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and the Republic of Türkiye



IMPLEMENTATION GUIDELINES

FOR END BENEFICIARY / LEAD INSTITUTION

SUPPLY CONTRACTS





FOREWORD

This Guidelines has been prepared as a tool to be used by the End Beneficiaries and Lead Institution during implementation and monitoring of Supply Contracts. Practical Guide to Contract Procedures for EU External Actions (PRAG) and other relevant monitoring manual and documents of the European Commission have been taken into consideration during its preparation, as well as relevant Cooperation Agreements, Protocols and CFCU's Manuals of Procedures.

The purpose of this document is not to replace the provisions of the Supply Contract, the applicable EU regulations and national laws, which are legally binding, but to strengthen the processes and capacities of the Lead Institutions and End Beneficiaries when practicing their roles.

Abbreviations

| | |
|--------------|---|
| CFCU | Central Finance and Contracts Unit |
| CIR | Common Implementing Regulation |
| EB | End Beneficiary |
| EU | European Union |
| EUD | Delegation of the European Union to Türkiye |
| GC | General Conditions |
| IPA | Instrument for Pre-Accession Assistance |
| LI | Lead Institution |
| NAO | National Authorising Officer |
| NIPAC | National IPA Coordinator |
| OSC | On-the-Spot Check |
| PRAG | Procurement and Grants for European Union external actions A Practical Guide |
| SC | Special Conditions |
| TS | Technical Specifications |
| VAT | Value Added Tax |
| VV | Verification Visit |



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CHAPTER 1

DEFINITIONS

A - Instrument for Pre-Accession Assistance II – IPA II

Instrument for Pre-Accession Assistance II (IPA II) is an instrument of the European Union aimed for providing financial assistance to the candidate and potential candidate countries for EU membership, for the period 2014-2020. It replaced the previous Instrument for Pre-Accession Assistance (IPA I) for the financial years 2007-2013.

The IPA II was established with Regulation No. 231/2014 of the European Parliament and of the Council of 11 March 2014 establishing an Instrument for Pre-Accession Assistance (IPA II)¹ (**IPA II Regulation**). In addition to this, two more Regulations were adopted governing the IPA II: Regulation No. 236/2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action² (**Common Implementing Regulation – CIR**) and Commission Implementing Regulation No. 447/2014 on the specific rules for implementing IPA II Regulation³ (**IPA II Implementing Regulation**), setting out the applicable management and control provisions.

The IPA II replaced the previous “project” based approach under IPA I with the “sector” based approach for the period 2014-2020.

In this context, the funds provided to Türkiye under IPA II, as specified in the table below, are used for nine priority sectors under five priority areas, implemented through Annual or Multi-Annual Programmes:

1 https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/financial_assistance/ipa/2014/231-2014_ipa-2-reg.pdf

2 https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/financial_assistance/ipa/2014/236-2014_cir.pdf

3 https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/financial_assistance/ipa/2014/20140502-commission-implementing-reg-on-ipa2_en.pdf



IPA- II POLICY AREAS AND SECTORS⁴

| POLICY AREA | SECTOR / SUB-SECTOR | LEAD INSTITUTION |
|--|--|--|
| 1 PREPARATORY REFORMS FOR MEMBERSHIP TO THE UNION | 1 Democracy and Governance 1.1 Civil Society 2 Rule of Law and Fundamental Rights 2.1 Judiciary 2.2 Fundamental Rights 2.3 Home Affairs | Ministry of Foreign Affairs Ministry of Foreign Affairs Ministry of Justice Ministry of Interior Affairs |
| 2 SOCIO-ECONOMIC AND REGIONAL DEVELOPMENT | 3 Environment and Climate Program 4 Transport 5 Energy 6 Competitiveness and Innovation | Ministry of Environment, Urbanization and Climate Change Ministry of Infrastructure and Transportation Ministry of Energy and Natural Resources Ministry of Industry and Technology |
| 3 EMPLOYMENT, SOCIAL POLICIES, EDUCATION, PROMOTING GENDER EQUALITY AND HUMAN DEV. OF RESOURCES | 7 Education, Employment, and Social Policies | Ministry of Labour and Social Security |
| 4 AGRICULTURE AND RURAL DEVELOPMENT | 8 Agriculture and Rural Development 8.1 Rural Development Program 8.2 Agriculture Program | Ministry of Agriculture and Forestry IPARD Agency |
| 5 REGIONAL AND CROSS-BORDER COOPERATION | 9 Regional and Cross-Border Cooperation | Ministry of Foreign Affairs |

B - Practical Guide (PRAG)

Procurement and Grants for European Union external actions - A Practical Guide (PRAG) provides explanations and information in compliance with the rules and regulations in force, with practical assistance in preparing and implementing procurement and grant contracts in the field of EU external action.

PRAG is not a fixed document, it can be updated by EC without prior notice. For the Service Contracts signed, the applicable version of PRAG, to be used during implementation, is the one in force at the time of publication of the Contract Notice.

This Guideline is prepared based on the PRAG Version 2020.0 - 1 August 2020⁵

⁴ Presidential Circular numbered 2019/20 regulating the distribution of roles and responsibilities of the relevant institutions in Türkiye entered into force on 4 October 2019.

