



Code of conduct for funded projects

ENI CBC MEDITERRANEAN SEA BASIN PROGRAMME 2014-2020



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1. Legal Framework

REGULATION (EU) No 232/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 March 2014 establishing a European Neighbourhood Instrument

REGULATION (EU) No 236/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action

COMMISSION IMPLEMENTING REGULATION (EU) No 897/2014 of 18 August 2014 laying down provisions for the implementation of CBC programmes financed under Regulation (EU) No 232/2014 of the European Parliament and the Council establishing a European Neighbourhood Instrument

COMMISSION IMPLEMENTING REGULATION (EU) 2020/879 of 23 June 2020 amending Implementing Regulation (EU) No 897/2014 as regards specific provisions to align the provisions for the implementation of cross-border cooperation programmes financed under the European Neighbourhood Instrument with specific measures in response to the COVID-19 pandemic

REGULATION (EU, Euratom) 2018/1046 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation No 966/2012

COUNCIL REGULATION (EC, EURATOM) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests

REGULATION (EEC, EURATOM) No 1182/71 OF THE COUNCIL of 3 June 1971 determining the rules applicable to periods, dates and time limits

DIRECTIVE (EU) 2017/1371 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law

REGULATION (EU, EURATOM) No 883/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999

DIRECTIVE 2014/24/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 February 2014 on public procurement and repealing Directive 2004/18/EC

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COURT OF AUDITORS Commission Anti-Fraud Strategy: enhanced action to protect the EU budget (Brussels, 29.4.2019 COM(2019) 196 final)

EGESIF_14-0021-00 16/06/2014 EUROPEAN COMMISSION DIRECTORATE-GENERAL European Structural and Investment Funds Guidance for Member States and Programme Authorities Fraud Risk Assessment and Effective and Proportionate Anti-Fraud Measures June 2014

EUROPEAN COMMISSION EUROPEAN ANTI-FRAUD OFFICE (OLAF) Directorate D: Policy Unit D.2: Fraud Prevention, Reporting and Analysis Guidelines on National Anti-Fraud Strategies

ENI CBC Med Programme adopted by the European Commission on 17 December 2015 - Decision No C(2015) 9133), and its annexes

Financing Agreements signed between the EC and the Mediterranean Partner Countries

Grant Contracts signed between the Managing Authority and Lead Beneficiaries of projects funded under the ENI CBC MED Programme, with particular reference to Art. 19 and 20.

Ch 5 of the DMCS and Ch 7 of the Projects Implementation Manual.

Any other Regulations applicable at national level.

2. Scope and purpose of the Code of Conduct

The MA is striving to achieve the highest legal, ethical, and moral standards for all actors involved in the implementation of the Programme and the Projects.

To this end, a specific code of conduct has been drafted as a tool to promote an ethic culture to deter fraudulent and corruptive activities.

The Code of Conduct is the instrument adopted by the Managing Authority in order to regulate the behavior of Lead beneficiaries and partners and their staff both internal and external in the procedures and activities for the implementation of the funded projects.

The Code of Conduct establishes the obligations applicable to these parties to conduct themselves in accordance with the principles of transparency and integrity.

The Code of Conduct must be an integral part of the projects documentation and must be brought to the attention of all those involved in the project implementation and of the external auditors.

3. General obligations of Lead Beneficiaries and partners

Lead beneficiaries and partners promote a culture which deters fraudulent activity and adopt measures to encourage and facilitate prevention of fraud and corruption at the Project level.

Lead beneficiaries and partners and their staff both internal and external involved in projects implementation must:

- conform their conduct to the principles of good conduct and impartiality, adopting decisions based on objective criteria, rather than on the basis of bias or prejudice;
- carry out their duties in accordance with the law and contracting rules;
- avoid any action, which may lead to a potential or actual conflict of interest, which may arise where the impartial and objective exercise of the official functions of a person are compromised for reasons involving family, emotional life, economic interest or any other shared interest with other parties;
- do not use for private purposes the information at their disposal;
- abstain from voting or taking part of the decision process when a conflict of interest exists;
- guarantee that any information or communication relating to the projects activities is easily accessible;
- ensure the transparent allocation of tasks among the organization personnel formally involved in the project activities;
- avoid any intentional act or omission relating to the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds;

- ensure confidentiality in the treatment of data and personal information¹;
- inform and notify, immediately, their superior and the Managing Authority of any conflict of interest, irregularity, suspected fraud or fraud. ²

4. Specific obligations of Lead Beneficiaries and partners

Lead beneficiaries and partners and their staff, both internal and external, must ensure compliance with the following principles in the implementation of selection procedures:

- Transparency
- Publicity
- Fair competition
- Avoidance of conflict of interest
- Equal treatment
- Proportionality
- Non-discrimination
- Clearness of selection and awarding criteria
- Appropriateness of deadlines

The specific obligations applicable to the different selection procedures (procurement, recruitment, subgrantees) are specified in the following paragraphs.

