

## TERMS OF REFERENCE

### NATIONAL ACCREDITATION OF THE OPERATING STRUCTURE FOR COMPONENT V- RURAL DEVELOPMENT, MEASURES 302- DIVERSIFICATION AND DEVELOPMENT OF RURAL ECONOMIC ACTIVITIES AND 501-TEHNICAL ASSISTANCE

#### 1. BACKGROUND

##### 1.1. Contracting Authority: Croatian Ministry of Finance – Competent Accrediting Officer and National Authorising Officer

##### 1.2. Current Situation:

Since July 1999, Croatia is a participant to the Stabilisation and Association Process (SAP). In October 2001, the Government of Croatia and the EU Member States signed the Stabilisation and Association Agreement (SAA) which came into force in February 2005.

In June 2004, Croatia was granted the status of a candidate for the EU membership. Accession negotiations were opened on 03 October 2005.

In order to support Candidate Countries in carrying out the reforms required for membership and adoption of the *acquis communautaire*, the EC has granted these countries the EU financial assistance as part of Pre-Accession Strategy through several instruments:

- PHARE<sup>1</sup> under the responsibility of the Directorate-General for Enlargement ,
- ISPA<sup>2</sup> under the responsibility of the Directorate-General for Regional Policy,
- SAPARD<sup>3</sup> under the responsibility of the Directorate-General for Agriculture.
- CARDS<sup>4</sup> funds allocated to Western Balkan countries until their eventual accession.

In June and July 2005 NAO submitted applications for accreditation of Croatia's DIS system to manage PHARE and ISPA respectively. European Commission issued the decisions on conferral of management of PHARE (including the backlog of CARDS 2003 and 2004) and of ISPA to the Croatian authorities on 07 February 2006 and on 13 February 2006, respectively.

Accreditation of Croatia's EDIS system for SAPARD implementation has been granted by the European Commission to the Republic of Croatia on 29 September 2006.

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<sup>1</sup> PHARE programme applies to the acceding and candidate countries, and principally involves institution building measures as well as measures designed to promote economic and social cohesion and cross-border cooperation.

<sup>2</sup> ISPA (Instrument for Structural Policies for Pre-Accession) is aimed at addressing environmental and transport infrastructure priorities identified in accession partnerships with the candidate countries. (Council Regulation No. 1267/1999 of 21 June 1999).

<sup>3</sup> SAPARD (Special Accession Programme for Agriculture and Rural Development) programme deals with the problems of the structural adjustment in agricultural sectors and rural areas of the applicant countries of Central and Eastern Europe for the period 2000-2006. (Council Regulation 1268/1999 of 21 June 1999).

<sup>4</sup> CARDS (Community Assistance for Reconstruction, Development and Stabilisation) programme is aimed at supporting the participation of the countries of the Western Balkans in the Stabilisation and Association Process (Council Regulation (EC) No 2666/2000 of 5 December 2000).

In March 2005, the EC has introduced a concept for future financing of EU aid: the Instrument for Pre-accession Assistance [IPA]. The EC has adopted the Council Regulation No 1085/2006 of 17 July 2006 establishing the Instrument for Pre-Accession Assistance (IPA) [referred to as IPA regulation]. The new IPA regulation replaces current pre-accession financial instruments, in particular PHARE, SAPARD, ISPA, and CARDS. It was supported by implementing rules No 718/2007 which has been adopted on 12 June 2007.

For the period covered by Financial Perspectives (2007-2013), IPA consists of five components:

- Transition Assistance and Institution Building,
- Cross-Border Cooperation,
- Regional Development,
- Human Resources Development,
- Rural Development,

The IPA assistance is used in the following areas:

- strengthening of democratic institutions, as well as the rule of law, including its enforcement;
- the promotion and the protection of human rights and fundamental freedoms and enhanced respect for minority rights, the promotion of gender equality and non-discrimination;
- public administration reform, including the establishment of a system enabling decentralisation of assistance management to the beneficiary country in accordance with the rules laid down in regulation 1605/2002<sup>5</sup>;
- economic reform;
- the development of civil society;
- social inclusion;
- reconciliation, confidence-building measures and reconstruction;
- regional and cross-border cooperation.

