

# AUDIT OF OPERATION REPORT

Central Baltic INTERREG V A Cross-border Co-operation Programme 2014 - 2020

AUDIT NUMBER:	
Date of final audit report	10/02/2020
Contradictory procedure	16/01/2010 - 10/02/2020
Accounting period	01/07/2018 - 30/06/2019
Audit scope	Progress report No 4.1 in the amount of 73,844.32 € 100 %
Auditor(s)	Mart Pechter, Lead Auditor of II Audit Unit Financial Control Department of Ministry of Finance of Estonia Suur-Ameerika 1, 10129 Tallinn, Estonia
Audited organisation & contact information	Estonian Marine Institute University of Tartu Mäealuse 14, Tallinn, Harju County Ms. Marge Simo Phone: +372 5025625 Email: marge76@ut.ee
Place of the audit	Estonian Marine Institute
Persons present during the audit	Ms. Marge Simo, senior specialist in project funding Mr. Robert Aps, senior researcher and project manager
Date of on-the-spot checks	20/12/2019
Full project name	Maritime Spatial Planning for Sustainable Blue Economies
Project Number & Acronym	CB395 - PLAN4BLUE
Priority Axis	2. Sustainable use of common resources
Specific Objective	SO 2.2 Sustainably planned and managed marine and coastal areas
Reporting Period	01/06/2017 - 31/05/2018
Name of the Lead Partner	Finnish Environment Institute
Project duration (start and end dates)	01/10/2016 - 31/12/2019
<b>AUDIT CONCLUSION</b>	<i>Based on the audit work performed we have obtained reasonable assurance that the expenditure declared under the audited operation PLAN4BLUE No. CB395 within priority axis 2 in the reference year 2019 is, in most material aspects, legal and regular and the objectives of the project have been achieved. However, the auditor made one major finding with a financial impact in regard to carrying out public procurements. The summarized list of findings identified during the audit is presented in the following table and report.</i>



Number of findings	Total Financial Impact	Total Financial Impact ERDF	Nature of the finding(s)
1	€636.22, within the audit scope and €1 476.41 outside the audit scope	€540.80, within the audit scope and €1 254.99 outside the audit scope	The travel and accommodation costs of the project are purchased from a framework agreement based on a public procurement procedure that has previously in another audit been found as containing errors. (Major finding, with financial impact)



## PART 1 - AUDIT SCOPE

According to Article 127 of Regulation (EU) No 1303/2013 the audit authority is responsible to carry out audits of operations on the basis of supporting documents constituting the audit trail and verify the legality and regularity of expenditure declared to the Commission, including the following aspects:

- a) that the operation was selected in accordance with the selection criteria for the Operational Programme, was not physically completed or fully implemented before the beneficiary submitted the application for funding under the Operational Programme, has been implemented in accordance with the approval decision and fulfilled any conditions applicable at the time of the audit concerning its functionality, use, and objectives to be attained;
- b) that the expenditure declared to the Commission corresponds to the accounting records and that the required supporting documentation demonstrates an adequate audit trail;
- c) that for expenditure declared to the Commission determined in accordance with Articles 67(1)(b) and (c) and 109 of Regulation (EU) No 1303/2013 and Article 14(1) of Regulation (EU) No 1304/2013, outputs and results underpinning payments to the beneficiary have been delivered, participant data or other records related to outputs and results are consistent with the information submitted to the Commission and that the required supporting documentation demonstrates an adequate audit trail.

### PART 1.1 - LIMITATION OF SCOPE

The conclusions of the audit are based on the analysis of the procedure in place, information and documents gathered and interviews conducted in the audited bodies as well as the tests performed in the course of the audit following the checklist for the audit areas.

*There were no limitations of scope.*

### PART 1.2 - AUDIT METHODOLOGY

The audit is carried out in compliance with internationally accepted auditing standards and the audit strategy, which is approved by the audit authority and group of auditors representing each Central Baltic INTERREG VA Programme Member State.

The audit process comprises of three stages:

#### a) Preparation and planning of the audit

In this stage legal regulations and other documentation, including from the management verification ex Regulation (EU) No 1299/2013, Article 23(4), needed for familiarising with the selected operations were collected and analysed. Also, interviews or checklists sent if needed for the planning of the audit, familiarising with the functioning of the system, project files structure, the objectives and the status of implementation of the operations, the risk encountered during the implementation as well as those inherent to the type of operations.

#### b) Fieldwork

At this stage a whole range of interviews with responsible staff were conducted, documents were gathered and testing was performed. In order to attain the audit objectives during the audit we tested all applicable audit areas. We performed the audit using the checklists for the several audit areas which enabled us to verify the requirements laid down in European and national legislation.

With the aim to attain the audit objectives, the fieldwork was carried out including on the spot visit on **20/12/2019**.



### c) Reporting

This stage encompassed activities related to the preparation of the Draft Report and the contradictory procedure where auditee has been granted 10 working days to reflect on the audit report, the inclusion of their replies and comments and the submission of the Final Report.

