calendar days from the date of receiving these objections, and:
 - c) If the CCP finds them partially or fully justified – it shall draft the final version of the Report, including a written position regarding the objections and send it to the auditor within 14 calendar days;
 - or
 - d) If the CCP rejects the objections made by the auditor – it shall draw up a written position on the objections and sent it to the auditor within 14 calendar days.
- 6) If the auditor withdraws from its objections, the CCP shall not consider them.
- 7) During the consideration of the objections referred to in point 5 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.
- 8) If the Quality check report contains a finding of ineligible expenditure, the CCPs forward it immediately to the JTS and the JTS prepares a note on this irregularity to the MA.



- 9) 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 and Ukrainian GoA, project controls may be also conducted by other authorities, both national and European, authorised to control entities delivering projects financing from the EU funds, e.g. 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.

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

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

The lead beneficiary/beneficiary should ensure cooperation between the 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, the 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 (BY/UA) and, therefore, making approval of expenditure by the JTS impossible.

IMPORTANT!!!:

A contract with an auditor should include, at least:

- a) the purpose, scope and elements of the auditor's verification compliant with the Guidelines,
- b) the obligation to submit notes on irregularity,
- c) the auditor's obligation to cooperate with the JTS/CCP/MA/AA/GoA and other authorised control entities,
- d) the obligation to provide clarifications, answers, submit documents on request of the JTS/CCP/MA/AA/GoA 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 the Programme website www.pbu2020.eu under Documents - Implementation phase.

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 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 reserving the right to withdraw from a contract or change the auditor in case of finding any ineligible expenditure in the expenditure confirmed by the auditor and in case of withdrawal of the auditor's approval (PL) by the CCP/removal of the auditor from the list of auditors (BY/UA) and the right to request replacement of the auditor.

List of Annexes

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- Annex 2. Auditor's Certificate - confirmation of the control (template)
- Annex 3. Minimum Scope Checklist for Project Control (template)
- Annex 3a. Minimum Scope Checklist for Service Contract Control (template)
- Annex 4. Checklist for Public Procurement Control for the Polish beneficiaries (template)
- Annex 4a. Checklist for Public Procurement Control for the Polish beneficiaries for procurement awarded after 1st January 2021 (template)
- Annex 5. Checklist for Public Procurement Control for the Belarusian beneficiaries (template)
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- Annex 10a. Checklist for on-the-spot verifications – part 1 – JTS (template)
- Annex 10b. Checklist for on-the-spot verifications – part 2 – CCP (template)
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- Annex 11. Irregularity Note (template)



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- Annex 12. Checklist for the verification of competitiveness principles for Polish beneficiaries
 - Annex 12a. Checklist for the verification of competitiveness principles for Polish beneficiaries for procedures initiated after 1st January 2021
 - Annex 13. Public procurement control questionnaire for ENI Programs (for Polish beneficiaries only)
 - Annex 14. Results of the public procurement procedure verification (for Polish beneficiaries only)
 - Annex 15. Quality check report
 - Annex 16. Reports and costs sampling methodology
 - Annex 17. On-the-spot verification report (for Ukrainian CCP only)