



DIRECTORATE MANAGING AUTHORITY FOR EUROPEAN TERRITORIAL COOPERATION

Managing Authority for Joint Operational Programme Black Sea Basin 2014-2020

INSTRUCTION NR.16 of 20 February 2019

TO: Beneficiaries of the ENI CBC Black Sea Basin Joint Operational Programme 2014-2020 regarding project changes which require Notification or Addendum

FROM: Iulia HERTZOG, Head of the Managing Authority, Directorate Managing Authority for European Territorial Cooperation

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20.02.19

Ref.: Instruction to Beneficiaries of the ENI CBC Black Sea Basin Joint Operational Programme 2014-2020 regarding project changes which require Notification or Addendum

In order to ensure for more flexibility during the implementation of projects,

Taking into consideration the provisions of the grant contract article 1.12 the MANAGING AUTHORITY HAS ISSUED THE FOLLOWING INSTRUCTION, which clarifies the content of article 15 of the grant contract.

Article 1

By fully understanding the provisions of the Grant Contract and of the Programme Implementation Manual, beneficiaries may perform changes in projects, as follows:

- from the moment the **Addendum** entries into force (by signature from the last party)
or
- after the Lead beneficiary receives JTS acceptance in eMS about the modifications proposed in the **Notification** letter. For cases 3.5-3.8 described in article 3, an additional written confirmation from the JTS is required.

Article 2

Any change performed by Beneficiaries in projects prior to the Managing Authority's approval of the Addendum or prior to receiving the JTS acceptance in eMS for a request for modification following a Notification will be made on the responsibility and on the financial risk of the beneficiaries (Lead Beneficiary or Beneficiaries).

The beneficiaries should be fully aware on the risk of performing a change which will not be approved, later on, by the Programme bodies and which may imply ineligibility of expenditures.

Article 3

Changes, as in the indicative list below, which do not alter in a significant way the latest approved eMS version of the project and is not contrary to the principle of equal treatment of the projects and its beneficiaries, may be performed by means of a **Notification**:

- 3.1 Change of the contact person of the Lead Beneficiary/beneficiaries
- 3.2 Change of the legal representative of the Lead Beneficiary/beneficiaries
- 3.3 Change of the EUR bank account/national currency bank account of the Lead Beneficiary/Beneficiaries
- 3.4 Change of the address of the Lead Beneficiary/Beneficiaries
- 3.5 Change of the name of the controller of the Lead Beneficiary/beneficiaries
- 3.6 Minor changes in the Work plan section of eMS: they may be related either to a change of format or to rescheduling of activities/deliverables, correction of errors. These changes should not have an impact on the main objectives of the project and/or on the total project duration.
- 3.7 Correction of inconsistencies between or within different eMS sections of the project;
- 3.8 Minor transfers of amounts between items within the same main budget heading, not having a major impact on the latest approved eMS version of the Budget, which may otherwise be subject to an Addendum.

The Lead Beneficiary/beneficiaries shall operate the modifications listed under 3.1 to 3.4 as soon as accepted by the JTS in the eMS, without additional written confirmation from JTS.

For the situations listed under 3.5 to 3.8, the Lead Beneficiary/beneficiaries shall not operate any modification prior to receiving the JTS written confirmation specifying the acceptance or rejection of the proposed modification(s). The decision shall be operated in the eMS.

Article 4

Changes which have a major impact on the latest approved eMS version of the project shall require the signing of an **Addendum** to the contract by both the Managing Authority and the Lead Beneficiary.

The purpose of the addendum must be closely connected with the nature of the project covered by the initial contract or the latest approved version of the grant contract, as applicable. No modification to the contract may alter the award conditions prevailing at the time the grant was awarded. The changes cannot be contrary to the principle of equal treatment of projects and its beneficiaries.

Changes requiring an Addendum may be as in the indicative list below:

- 4.1 Changes of the duration of project's initial implementation period (extension of the implementation period).

Beneficiaries should have in mind that all projects will have to be implemented by maximum 31 December 2022 and no extension shall be approved after this date.

4.2 Changes in the beneficiary's organization or replacement of a beneficiary in the project

Replacing of a beneficiary or structural/legal change such as name, location (town, city, village, etc), change of legal status may occur in the beneficiary organizations during the implementation phase. The new proposed organization or the reorganized entity still needs to fulfill all the eligibility conditions applicable at the date of submission of the project in eMS. In case of legal succession, if there will be more than one legal successor, this change will be treated as a change in the partnership and verified accordingly, with prior assessment of the partnership and of the eligibility of the new organization before submission of an addenda.

4.3 Reallocation of costs between the main budget headings, in case of one Beneficiary or more, and other budget amendments which cannot be subject to a Notification by having a higher potential of altering consistently the latest approved version of eMS project.

Projects may in exceptional and duly justified cases apply for reallocations of costs between budget headings (only for direct costs). The reasons for modifications have to be very well justified and the LB/beneficiaries have to clearly demonstrate on necessity for funds reallocation and the impact/consequences those changes may bring to the project's overall performance (in terms of deliverables/outputs/results and specific objectives achieved).

4.6 Reallocation of costs between partners

In case of reallocation of tasks between project partners, a reallocation of funds may be necessary between project partners. Under these circumstances, the partnership agreement shall also be modified.

4.7 Modification of the Human resources heading positions in the way of deleting or adding new positions in the project team.

In all cases the beneficiaries shall justify the necessity and opportunity of the staff positions/workload changes for the project implementation.

4.8 Major changes in the Workplan of the latest approved version of eMS project

Provided that a comprehensive analysis is provided by Beneficiaries, projects are allowed to change its approach (methodology) without diminishing the expected project's outputs, results and objectives and also the investment location in case of small-scale investments. The proposed changes should bring an added value as compared to the initial project.

4.9 Changes of the initial conditions set within the preliminary project design phases (e.g. feasibility study for projects with infrastructure and works)

Other cases duly justified and without altering the planned project objectives, outputs and results.

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If an amendment is requested by the Lead Beneficiary, the Lead Beneficiary shall submit a duly justified written request to the JTS with maximum 45 days before the date on which the amendment should enter into force, unless there are special circumstances duly substantiated and accepted by the Managing Authority.

Article 5 - The beneficiaries should follow the procedure regarding the submission of the Notifications and Addenda, as described in the latest version of the Project Implementation Manual.

Article 6 - The Lead beneficiary/Beneficiaries may request verification of the related expenditures (by Controllers/auditors) only after the addendum enters into force (by signature from the last party/ JTS acceptance in eMS of a request for modification following a Notification).

Article 7 - This instruction will be communicated by the Joint Technical Secretariat to the beneficiaries (via electronic email and post it on the Programme's website).