The features of IPA components were designed – on the basis of lessons learnt by the EC – for more coherence and co-ordination of assistance and aim at a better preparation for Structural, Cohesion and Rural development Funds through progressive emulation of EU funds rules. In terms of programming, there is under IPA a multi-annual programme similarly to Structural and Cohesion Funds.

On 27 August 2007, a Framework Agreement was concluded between The Government of Croatia and the Commission on the rules for co-operation concerning Community financial assistance to Croatia and the implementation of the assistance under IPA.

Concerning implementation of Component V – Rural Development, Croatia has approved and submitted a programme to the Commission for approval as its Agriculture and Rural Development Programme (IPARD Programme).

The IPARD Programme was approved by Commission Decision on 25 February 2008 taken in accordance with Article 7(3) of the IPA Framework Regulation.

The assistance under IPARD is implemented through fully decentralised management without ex-ante control of EC, according to Article 10 of the IPA Implementing Regulation 718/2007.

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<sup>5</sup> Proposal [COM(2006) 213 - 2005/0090 (CNS)] for a Council Regulation amending Regulation 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities

Detailed rules for the implementation and management of the IPARD Programme are set out in a Sectoral Agreement between Croatia and the Commission signed on 13 October 2008 (see Annex D Sectoral Agreement on the rules for co-operation concerning EC- financial assistance under Component V (IPARD) of the Instrument for pre-accession assistance (IPA)).

### **1.3. IPA accreditation**

The legal base for use of IPA funds in Croatia is in place; the Croatian Government and the EC concluded the negotiations on the IPA General Framework Agreement in August 2007 as the Agreement was ratified by the Croatian Parliament in October 2007. Financing Agreements for individual IPA Components / Operational Programmes are signed during 2008.

The management powers (with ex-ante controls) for *Component I,II, III and IV* were conferred by the EC to Croatian authorities during October and November 2008.

In IPARD programme, the management powers without ex-ante controls for measures IPARD measures 101 -Investments in agricultural holdings, 103 - Investments in the processing and marketing of agricultural and fishery products were conferred to Croatia at 30 November 2009 while the accreditation for measure 301 - Improvement and development of rural infrastructure is ongoing.

## **2. DESCRIPTION OF THE ASSIGNMENT**

### **2.1. Beneficiary**

The Competent Accrediting Officer and the National Authorising Officer

### **2.2. Objectives**

a) The Competent Accrediting Officer is responsible for the accreditation of the National Authorising Officer, both as the head of the National Fund and with regard to his capacity to fulfil the responsibilities laid down in Article 25(2)(b) of IPA Regulation No 718/2007. The accreditation of the National Authorising Officer shall cover the National Fund.

b) The National Authorising Officer is responsible for the accreditation of the Operating Structures as referred to in Article 28.

Prior to accrediting the National Authorising Officer and Operating Structure respectively, the Competent Accrediting Officer and National Authorising Officer shall satisfy themselves that the applicable requirements set out in Article 11 of IPA implementing regulation and requirements set out in Sectoral Agreement are fulfilled, supported by an audit opinion drawn up by an external auditor functionally independent from all actors in the management and control systems. The audit opinions shall be based on examinations conducted according to internationally accepted auditing standards.

**The Competent Accrediting Officer and the National Authorizing Officer wish to retain the services of Private Sector Audit Company in order to assist with the assessment of the NAO /NF and Operating Structure for Component V – Rural Development, for Measures 302 -**

## **Diversification and development of rural economics activities and Measure 501 – Technical Assistance.**

**The final outcome of this assistance shall be:**

- 1) an interim and final audit report and supporting opinions relating to the NAO/NF regarding implementation of Measures 302 and 501**
- 2) an interim and final audit report and supporting opinions relating to the Operating Structure regarding implementation of Measures 302 and 501**

It will be expected that the audit firm informs the CAO, NAO and relevant body of any key weaknesses when established by the auditors so remedial action can be undertaken with minimal delay.