⁵ <https://ec.europa.eu/europeaid/prag/>



C - National IPA Coordinator

The Director for EU Affairs (Ministry of Foreign Affairs, Directorate for EU Affairs) is appointed as the National IPA Coordinator (NIPAC) in order to identify the priorities of the Programme and Strategy Paper for Türkiye and ensure that they complement each other; and also ensure the coordination of the work with stakeholders and the consistency between the programme practices and Indicative Strategy Paper for Türkiye; to ensure overall coordination of programming; monitoring, evaluation, and reporting of the implementation. The secretariat services of the National Pre-Accession Assistance Coordinator are provided by the Ministry of Foreign Affairs, Directorate for EU Affairs⁶.

D - National Authorising Officer

The Deputy Minister of Treasury and Finance is appointed as the National Authorizing Officer (NAO). The NAO bears overall responsibility for the financial management of the funds under IPA II and for ensuring the legality and regularity of the procedures.

The secretariat services of the National Authorizing Officer shall be provided by the Management Structure composed of the National Fund (NF) and Support Offices for the NAO, established within the Ministry of Treasury and Finance⁷.

E - Contracting Authority (Central Finance and Contracts Unit = CFCU)

The CFCU, as part of the Operating Structure under each IPA II Annual Programme, is designated as Contracting Authority responsible for the administrative and financial implementation of the Programme. The CFCU is responsible for the tendering, contracting, payments to the Contractors and as such has the ultimate responsibility of the correct utilization of the EU funds.

F - Project Manager

Project Manager is the person responsible for monitoring the implementation of a project on behalf of the Contracting Authority. In the contractual terms the Project Manager is formally the Head of the CFCU.

G - Lead Institution (LI)

Lead Institution, as part of the Operating Structure under the IPA II Annual Programme, is the Ministry in charge of the relevant sector/sub-sector. Lead Institution, in the context of the Supply Contracts, is responsible for the overall coordination and monitoring of the projects under the respective IPA Programme.

6 Presidential Circular numbered 2019/20 regulating the distribution of roles and responsibilities of the relevant institutions in Türkiye entered into force on 4 October 2019.

7 Presidential Circular numbered 2019/20 regulating the distribution of roles and responsibilities of the relevant institutions in Türkiye entered into force on 4 October 2019.



H • End Beneficiary (EB)

End Beneficiary (EB) it is the institution that is the end user of the values, outcomes and results to be delivered. End Beneficiary of the IPA Programme, is in charge of technical implementation, management and sustainability of the projects and monitoring of the contracts awarded.

I • Delegation of the European Union to Türkiye (EUD)

The Delegation of the European Union (EUD) represents the European Commission in Türkiye. EUD oversees the implementation of the contracts. Moreover, EUD executes ex-ante approval function in accordance with the PRAG, which includes approval and endorsement of the Addendum to the contract (if any).

J • Contractor

The Contractor is the natural or legal person or public entity or consortium of such persons and/or bodies, selected at the end of the procedure for the award of the supply contract, with whom the Contracting Authority signed a Supply Contract.

The Contractor may be single entity or a consortium, which is permanent, legally-established grouping or an informal grouping for the implementation of the contract in subject. All members of a consortium (i.e. the leader and all other partners) are jointly and severally liable to the Contracting Authority⁸.

K • Sub-contractor

Sub-contractor is an economic operator to whom the Contractor entrusts performance of a part of the Contract. The subcontracting must be authorised by the Contracting Authority, otherwise, it may lead to sanction for breach of contract. The Sub-contractor must satisfy the eligibility and exclusion criteria applicable to the Contract. It shall be formalised with a written agreement for sub-contracting between the Contractor and Sub-contractor. However, this does not create any contractual relation between the Sub-contractor and the Contracting Authority and the Contractor bears the overall responsibility for its obligations under the Contract.

8 PRAG 2020, Annex A1a - Glossary of terms (<https://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=A>)

CONTRACT

er promises that the law will enforce. The law provides remedies if a promise is breached or recognizes the performance of contracts arise when a duty does or may come into existence, because of a promise made by one of the parties. The legal effect of a promise must be exchanged for adequate consideration. Adequate consideration is a benefit or detriment which a party voluntarily and fairly induces them to make the promise/contract. For example, promises that are purely gifts are not considered enforceable promises that are not considered contracts may, in limited circumstances, be enforced if one party has relied to his or her detriment on the promise of the other party.

contracts can be intimidating. You want the contract text to be clear and specific, and to accurately represent what your customers will see when they click on the contract. To take away some of the intimidation, we've put together the sample contract below. This text uses replacement phrases which appear between these symbols and will automatically insert information from your database, such as a user's name or email, into the contract text. Replace phrases make it easier for you to tailor contracts to specific users, without having to create multiple contracts.

to use this example as an initial basis for your contract. We strongly recommend that you review this and your own contract text. Your users will see the contract when they log in to your website. Once the user buys the product, you can see the contract on the Account Details screen. To see it, just click the link to the right of the contract and the text will jump and Automatically Renewal Contract is in force for months from the Contract Start Date, with automatic renewal for less than 30 days in advance of the end of the term, with notification of 15 days in advance of the renewal date.