3.1 Specific obligations for procurement procedures

Lead beneficiaries and partners and their staff, both internal and external, involved in procurement procedures, shall:

- disclose all conflicts of interest;
- not influence the procurement procedure defining the content of the notice or other equivalent documents (terms of reference or technical specifications) in order to favour a particular bidder;
- not request, accept or receive, either directly or through third parties, sums of money or other benefits aimed at favouring a specific bidder or at manipulating the competitive procedure process;
- not leak confidential information to help a particular bidder;
- not manipulate bids after their receipt;
- report any unlawful attempt by third parties to disturb or distort the awarding procedures and/or the execution of the contract;
- appoint members of the tender selection/evaluation committee with an appropriate level of expertise and who do not have a conflict of interest;

¹ According to art. 24.4 of the GC and art 9 of the Partnership Agreement, Lead Beneficiaries and Partners shall limit access and use of personal data to that strictly necessary for the performance, management and monitoring of the project and shall adopt all appropriate technical and organizational security measures necessary to preserve the strictest confidentiality and limit access to this data, in compliance with Regulation (EU) 2016/679 (GDPR - General Data Protection Regulation).

² The MA can be notified directly or confidentially through the email address eni.whistleblowing@regione.sardegna.it. See also the webpage <https://www.enicbmed.eu/index.php/about-us/anti-fraud-policy>.

- verify the requirements and qualifications of bidders in order to exclude phantom bidding;
- verify the absence of links with other bidders (like interlinked companies) that could distort the competition or manipulate the competitive procedure;
 - do not split tenders in order to avoid competitive procedures;
 - do not extend the original contract and/or amend the contract amount in order to avoid a re-tendering process
 - ensure a proper management of the contract, in order to avoid manipulation of incurred costs or non-delivery of agreed products/services/works.
 - as far as possible, ensure separation of functions of the staff involved in the preparation of the tender (technical specifications) and the staff involved in the evaluation of the received bids.

3.2 Specific obligations for recruitment procedures

Lead beneficiaries and partners and their staff, both internal and external, involved in recruitment procedures, shall:

- disclose all conflicts of interest;
- not refer or recommend suitable candidates for existing vacancies
- not influence the recruitment procedure defining the terms of reference in order to favour a particular candidate;
- not request, accept or receive, either directly or through third parties, sums of money or other benefits aimed at favouring a specific candidate or at manipulating the competitive procedure;
- not leak confidential information to help a particular candidate;
- report any unlawful attempt by third parties to disturb or distort the recruitment procedures and/or the execution of the contract;
- appoint members of the selection committee with an appropriate level of expertise and who do not have a conflict of interest;

3.3 Specific obligations for awarding subgrants

Lead beneficiaries and partners and their staff, both internal and external, involved in the selection procedures for subgrantees, shall:

- disclose all conflicts of interest;
- not influence the selection procedure defining the content of the call or other equivalent document (guidelines for subgrantees) in order to favour a particular applicant;
- not request, accept or receive, either directly or through third parties, sums of money or other benefits aimed at favouring a specific applicant or at manipulating the competitive procedure process;
- not leak confidential information to help a particular applicant;
- not manipulate proposals after their receipt;
- report any unlawful attempt by third parties to disturb or distort the selection procedures and/or the execution of the subgrant contract;

- appoint members of the selection/evaluation committee with an appropriate level of expertise and who do not have a conflict of interest;
- ensure a proper management of the subgrant contract, in order to avoid manipulation of incurred costs or non-delivery of agreed products/services/works.

5. Applicability of the code of conduct

The provisions listed above are applicable to all Lead Beneficiaries and Partners of projects funded by the ENI CBC Med 2014-2020 Programme.

The provisions of this code of conduct are applicable as an integration or a complement for Lead Beneficiaries or Partners organisations where a code of conduct (or other similar document with the same purpose) is already in force. In case of conflict, the stricter measures shall apply.

All employees and external staff of the organisations involved in projects implementations must declare adherence to it, by complying to its principles.

All employees and external staff of the organisations involved in projects must attend to the specific training modules on prevention and detection of fraud and corruption organized by the MA, and consult the materials available in the EU Funds Anti-Fraud Knowledge & Resource Centre (https://ec.europa.eu/antifraud-knowledge-centre/index_en).