In respect of the NAO/NF and Operating Structure this shall include an examination covering the administrative, accounting, payment and internal control procedures and structures of the NAO/NF and Operating structure regarding Measures 302 and 501.

**Taking into account that NF/OS already met accreditation criteria in areas of general IPARD implementation requirements and requirements for implementation of the Measures 101 and 103, this audit has to be focused particularly on differences in implementation of those measures and measures which are subject of audit. The main focus should be on units of Paying Agency which have to apply specific procedures for measures 302 and 501 (e.g. Project Approval, Payment Approval, Control department, Legal affairs etc.).**

The accreditation criteria are such that the NAO/NF and Operating Structure should provide reasonable assurance concerning compliance with the ACCREDITATION CRITERIA referred to in Article 11(2) of the IPA Implementing regulation and Annex 1 of Sectoral Agreement, including the obligations for written procedures, segregation of duties, pre-project and pre-payment checks, commitment and payment procedures, accounting procedures, computer security and internal audit.

**Comprehensive self-assessment exercise** will be carried out by the Internal Audit function of the Implementing Agency and it will be made available to the chosen audit company. However the audit reports should not rely on the conclusions of this self-assessment exercise.

**The audits shall be carried out in accordance with internationally accepted audit standards** and be based on the relevant guidelines issued by the European Commission.

### **3. EXPECTED OUTPUTS**

#### **3.1. The process of performing the audits will be divided into two phases.**

**At the end of first phase**, the respective auditor shall provide the Competent Accrediting Officer and National Authorising Officer with complete audit reports which provide a critical assessment of the internal control procedures, of the procedures for ensuring compliance with EU and national rules, and of the extent to which NAO/NF and Operating Structure meet the EU accreditation criteria reference in particular Article 11(2) of the IPA Implementing regulation and annex 1 of the Sectoral Agreement **regarding implementation of IPARD Measures 302 and 501.**

The respective reports will clearly list all of the weaknesses of the NAO/NF and Operating Structure that remain to be addressed, highlighting areas where improvements are still required and make recommendations as to how these improvements can be achieved. These weaknesses will be listed as findings of the auditor and their classification levels are explained under the

heading **Findings & Recommendations**. Management will then be given the opportunity to prepare an Action Plan clearly showing all of the auditor's findings and deadlines for their rectification.

**The second phase** of the audit will evaluate the progress made by the NAO/NF and Operating structure regarding the Action plans. The Auditor will then provide the Competent Accrediting Officer and National Authorizing Officer with final audit reports and opinions on preparedness of the NAO/NF and Operating Structure to receive National Accreditation for IPARD Measures 302 and 501. The final reports will be an overview of the activities carried out and results of the assignment together with the suggestions for the future actions. The Auditor's opinion should be brief, clear and explicit statement of the overall conclusions on whether the accreditation requirements are met.

The Interim and final reports and audit opinions for NAO/NF should be given to the CAO, NAO and the Head of National Fund.

The Interim and final reports and audit opinions for Operating Structure should be given to the NAO, Head of the Managing Authority and Director of the Paying Agency.

The audit reports and opinions should be written in English.

### **3.2 The audits will need to have reviewed, and the reports include statements, as appropriate, on whether:**

- i) the auditors have gained reasonable assurance that the internal control procedures of the NAO/NF and Operating Structure as appropriate are theoretically sound and that they will operate satisfactorily in practice regarding IPARD Measures 302 and 501;
- ii) the procedures, with particular reference to the key accreditation criteria (written procedures, segregation of duties, pre-project and pre-payment checks, procurement, commitment and payment procedures, accounting procedures, computer security, internal audit) give reasonable assurance that the operations charged to the NAO/NF and Operating Structure as appropriate will comply with EU & national rules;
- iii) the NAO/NF and Operating Structure respectively fulfil the criteria as required in IPA regulation; and
- iv) the financial interests of the EU will be properly protected.