to this Recurring Fee, agrees to pay monthly recurring fees as follows: For a one-time advanced automatic credit card or bank account charge. Alternatively, user may prefer six or twelve months in advance. credit card, ACH, bank check or wire transfer. Monthly increments by any means other than credit card or ACH. user may also opt to have their recurring fee charged to their credit card. To work just like these peaks, substitute letters you get from credit card and other information when they know how this will work. If you enter a number at the end of the replacement phrases then the contract will automatically insert the number. Meaning, if you insert and use a contract that charges a user for a month of equipment rental, for autopay item, and additional membership fees, then the replacement phrases will insert:

some of the items, we've put together the sample contract below. This text uses replacement phrases which appear between these symbols and will automatically insert information from your database, such as a user's name or email, into the contract text. Replace phrases make it easier for you to tailor contracts to specific users, without having to create multiple contracts. To use this example as an initial basis for your contract, we strongly recommend that you review this and your own contract text. Your users will see the contract when they log in to your website. Once the user buys the product, you can see the contract on the Account Details screen. To see it, just click the link to the right of the contract and the text will jump and Automatically Renewal Contract is in force for months from the Contract Start Date, with automatic renewal for less than 30 days in advance of the end of the term, with notification of 15 days in advance of the renewal date.

Business Plan

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CHAPTER 2

SUPPLY CONTRACT

Supply Contract (hereinafter referred to as Contract) is a legally binding agreement between the Contracting Authority and Contractor, signed following the decision to award a procurement contract, with specific terms and an undertaking to provide supplies in return for a financial consideration⁹.

The subject of the Supply Contract, besides the supply (deliver, unload, commission) of the equipment, can be also design, installation, testing, training, etc., as specified in the Contract itself.

The Supply Contract can be signed covering only one Lot.

The Contractor and the Contracting Authority are the only parties to the Contract. The Contractor shall execute the contract with the requisite care, efficiency, and diligence in line with best practice in the field concerned and in compliance with the Contract¹⁰. The Lead Institution and the End Beneficiary shall provide all technical support necessary during the implementation and monitor the implementation.

A - Parts of the Contract/Contract Annexes

The Supply Contract signed under PRAG rules consists of Contract Agreement and **Special Conditions** and Annexes to the Supply Contract, as follows:

| | |
|-----------|--|
| Annex I | General Conditions |
| Annex II | Technical Specifications (TS) |
| Annex III | Technical Offer |
| Annex IV | Budget Breakdown |
| Annex V | Specified Forms and Other Relevant Documents |

The Contract Agreement, Special and General Conditions, together with the other annexes to the Supply Contract, are the legally binding documents that govern the parties' rights and obligations under the contract. Order of precedence of these documents should be kept in mind in cases of ambiguity or divergence.

9 PRAG 2020, Annex A1a - Glossary of terms (<https://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=A>)

10 PRAG 2020 - Annexes B - Annex I - General conditions for Supply Contract



More information on the parts of the standard Supply Contract per PRAG is presented in the table below:

| DOCUMENT | DESCRIPTION |
|---|--|
| Contract Agreement and Special Conditions | Determines the basic rules of the Supply Contract, and supplemented with the annexes, represents the legal basis for contractual relation between the Contractor and the CFCU |
| General Conditions | Annex I contains the general and administrative provisions of contract implementation, covering all the implementing rules and aspects. During the implementation phase, this document must be consulted in each formal step |
| Technical Specifications | Annex II is a document setting out its requirements and/or objectives in respect of the provision of supplies, specifying, where relevant, the methods and resources to be used and/or results to be achieved. ¹¹ The technical responsibility for preparing the TS belongs to the End Beneficiary, while the Contracting Authority contributes in order to ensure compliance with the procurement and implementation rules. |
| Technical Offer | Annex III is a document drawn by the Contractor during the tendering phase, based on the requirements of the Technical Specification, which contains the detailed description of the supplies offered by the Contractor, including information on the training proposal, if applicable after-sale services, spare parts, ancillary services. |
| Budget Breakdown | Annex IV presents the maximum contract value and is presented in form of a budget breakdown providing information on the quantity, unit costs, and total value per each item of the Technical Specifications, as well as a lump sum for training and other services (if applicable). |
| Specified Forms and Other Relevant Documents | Annex VI includes the Legal Entity File, the Financial Identification Form, the Financial Guarantee (if any), etc. |

11 PRAG 2020, Annex A1a - Glossary of terms (<https://ec.europa.eu/europeaid/prag/annexes.do?chapterTitleCode=A>)



B - Contractual Terms and Conditions

The contractual terms and conditions are the provisions stipulated in the Contract, that regulate the rights and obligations of the parties.

The Contract specifies, among others, the parties of the Contract, the date of signature, the start date, implementation period, execution period, contract value, reporting requirements, etc.

Contract signature date refers to the signature date on which the last signature on the contract was made. As stipulated in the contract form, the Contract enters into force on the contract signature date.