The actual schedule of the contradictory procedure was as following:

Preliminary report: 16/01/2020

Final report: 10/02/2020

## PART 2 - FINANCIAL DATA OF OPERATION

Financial data of audited partner must be listed

PART 2.1 - BUDGET (€)				
Audited Partners approved budget	Granted in total for the partner	%	Payments included in the payment claim 4.1	%
ERDF	€ 385 390.00	85%	€ 62 767.67	85%
Public funding (total)	€ 68 010.00	15%	€ 11 076.65	15%
Private funding	€ 0.00		€ 0.00	
Income	€ 0.00		€ 0.00	
<b>TOTAL PARTNER BUDGET</b>	<b>€ 453 400.00</b>	<b>100%</b>	<b>€ 73 844.32</b>	<b>100%</b>

Audited expenditure (according to the Sample, report 5.1)			
Budget Line		Total amount audited (combining milestones)	Ineligible detected in audit scope
1.	Staff costs	€ 56 961.59	€ 0.00
2.	Office and administration	€ 8 544.23	€ 0.00
3.	Travel and accommodation	€ 8 338.50	€ 636.22
4.	External expertise and services	€ 0.00	€ 0.00
5.	Equipment	€ 0.00	€ 0.00
6.	Infrastructure and works	€ 0.00	€ 0.00
<b>Total amount audited</b>		<b>€ 73 844.32</b>	<b>€ 636.22</b>

Audited expenditure (outside the Sample)			
Budget Line		Total amount audited (combining milestones)	Ineligible
1.	Staff costs	€ 0.00	€ 0.00
2.	Office and administration	€ 0.00	€ 0.00
3.	Travel and accommodation	€ 14 764.00	€ 1 476.41
4.	External expertise and services	€ 0.00	€ 0.00
5.	Equipment	€ 0.00	€ 0.00
6.	Infrastructure and works	€ 0.00	€ 0.00
<b>Total amount audited</b>		<b>€ 14 764.00</b>	<b>€ 1 476.41</b>



## PART 3 - FINDINGS AND RECOMMENDATIONS

### PART 3.1 GENERAL

During the audit we identify and document audit findings. We categorise these findings by reference to the level of importance. The categories which we use to classify our findings are as follows:

<b>Major</b>	Findings which have a financial impact above EUR 250 (ERDF) or any other high-risk deficiencies.
<b>Minor</b>	Findings for which action should be taken to ensure full compliance but have a limited financial impact (below EUR 250 (ERDF)), no financial consequences or no high-risk character.

All audit findings are reported in the final audit report, even if the Member States participating in the Programme may decide that neither the lead beneficiary nor the Programme's MA is obliged to recover an amount unduly paid which does not exceed EUR 250, per operation and accounting year, not including interest, in contribution from the Funds and the EMFF, as all the irregular amounts detected are to be taken into account for the calculation of the annual Total Error Rate of the Programme.

#### E. Procurement procedures

**Audit Finding No. 1 - The travel and accommodation costs of the project are purchased from a framework agreement based on a public procurement procedure that has previously in another audit been found as containing errors. Ineligible costs €636.22 within the audit scope and €1 476.41 outside the audit scope (Major finding, with financial impact)**

The manual for the Interreg Central Baltic Programme 2014-2020<sup>1</sup> under the point 3.7 states that public procurements should be done according to national rules or following European Union rules, depending on the thresholds.

For the University of Tartu, the previous audit report No. ESF-158/2018 dated 29/01/2019 for the European Social Fund project No 2014-2020.1.02.16-0140 set out that for the international procurement procedure No. 173292 that was used by the University of Tartu to contract a framework agreement for travel and accommodation costs is not in accordance with either national or European Union rules. Namely, the tender notice included discriminatory criteria for qualifying the offerers and the tender documents included discriminatory criteria for determining the most economically efficient offer.

For the errors brought out in the audit report referred, the auditor responsible recommended a 25% correction for the eligible costs affected. This 25% correction was then confirmed by the decision No. 3-3.1/58-3 dated 03/04/2019 of Second level intermediate body of this project, Foundation INNOVE.

The auditor has found that the University of Tartu has continued using the framework agreement referred. In the auditor's opinion, it means that some of the travel and accommodation costs of the Plan4Blue project as used by the Marine Institute are subsequently also affected by this error, since they are made based on the same framework agreement.

<sup>1</sup> First version of the Programme manual from 05/11/2014



Still, the auditor concurs that the Commission Decision<sup>2</sup> published after the original audit recommendation was made and the original decision to reclaim the amounts was issued allows treating this issue in a way that a 10% reduction in eligible cost would be more proper. This means that the particular case at hand should also be treated in that way.

**Risks and conclusion:**

Whenever the project partner organization uses a contract that is known to contain an error as set out by previous audits, even when those audits have referenced other structural funds, there is a risk that the costs for this particular project partner may also be deemed ineligible for containing the same error.