### **3.3. The Report will need to address the following points:**

#### 3.3.1 Internal control procedures

The report should set out the evidence obtained by the audit company that the internal controls will operate in practice as well as in theory; will apply to all the transactions intended; and will result in the correction of errors. The report should include a statement on internal control procedures which should draw attention to any serious weaknesses found in the design or operation of the controls, with particular reference to factors that may diminish the effectiveness of internal control procedures such as:

- the potential for controls to be overridden by the responsible official;
- incorrect application of controls due to wrong interpretation or carelessness; and
- the development of non-standard procedures.

#### 3.3.2. Key accreditation criteria

The reports should state the extent to which the NAO/NF or Operating Structure as appropriate fulfill all the key accreditation criteria (written procedures, segregation of duties, pre-project and pre-payment checks, procurement, commitment and payment procedures, accounting procedures, internal audit) regarding IPARD Measures 302 and 501 as required by IPA regulation and what action (and its timing and duration), if any, is to be undertaken by the bodies concerned to address any shortcomings.

#### 3.3.3 The protection of the financial interests of the EU

This point concerns amounts to be collected (debtors). The pertinent key control objectives include the correct and timely posting of all debtors' transactions to a debtors' ledger; the prevention of gross payments to beneficiaries which are in debt; and the correct posting of all receipts from debtors.

The report should include a statement on the protection of the financial interests of the EU stating for each procedure whether the relevant controls are sufficiently robust for reliance to be placed upon them. Where it is concluded that a procedure does not provide the necessary assurance, the important elements of the control function should be noted

### **3.4. Findings & Recommendations**

Every finding will be accompanied by recommendations for its improvement and should be classified by reference to the level of importance, which the body responsible for the national pre-accreditation review believes should be attributed to each situation. For ease of presentation the following classification is proposed:

- Major: findings which require immediate attention by the NAO/NF/Operating Structure;
- Intermediate: findings which are significant in the context of the control environment of the NAO/NF/ Operating Structure and which require immediate attention by Senior Management;
- Minor: findings for which action should be taken to ensure full compliance with the accreditation criteria.

### **3.5. A more detailed list of areas to be covered is at Annex A and an indicative format for the Report is at Annex B.**

## **4. EXPERTS PROFILE**

The Contractor should be an audit company operating to internationally recognised standards and the team shall comprise at least five (5) experts.

The review shall be co-ordinated by a Senior Certified/Chartered Auditor, who has previous experience with pre-accession funds accreditation. He must have at least 7 years senior level international experience with extensive exposure to audit and control to international standards.

Two experts must have at least 5 years experience in auditing and controls on an international level, and with practical experience in the with pre-accession funds accreditation process.

Two experts must have at least 5 years senior level experience in public sector financial management systems and/or relevant private sector experience with professional accountancy body qualification in view of the critical importance of implementation of "best practice" financial sector standards.

At least two of the experts must had substantial exposure to, and expertise in relevant European Union Regulations and procedures (in particular IPA programme).

Fluency in English is essential, as are computer literacy skills and facility in high-quality drafting.

## **5. LOCATION AND DURATION**

### **5.1 Starting and finishing dates**

The Contract shall commence from 22 March 2010. The interim audits and opinions shall be submitted to the CAO and NAO as appropriate on 9 April 2010. For the management response is

expected at least 10 days after receiving interim reports. The final audit reports and opinions are expected to be submitted no later than 28 April 2010, although this is subject to review in the light of the findings in the interim report.

### **5.2 Schedule and number of days of the assignment per expert**

The contractor is required to allocate sufficient man days to meet the specifications set out in this document over the period of this contract. Proposals need to set out the man days to be allocated.

### **5.3 Location of the assignment**

The audits will take place at the Ministry of Finance (National Fund), the Ministry of Agriculture, Fisheries and Rural Development (Managing Authority) and Paying Agency, all in Zagreb.