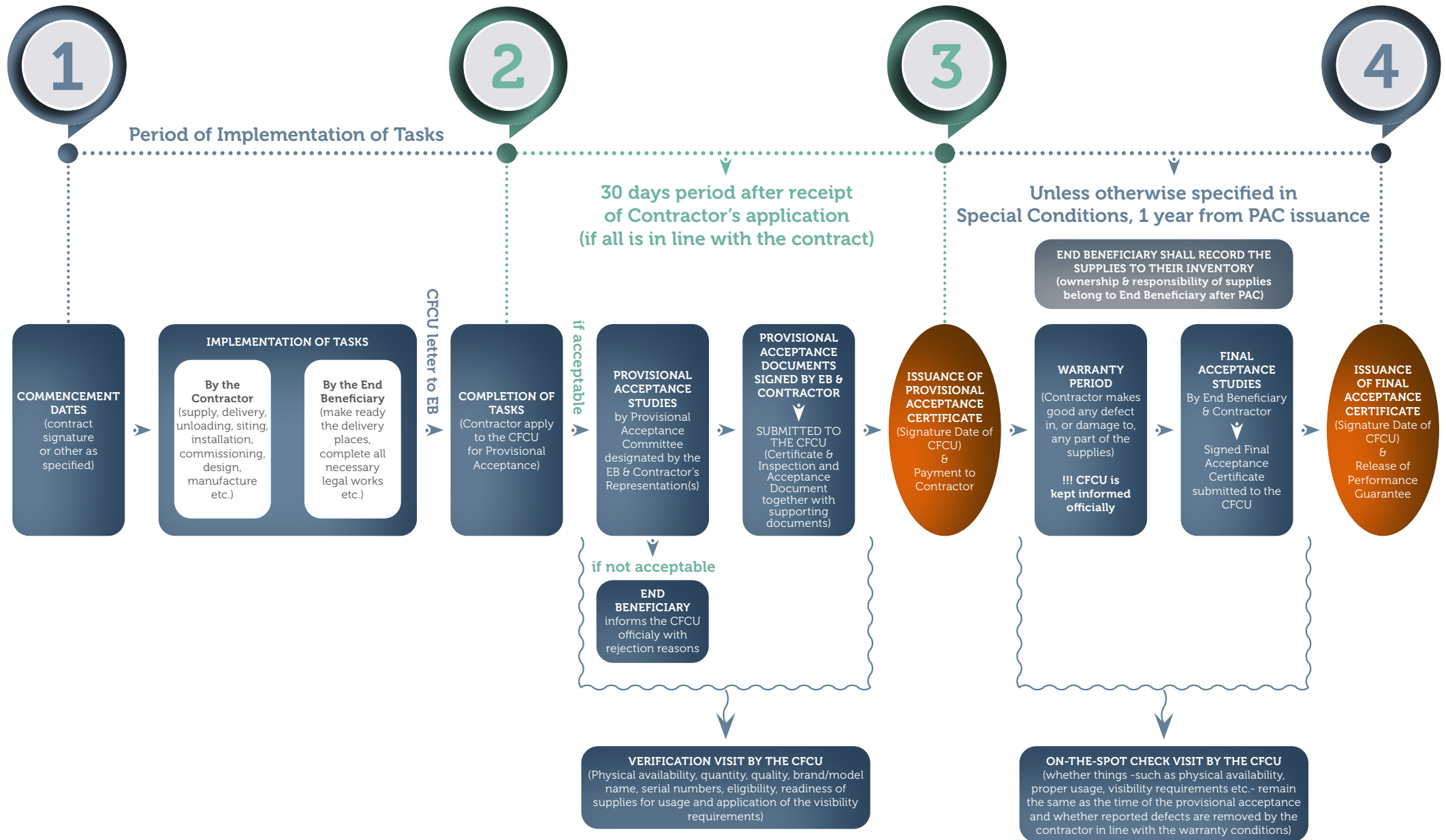
The **commencement date** identifies the date when the implementation period of the contract starts. It can sometimes coincide with the signature date by the Contractor or be the exact date specified in the Special Conditions or the date on which implementation starts shall be set with an administrative order issued by the Contracting Authority and shall be no later than 90 days following notification of award of contract.

The period of implementation of tasks is the period from the commencement date until completion of the tasks (i.e. delivery, installation, testing etc.) defined in the contract.

