

Instruction no. 2 from 02 October 2, 2020 laying down specific provisions for beneficiaries regarding the expenditure verification of a grant contract funded under the ENI CBC Joint Operational Programme Romania -Ukraine 2014-2020

1. Please provide clarifications concerning the VAT exemption mechanism

Answer: According to the Financing Agreement between the Government of Ukraine and the European Commission, Ukraine shall apply to grant contracts financed by the Union the most favored tax and customs arrangements. Moreover, according to the Framework Agreement between the Government of Ukraine the Commission of the European Communities ratified on 03.09.2008, the contracts financed by the Community shall not be subject to **value added tax (VAT)**, registration duties or any charges having equivalent effect in Ukraine, whether such charges exist or are to be instituted. The VAT under the grant contract is not an eligible cost.

This provision applies to the whole value of the contract, which includes both the Community grant and co-financing provided by the beneficiaries.

Moreover, any goods imported for the purpose of implementing projects financed by the Community shall not be subject to customs and import duties, taxes or any other charges having equivalent effect.

In order to benefit of this provision, the Ukrainian beneficiaries that will sign a grant contract shall register the project at the Secretariat of the Cabinet of Ministers of Ukraine.

Once the grant contract is signed, the Joint Technical Secretariat will inform the Ukrainian beneficiaries regarding the steps needed for registration of project at the Secretariat of the Cabinet of Ministers of Ukraine.

2. Where does the Controller has to send the report on expenditure and revenue verification, on what e-mail?

Answer: According to *Annex 1 - Template of Contract between the Controller and Beneficiary*, article 5, Communications, the parties establish the contact details, including the emails used for submitting the electronic version of the documents (reports) produced by the controller under the contract. The communication is done exclusively between the controllers and beneficiaries.

3. By the time of the publication of the Instruction no.2 that includes the contract template between the controllers and beneficiaries, tenders have been conducted and partial payments made. In this context, would it be possible to sign an addendum to the contract for the purpose of using the template provided by the Instruction?

Answer:

The service contract shall include all provisions foreseen by the Instruction of Managing Authority. Moreover, in order for the incurred expenditures by the service contract for

expenditure verification to be eligible, the beneficiaries must ensure that the procurement procedures of the concerned service follow the rules set in art. 9 of Grant Contract.

4. Which is the most actual version of the Instruction and what are the differences between Instruction no.2 from October 2020 and Instruction no.3 from November 2020?

Answer: Instruction no.3:

- supplements and modifies the provisions of Instruction no.2 in what regards the section *Main responsibilities of the controller*, sub-section *Main responsibilities of the Lead Beneficiary's Controller*;
- modifies the annexes 1, 8, 9 and 10.

Instruction no.3 can be downloaded by accessing the programme website: <https://www.ro-ua.net/en/useful-in-implementation.html>. Instruction no.3 includes the updated Instruction no.2 and all corresponding annexes.

5. Are controllers expected to do spot visits during pandemic in progress?

Answer: In line with the provisions of *Annex 1 - Template of Contract between the Controller and Beneficiary*, article 8, the controller, **at least once**, during the project lifetime, will perform an on the spot visit at the Beneficiary location. In case of HARD projects or large infrastructure projects, when the Beneficiary reports expenditures related to execution of infrastructure of more than 100,000 EUR per reporting period, the Controller mandatorily performs on-the-spot check of the executed infrastructure.

Further, Annex 1 contains provisions concerning the force majeure, full or partial suspension of the contract, extension of the implementation period or termination. These provisions can be applied depending on the circumstances; however, force majeure is not directly applied in the context of COVID - 19 pandemic.

6. Is there a database of ENI CBC lead beneficiaries and beneficiaries and early announcements for expected request for payment for expenses verification for 2020-2021 period?

Answer: Following the signature of a contract between the controller and beneficiary, the calendar of requests for payments for which the expense and revenue verification services are to be requested, shall be set by the parties.

7. The grant contract provides for the application of the InforEuro course during the period of costs incurrence, i.e. the monthly course is different. How to enter several InforEuro exchange rates in Annex 10 - Financial Report?

Answer: In line with the Grant Contract, article 4.15, conversion into euro shall be made by each Beneficiary using the monthly accounting exchange rate of the European Commission of

the month during which the expenditure was submitted for verification, i.e. the financial report will contain only one exchange rate.

- 8. Are payments for the services of the project coordinator under contract considered ineligible? If not, can we consider the daily allowance of the coordinator for business trips as acceptable cost?**

Answer: According to the Programme provisions, **service contracts** under heading Human Resources cannot be concluded (the costs are not eligible), only labors contracts or appointment decisions are allowed.

Furthermore, if the project coordinator is member of the (project) team, the travel expenditures are eligible provided that the (business) trip is directly related to the financed activities and that the costs submitted for verification are the actual cost allocated in the budget for travel purposes and to the persons that are traveling.

- 9. Participants attended a conference using a rented car (under the agreement with an individual entrepreneur). How to determine that this method of transportation is the most cost-effective?**

Answer: As the controller cannot objectively determine the most cost-effective cost, the beneficiary should be asked for a self-declaration or a written explanations containing the outline of the reasons for choosing the rented car.