The Contractor will be provided with temporary office facilities but should bear personal responsibility for computer(s), telecommunication and transportation expenses.

## **6. REPORTING**

**The reports shall be submitted in English to the Competent Accrediting Officer and National Authorising Officer.**

### **Attachments:**

- A Accreditation criteria
- B Indicative Format for Report
- C Sectoral Agreement on the rules for co-operation concerning EC- financial assistance under Component V (IPARD) of the Instrument for pre-accession assistance (IPA)
- D IPARD structure

## **Annex A**

### **ACCREDITATION CRITERIA**

Standard list of areas and related requirements as referred to in Article 11(2).

#### **1. Control Environment (establishment and management of the organisation and the staff)**

- (a) Ethics and integrity policies
  - ensuring the culture for the organisation required by top management is understood throughout the organisation
- (b) Irregularity management and reporting
  - ensuring possible irregularities noted lower down the organisation are reported appropriately and followed-up, including protection for 'whistle-blowers'
- (c) Staff planning, recruitment, training and appraisal (including sensitive post management)
  - ensuring adequate numbers and quality of staff are in place at all levels
- (d) Sensitive functions and conflicts of interest
  - ensuring that staff in 'sensitive posts' are identified (i.e. those where the staff may become vulnerable to undue influence by the nature of their contacts with third parties or the information they have);
  - ensuring that appropriate controls (including, where appropriate, rotation policies) are applied to sensitive posts;
  - ensuring that procedures exist to identify and avoid conflicts of interests.
- (e) Establishment of legal bases for bodies and individuals
  - ensuring bodies and individuals have full legal authority to fulfil their functions.
- (f) Formal establishment of accountability, responsibility, delegated responsibility, and any necessary related authority for all tasks and positions throughout the organisation:
  - ensuring that no member of staff is in doubt as to the extent of their responsibilities. For commitments or payments engaged to third parties, a single manager should be accountable for all aspects of the transaction;
  - Mission statements, job descriptions etc are up to date and known.

#### **2. Planning / risk management (planning of interventions)**

- (a) Risk identification, assessment and management

- ensuring that risks are identified and management, in particular that adequate control resources are applied in all areas, in function of the significance of different risks they mitigate.
- (b) Objective setting and allocation of resources against objectives
- ensuring that appropriate (and measurable) objectives at output and impact level are established at all levels and understood throughout the organisation;
  - ensuring that resources are appropriately allocated against those objectives respecting transparent sound financial management principles;
  - ensuring that responsibility for those objectives is clear.
- (c) Planning of the implementation process
- ensuring clear planning of steps needed to deliver objectives - including timing and responsibility for each step, and critical path analyses where necessary.

### 3. Control Activities (implementation of interventions)

- (a) Verification procedures
- ensuring double-check of all steps in a transaction (ex-ante and, where appropriate, ex-post).
- (b) Procedures for supervision by accountable management of tasks delegated to subordinates (including annual statements of assurance from subordinate actors)
- ensuring that responsibility is supported by active supervision - and not merely considered a passive or theoretical concept.
- (c) Rules for each type of procurement and grant calls
- ensuring appropriate legal framework for all such commitment processes.
- (d) Procedures (including checklists) for each step of procurement and grant calls (e.g. Technical Specifications, Evaluation committees, reporting of exceptions etc)
- ensuring each member of staff is clear as to their task responsibilities in these areas.
- (e) Publicity rules and procedures
- ensuring that these Commission requirements are fulfilled.
- (f) Payment procedures (including procedures for confirmation of output delivery, and/or eligibility conditions, ‘on-the-spot’ where necessary).