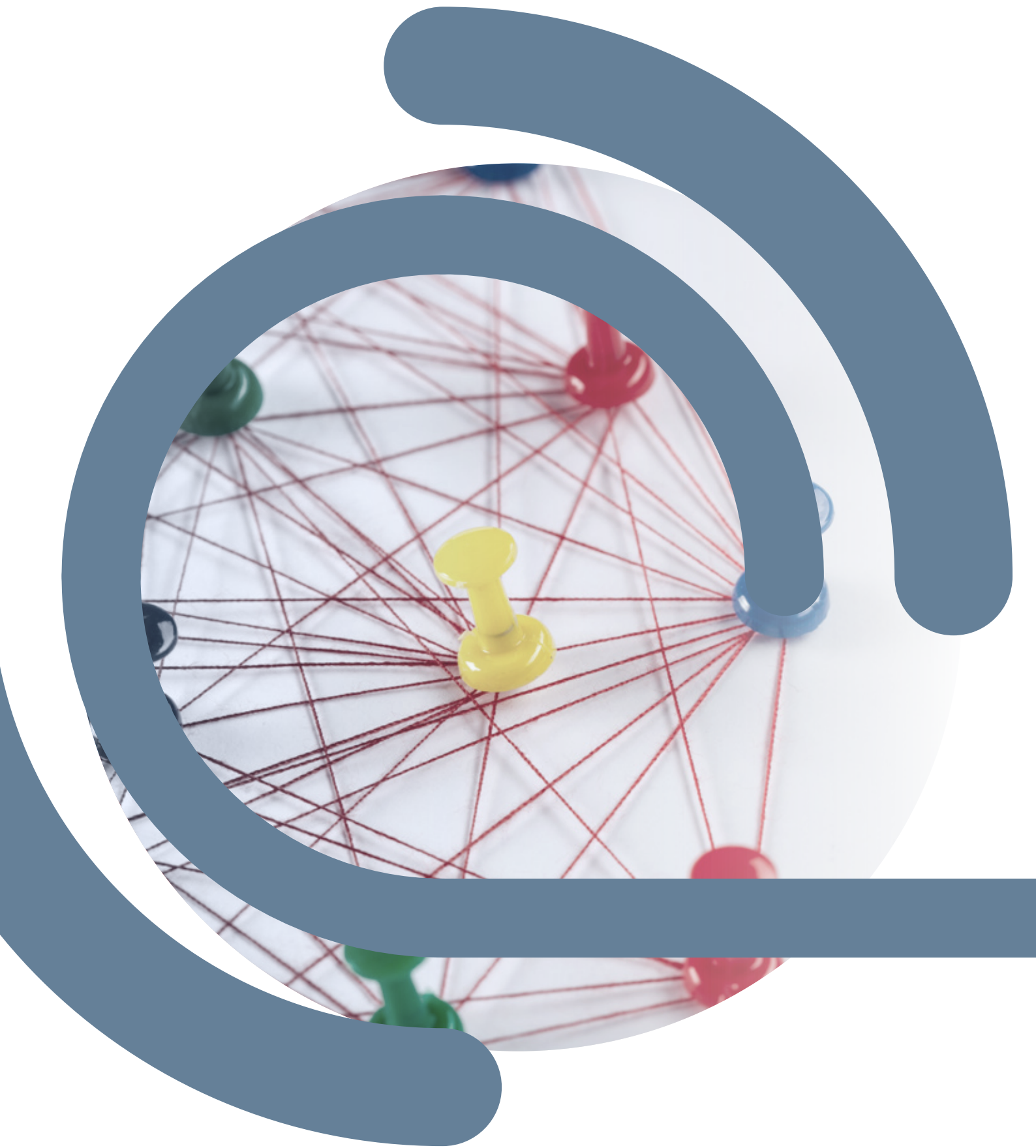
The Contractor's warranty period starts from the date of the issuance of the provisional acceptance certificate by the CFCU and must remain valid for a maximum of 1 year. Upon expiry of the warranty period, or where there is more than one such period (in case of partial provisional acceptance(s)), upon expiry of the latest period, and when all defects or damage have been rectified, the project manager shall issue the contractor a final acceptance certificate.

The execution period is the period from contract signature until the release of the performance guarantee after final acceptance.

Contract Execution Period¹²









CHAPTER 3

ROLES AND RESPONSIBILITIES

The roles and responsibilities and the framework of cooperation between the bodies within the Operating Structure under each IPA II Programme are determined in the **Cooperation Agreement** signed between CFCU and Lead Institution.

Furthermore, within the frame of provisions of this Cooperation Agreement, on behalf of Operating Structures, the Lead Institution signs a **Protocols (Operational Agreements)** with the End Beneficiary in order to designate their role and responsibilities.

In relation to the Supply Contracts, in order to ensure the smooth technical implementation of the contracts and maximise the use of EU fund, each of these institutions has the following main functions:

A - CFCU's Role

CFCU acts as a Contracting Authority in the implementation of the Supply Contracts. CFCU's responsibilities during supply contracts implementation include, inter alia, the following:

- ▶ Signing the Supply Contract with the Contractor
- ▶ Submission of a copy of the Contract to the Lead Institution and the End Beneficiary
- ▶ Issuing commencement orders and formal instructions to the Contractor regarding the contractual obligations
- ▶ Formalizing the kick-off meetings following the notification of the Lead Institution/End Beneficiary
- ▶ Formal approval of the reports (if applicable) in line with the contract provisions
- ▶ Sending the invoices to the End Beneficiary (by keeping the Lead Institution in the information) for approval of the invoices ("Read and Approved" process) in case of interim and final payments of the supply contracts
- ▶ Making payments to the Contractor in line with the EU procedures and according to contractual provisions
- ▶ Carrying out financial checks, controls the documents required for making payment to the Contractor
- ▶ Conducting verification visits before issuance of Provisional Acceptance Certificate and on-the-spot check visits before issuance of Final Acceptance Certificates.
- ▶ Participating in meetings regarding the implementation of the contract
- ▶ Managing contract changes (Administrative Orders/ Addendum)
- ▶ Informing the Lead Institution/End Beneficiary regarding the need to organise the provisional and final acceptance process and reviewing/ issuance of the provisional and final acceptance documents and sends comments to the Lead Institution/End Beneficiary, if needed
- ▶ Informing the End Beneficiary to record the supplies into their inventory and if available, initiate the transfer agreement for vehicles
- ▶ Requests recovery amounts (if deemed necessary) from or finalizes payments to the Contractor after the financial checks
- ▶ Terminating the contract (if deemed necessary), or imposes administrative/ financial penalties (when applicable).