**Recommendations:**

**1) Recommendation to the auditee:**

It is recommended for the partner to cease using the contract of this framework agreement for travel and accommodation costs of this project, if there are still those costs to be made from this project. It is also recommended to follow the decisions of the Managing Authority if and when the procedure to recover the ineligible amounts is started.

**2) Recommendation to the First Level Control**

It is recommended to pay attention to the travel and accommodation costs of University of Tartu from this project and from other projects where the University of Tartu is one of the partners. Those costs may be affected by the same error. If similar cases are found, the costs should be deducted where possible and the Managing Authority should be notified.

**3) Recommendation to the Managing Authority**

It is recommended to begin a procedure to recover the ineligible amounts. Concerning the amount in audit scope, the auditor recommends to reclaim the ineligible ERDF funding of €541.80 and deduct the ineligible co-financing of €94.42 from the partner budget. Concerning the amount outside the audit scope, the auditor recommends to reclaim the ineligible ERDF funding of €1 254.99 and deduct the ineligible co-financing of €221.42 from the partner budget. Since the affected costs in reporting period 6.1 are not yet paid out to the beneficiary, the Managing Authority may also choose to deduct amounts from those costs instead of reclaiming them. For details, please see the Annex 1 of this report.

It is also recommended to look into other projects of the Programme where the University of Tartu is one of the partners to determine, whether those projects could be affected by the same error.

**Auditee response:**

University of Tartu does not agree with the positions of the audit that were presented in their final report ESF-158/2018 (29.01.2019) and has filed an application to overturn the decision made by the auditors regarding the financial correction for the public procurement "Reisiteenuse tellimine" (173292).

Foundation Innove and the Ministry of Education and Research have not taken our application into account, therefore we have now filed an appeal with the Tallinn Administrative Court and the hearing will be on 18.03.2020.

**First Level Control response:**

FLC takes into account the Audit recommendation and will pay more attention that the requirements laid down in Public Procurement ACT are followed by project partner and will assess more precisely that the public procurements would be done according to national rules or following European Union rules. Also FLC will pay attention to the travel and accommodation costs of University of Tartu from mentioned project and from other projects where the University of Tartu is one of the partners. FLC will make the

<sup>2</sup> Commission Decision of 14/05/2019 laying down the guidelines for determining financial corrections to be made to expenditure financed by the Union for non-compliance with the applicable rules on public procurement



necessary reductions in the University of Tartu CB projects, the travel costs of which are related to the procurement No 173292.

Based on the assessment of RTK procurement specialists, FLC believes that the 25% financial correction was confirmed by the decision No. 3-3.1/58-3 dated 03/04/2019 of Second level intermediate body of project, Foundation INNOVE is not sufficiently substantiated, as RTK procurement specialists estimate that violating the procurement evaluation criteria has no significant effect and recommend that a financial correction rate of 0% be considered. For violating the procurement qualification criteria, based on the estimates of the RTK procurement specialists and in accordance with Article 22 (3) of the General Regulation, a financial correction rate of 10% should apply. It is known that the University of Tartu has given the above mentioned decision to the court, then the final position on the audit findings is not clear.

**Managing Authority response:**

The Managing Authority notes this finding with regret. The MA agrees that the auditee should have considered the earlier audit findings and revised its actions accordingly. It is unfortunate, that through its negligence in doing so, the error rate of another programme is affected.

The MA would prefer not bearing the effects of the earlier error. If and as the contract has been deemed to not be in accordance with Estonian law, it would seem more accurate to perform a global audit on the national level and correct the error there.

The MA agrees with the correction as such and will apply it accordingly.

**Final conclusion by the auditor:**

The auditor concurs that as by the Commission Decision that was published after the original audit recommendation was made and the original decision to reclaim the amounts was issued, a 10% reduction in eligible cost would be more proper. The auditor is also aware that the case is currently being challenged in the courts, but until that process shows otherwise, stands by the principle, that the errors made in the original procurement process are substantial and thus requiring a financial correction.

**The cost documents of this finding are added in Annex 1: MAK table**



## PART 4 - FOLLOW-UP

This audit report is compiled for use of the Audit Authority of the Central Baltic INTERREG VA 2014-2020 Programme and will be used to draw conclusions about the functioning of the Management and Control Systems of the above-mentioned Programme. Information in the report will be disclosed to relevant parties involved of management of the EU funds, including Commission services.

Parties responsible of audit finding follow-up:

1. Findings with Financial impact - The Audit Authority (AA) will inform the Managing Authority (MA) to take necessary actions to correct shortcomings in the system;
  - a. Deductions will be made by the MA;
  - b. Confirmation of deductions will be made by the AA;
  - c. If needed follow-up audit will be done by Group of Auditor (GoA) members.
2. Findings without the Financial impact
  - a. The MA will be informed and evaluation will be done if further actions are needed;
  - b. Confirmation of actions will be followed-up by the AA and if needed by the GoA members.

Upon request from the MA the Auditee is responsible to implement the recommendations and deliver the proof to the MA.

---

***Audit manager: Mart Pechter***

*Signature*

---

***Audit supervisor: Kadi Peets***

*Signature*

---