- ensuring that payments are made only for justified payment applications which fulfil all contractual requirements.
- (g) Procedures for monitoring delivery of co-financing
  - ensuring that these Commission requirements are fulfilled.
- (h) Budgetary procedures to ensure availability of funds (including funds necessary to maintain implementation if Commission funding is delayed or refused)
  - ensuring that the National Authority can fulfil its local contractual commitments regardless of delays or interruptions in funding from Commission.
- (i) Procedures for continuity of operations
  - ensuring that significant risks to continuity (e.g. concerning loss of data, absence of individuals etc) are identified and contingency plans put in place where possible.
- (j) Accounting procedures
  - ensuring full and transparent accounting following accepted accounting principles.
- (k) Reconciliation procedures
  - ensuring that wherever possible accounting balances are reconciled against 3<sup>rd</sup> party information.
- (l) Reporting of exceptions, *inter alia*, exceptions to normal procedures approved at appropriate level, unapproved exceptions and control failures whenever identified
  - Ensuring variations to normal practices are always recorded and logged and reviewed at appropriate levels.
- (m) Security procedures (IT and otherwise)
  - ensuring that assets and data are kept secure from interference or physical damage.
- (n) Archiving procedures
  - ensuring that documents will be available - at least for Commission review throughout the required periods for which they must be kept.
- (o) Segregation of duties
  - ensuring that where different tasks in the life of the same transaction are allocated to different staff to ensure some automatic cross-checking controls.
- (p) Reporting of internal control weaknesses

- ensuring that the registration of any internal control weakness identified from any source and that management responses are recorded and followed-up.

4. Monitoring Activities (supervision of interventions)

(a) Internal audit including handling of audit reports and recommendations (NB: distinct from control activities and management supervision)

- ensuring that top managers are provided with some independent reviews of the functioning of their systems at subordinate levels. May involve some ex-post transaction checking but should be more focussed on effectiveness and efficiency of system and organisation design.

(b) Evaluation

- ensuring that top managers are provided with information concerning the assessment of impacts of interventions (in addition to the other information they receive about legality, regularity and operational procedures).

5. Communication (ensuring all actors receive information necessary to fulfil their role)

Regular coordination meetings between different bodies to exchange information on all aspects of planning and implementation e.g.:

- (i) Regular reporting on status of planning of programmes and projects
- (ii) Regular reporting on project implementation compared to implementation plan

- Contracting processes (inter alia)

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| <ul style="list-style-type: none"> <li>• Progress of each tendering process against plan</li> <li>• Systematic analysis of errors reported at any level (e.g. by verifiers, ex-ante controllers, auditors etc)</li> </ul> |
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- Implementation of contracts
- Costs of controls against benefits

- (iii) Regular reporting at all appropriate levels on efficiency and effectiveness of internal control

- ensuring all staff at all levels receive adequate regular information in order to fulfil their accountabilities.

**Indicative Format for Report**

**Opinion**

*(A brief statement on overall conclusions and in particular whether the accreditation requirements as set out in the regulatory framework are met.)*

**1. Executive Summary**

- Overall conclusions and key issues
- Summary of major and intermediate recommendations

**2. General Introduction**

- Scope of work including (measures and) coverage
- Key assumptions and limitations

**3. Audit approach**

- statement of objectives
- statement of the scope
- statement of the methodology
- statement of auditing standards

**4. Detailed Review**

- structure of NF/Operating Structure, and resources, including legal basis and any decentralisation and delegation
- internal control procedures
- procedures for ensuring compliance with the IPA regulation
- key accreditation criteria
- procedures for the protection of the financial interests of the European Community

**5. General Conclusions**

**6. Findings and Recommendations**

- List of findings and recommendations according to different classification levels (major, intermediate, minor)
- Auditee responses

**Annexes to include**

- organigrammes of the NF/Operating Structure
- summary of recommendations & auditor responses

In respect of the Operating Structure for each measure / sub-measure and common function the annex should set out the work done for each control objective including a description of the control objective, the control mechanism, the file structure (to determine if it comprised the required primary evidence/documents necessary to support the claim), findings, evaluation, conclusion and detailed recommendations.

A list of recommendations should be prepared with at least the following information: report reference/recommendation/status/action.