B - Lead Institution's Role

Lead Institution is in charge of the overall coordination and monitoring of all contracts under a respective IPA Programme, including the supply contracts. As such, its responsibilities include, but not limited to, the following:

- ▶ Ensuring that End Beneficiary fulfilled all the requirements and conditionality stated in the IPA Programme documents and that all the conditions necessary for the implementation of the contracts are met
- ▶ Ensuring that kick-off meeting is organised by the End Beneficiary and participates on the same
- ▶ Asking and guiding the End Beneficiary on the timely checking and approving the invoices of the Contractor provided by the CFCU before the relevant payment is executed by the CFCU ("Read and Approved" process)
- ▶ Supervising the End Beneficiary in sending the provisional and final acceptance certificates to the CFCU
- ▶ Asks and guides End Beneficiary to nominate members and to establish competent Acceptance Committees and to issue inspection and testing procedures for the provisional and final acceptances
- ▶ Taking part in the acceptance committee meetings
- ▶ After the issuance of Provisional Acceptance, asks the End Beneficiary to undertake the ownership of the equipment/ supplies and to make necessary accounting records
- ▶ Supervising the End Beneficiary during the technical management of the contract
- ▶ Monitoring of the supply contracts execution through the programme priorities
- ▶ Notifying the CFCU/EB about the possible needs for changes in the contracts or deficiencies in the contracts' implementation and/or reviews and provides comments/ agreement/ approval to the changes/ requests/ reports etc., where relevant, related to the contracts requested by other parties
- ▶ Participating in meetings regarding the implementation of the contract
- ▶ Notifying the CFCU for non-performance of the Contractor during contract implementation
- ▶ Reporting irregularities and following-up the reported irregularities including those reported by the End Beneficiary
- ▶ Monitoring the contracts in order to ensure the sustainability of the programme.



C - End Beneficiary's Role

End Beneficiary as an institution in charge of technical implementation, management, and sustainability of the projects and monitoring of the supply contracts. The End Beneficiary is finally responsible for the tasks delegated to it, which include, among others, the following:

- ▶ Ensuring the national contribution funds for the related contract are transferred to the National Fund
- ▶ Fulfilling any requirement/conditionality stated in the programme documents and prepares necessary conditions for the Contractor stated in the Contract in a timely manner
- ▶ Organising the kick off meeting and participate on the same
- ▶ Checking and approving in a timely manner the invoices of the Contractor provided by the CFCU before the relevant payment is executed by the CFCU ("Read and Approved" process)
- ▶ Nominating members to establish competent Acceptance Committees and completing inspection and testing procedures for the provisional and final acceptances
- ▶ Signing the provisional and final acceptance certificates
- ▶ Undertakes the ownership of the equipment/supplies and makes necessary accounting records
- ▶ Notifying the CFCU/LI about the possible needs for change or deficiencies of the contract
- ▶ Reviewing and providing comments/approval to the contract amendments requests by the other parties
- ▶ Carries out or participates in the verification visits/on-the-spot checks
- ▶ Notifying the CFCU/LI for non-performance during contract implementation
- ▶ Participating in or organising meetings regarding the implementation of the contract
- ▶ Reporting on irregularities and following-up on the reported irregularities including those reported by the LI/CFCU
- ▶ Monitoring and reporting on the sustainability of the projects during and after contract completion
- ▶ Setting-up procedures and fulfilling the archiving requirements in compliance with EU regulations.





CHAPTER 4

MONITORING AND TECHNICAL IMPLEMENTATION

Monitoring can be defined as the collection, analysis, and use of information for the purpose of management and decision-making systematically, which:

- ▶ compares the actual performance and situation with the planned or expected ones according to pre-determined targets,
- ▶ identifies the strengths and weaknesses in project implementation, thus enabling managers to recognize the problems, find solutions and adapt to changing circumstances, in order to improve the project's performance,
- ▶ provides an "early warning system", which allows for timely and appropriate intervention if a project is not adhering to the implementation plan.

Monitoring is a tool to verify that funds are used for their stated purpose in the Contract and also to ensure that the projects are implemented in compliance with the applicable rules and procedures.

Management of supply contracts sometimes can be a demanding task; especially when complex supply projects are in question, involving for example supply of IT hardware and software which shall be developed under the contract, or when under the supply contract there are numbers of beneficiaries or number of delivery places, etc.

In order to optimise the benefit from the supply contracts, the projects should be monitored and supported in a way that all the implementation will comply with PRAG and national rules.

Therefore, Monitoring System to be set shall not only control the implementation but also support the Contractors in order to keep their projects on track.

The Monitoring System refers to all actors, tools, and procedures involved in the monitoring activities.

Taking into account that this Guideline is intended to be used by the End Beneficiaries and Lead Institutions, their tasks related to the monitoring and technical implementation of the supply contracts and support to be provided to the Contractors, will be elaborated step-by-step under this chapter. Moreover, this is due to the fact that the first level of monitoring and support of the Contractors, as well as direct involvement in the technical implementation, is to be provided by the End Beneficiary.



A - Meetings

Due to the nature of Supply Contracts, the regularity of meetings is often different from those that take place in Service and Works contracts and usually ad-hoc meetings are arranged when necessary.

Kick-off Meeting

After the signature of the Supply Contract, the CFCU will transfer copies of the Contract to the End Beneficiary.

A Kick-off Meeting is recommendable to be arranged soon after the contract commencement date. The following bodies shall be present at the meeting: End Beneficiary, Lead Institution, CFCU, and Contractor. The EUD task manager is also invited to the kick-off meeting.

The Kick-off Meeting amongst other issues aims to:

- ▶ Introduction of the parties, their personnel & responsibilities,
- ▶ Overview of the contract (lots, delivery places, etc.),
- ▶ Period of implementation of the tasks,
- ▶ Modification in the contract,
- ▶ Provisional acceptance,
- ▶ Warranty period/obligations,
- ▶ Final acceptance,
- ▶ Rule of origin for the supplied materials,
- ▶ Tax & Customs¹³,
- ▶ Visibility rules,
- ▶ Other Issues.

The meeting shall be organized by the CFCU; whereas the meeting is being chaired by the End Beneficiary or the CFCU. The meeting shall be recorded in Minutes, taken by the Contractor. The Minutes shall be circulated to attendees recommendable within **3 working days** after the meeting.

It is recommendable the participating parties to provide comments (if any) within **5 working days** from receiving Minutes.

The Minutes shall be accordingly revised and the final version of the Minutes should be distributed to all related parties by the End Beneficiary or by the Contractor.

Contract Progress Meetings

The regularity of these meetings is different than those that would be expected to occur for services and works contracts. It is recommended to agree on a tentative schedule of ad-hoc meetings between the End Beneficiary/ CFCU and Contractor at the Kick-off meeting, if deemed necessary.

It would be expected that the End Beneficiary and the Contractor are present on site:

- ▶ At the time the supplies are delivered;
- ▶ When training is conducted and
- ▶ When testings and/or commissioning are required, before provisional acceptance.

¹³ Detailed and up-to-date information and documents on the subject of tax exemption (VAT exemption and other tax exemptions) may be found on the page of the Revenue Administration: https://www.gib.gov.tr/uluslararasi_mevzuat



At the delivery the supplies are checked on the following:

- ▶ Quantity;
- ▶ Compliance of items to contract and TS & technical offer (if amended, with Administrative Order/Addendum);
- ▶ Timeliness of delivery;
- ▶ Clarity and compliance of support (if any).

The End Beneficiary is responsible to confirm that the supplies are delivered within the implementation period which would form a basis for calculation of liquidated damages, as the case may be.

B - Check and Approval of (Technical) Documents

The Contractor might be requested to submit documents, especially in case of more complex and lengthier actions for which a programme of implementation is submitted (SC Article 7) or when there is staggering delivery/installation process. If so, this should be carefully monitored as any delay in the delivery/installation of one piece of equipment will affect the whole delivery/installation, testing process.

According to article 7 of SC, the Contractor shall submit the required documents (designs, drawings, training plans/programmes, testing plans, implementation plan, etc) to the CFCU for approval, within the dates specified. Following comments of the CFCU and the End Beneficiary, the Contractor shall submit the revised documents in line with the deadlines under this article.

In order to ensure that the Contractor is achieving the results for which he was contracted and therefore complying with the conditions of the contract, the End Beneficiary has a responsibility to review the submitted documents and provide an assessment of these documents/plans to the CFCU who in turn as should review and provide the Contractor with consolidated comments/feedback (if needed) within **timelimit defined under the Article 7 of SC** after receipt of the documents..

C - Verification Visits (VV) / On-the-Spot Check (OSC) Visits

As one of the main monitoring tools for following the project's progress is the monitoring visits.

The supply contracts will have to be checked by the CFCU on acceptance of goods. Other institutions (i.e. the Lead Institution, the NAO, the NIPAC and the EUD etc.) can also have monitoring visits.

There are two types of visit performed by the CFCU for the supply contracts: verification and on-the-spot check visit. After notification of the Contractor for completion of the tasks, during VV, the supplies are checked to:

- ▶ Verify that the Contract implementation is carried out in a proper and timely manner;
- ▶ Address any problems which could endanger provisional acceptance process;
- ▶ To check the respect of visibility rules.

During the warranty period of the contract and before the issuance of the Final Acceptance Certificate, an On the Spot Check is performed by the CFCU, and during OSCs, the supplies are checked to:

- ▶ To assess that warranty obligations are respected;
- ▶ To check if deliveries are utilized in accordance with the project purpose, i.e. sustainability;
- ▶ To check the respect of visibility rules.



The major aim of visits is to verify that the contractual requirements are complied with - quantity; compliance of items to specifications; compliance of items to specified maximum tolerances by inspection; timeliness of delivery, warranty obligations etc.

D - Provisional Acceptance

In article 31.2 of General and Special Conditions, it is stipulated that the contractor may apply, by written notice to the project manager, for a certificate of provisional acceptance when supplies are ready for provisional acceptance. The CFCU shall within **30 days** of receipt of the contractor's application either:

- ▶ issue the certificate of provisional acceptance to the contractor
- ▶ reject the application, giving his reasons and specifying the action which, in his opinion, is required of the contractor for the certificate to be issued.

Based on this request, the CFCU notifies the End Beneficiary to establish a Provisional Acceptance Committee.

The End Beneficiary is required to establish the Provisional Acceptance Committee, taking into account the issues stated in the said notification. It is important that the End Beneficiary sends the following documents to all Committee members (to all delivery points in case of deliveries to more than one place) for the successful operation of the acceptance process:

- ▶ Copy of the Contract
- ▶ Contractor's Equipment delivery list
- ▶ Technical Specifications and Technical Offer
- ▶ Contract amendments (if any), in form of Administrative Orders and/or Addenda

The following checks and inspections are carried out by the Provisional Acceptance Committee, based on which the Inspection and Acceptance Document is prepared and signed (by the Contractor and Acceptance Committee of the End Beneficiary) and sent to the CFCU by the End Beneficiary:

| | |
|--------------------------|---|
| Basic compliance | Compliance of the delivered products with the products included in the Contract (brand, model, quantity, serial number, origin information, etc.) |
| Detailed Features | Delivery of the products to meet every item in the Technical Specification and Technical Offer |
| Setup | <ul style="list-style-type: none"> ▶ Whether the device is installed properly or not ▶ If it is stipulated in the inspection, test, and contract, whether the calibration has been performed. |
| Manuals | If included under the contract, submission of operation and maintenance manuals, with all necessary drawings, to a level of detail that would ensure that the supplies may be operated, maintained, adjusted, and repaired to a level, as required under the contract |
| Training | If it is included in the contract, whether the training was completed in the period and manner specified in the contract. |
| Visibility | Whether visibility labels are attached to the delivered products as specified in the contract. |

In the event any deficiency, defect, or malfunction that may prevent Provisional Acceptance is detected, the Contracting Authority must be officially informed within the periods specified in the official notification.



Visibility

One of the main tasks of the Provisional Acceptance Committee is to check whether the visibility obligations under Article 9.9 of the General and Special Conditions of the contract are fulfilled.

It is of great importance to check that the visibility labels affixed on the products are durable and visibly designed and that the products are kept in their original form throughout their lifecycle. Moreover, it shall be checked if they are in accordance with the visibility requirements of the EU's Communication & Visibility Manual and the visibility guidelines of the Delegation of the European Union to Türkiye, to be found on the following links:

- ▶ https://ec.europa.eu/europeaid/funding/communication-and-visibility-manual-eu-external-actions_en
- ▶ <http://www.avrupa.info.tr/en/learn-about-eu-visibility-guidelines-16>

Origin

The origin of the products must be in accordance with Article 10 of the Special Conditions, i.e. they must originate from an IPA eligible country (as listed in Annex A2a of the PRAG) unless the derogation regarding the origin of the product is specified.

During the Provisional Acceptance, the compliance of the origin of the products must be checked and confirmed by the Inspection and Acceptance Committee. The Contractor must submit to the CFCU official and original Certificates of Origin or Turkish Goods Certificates (Türk Malı Belgesi) issued by the authorised institution of the countries in accordance with the relevant articles of the contracts. For detailed information and documents regarding the issuance of the Turkish Goods Certificate, please refer to the following link:

<http://www.tobb.org.tr/DisTicaretMudurlugu/Sayfalar/IPATurkMaliBelgesi.php>

Copies of the origin certificates are sent to the End Beneficiary with copies of the Contractor's invoices' (Read and Approved procedure), in order to check the origin information of the products delivered within the scope of the relevant contract and inform the Contracting Authority in case of any inconsistency.

Submission of Provisional Acceptance Documents to the Contracting Authority

The Provisional Acceptance Certificate shall be signed by an authorised representative of the End Beneficiary, who prior to this, must see and examine the Inspection and Acceptance Document and its annexes signed by the Provisional Acceptance Committee and the Contractor.

In provisional acceptance certificate, since the date shall be filled in by the CFCU, no date should be specified by the End Beneficiary or the Contractor, it should be left blank. If it is more than one page, all the pages of the Certificate are initialled by the Contractor, End Beneficiary, except the last page of signature. After the inspection and acceptance are completed, the following documents must be submitted by the End Beneficiary to the Contracting Authority within the time specified in the official notification:



| DOCUMENT | DESCRIPTION |
|---|--|
| Provisional Acceptance Certificate | Signed by the authorised representative of the End Beneficiary and the Contractor (3 originals) |
| Inspection and Acceptance Document | Signed and pages initialled by the members of the Provisional Acceptance Committee and the Contractor (1 original) |
| Copy of the Technical Offer and Technical Specifications in the Contract (initials on the original contract itself shall be seen on the copy) | Initialed by the members of the Provisional Acceptance Committee and the Contractor (parties shall not prepare a separate document other than the one in the contract). The Administrative Orders and/or Addenda (if any) shall also be enclosed and initialled. |
| Training documents | Including participant list and training period |
| Photographs of the delivered products | Showing brand, model, serial number, origin, and visibility labels |

Verification Visit (VV) by the Contracting Authority

Before the (Partial) Provisional Acceptance Certificate is signed by the Contracting Authority, verification visit(s) are arranged with the participation of the relevant Contract Manager (CM) and Finance Manager (FM) of the CFCU in order to check the products supplied on site.

VV will be performed in order to check physical availability, quantity, quality, brand/model name, serial numbers, eligibility, readiness of supplies for usage and application of the visibility requirements in line with the provisions of subject contract. In this context, the End Beneficiary is expected to provide the necessary support, assign the relevant and authorized personnel, and carry out the necessary programming in coordination with the Contracting Authority in performing the verification visit.

Partial Provisional Acceptance

In accordance with Article 31.5, the Contracting Authority may give partial provisional acceptance. In such a case, the above-mentioned acceptance procedure should be followed in the same way for the equipment subject to partial acceptance.

Signature of Provisional Acceptance Certificate

After the necessary controls and verification visit(s) by the CFCU, the (Partial) Provisional Acceptance Certificate is signed by the Contracting Authority if the contract conditions are fulfilled, and the Contractor's warranty period starts. The signature of the Provisional Acceptance Certificate means that the products included in the certificate have been delivered, installed, tested and found compliant with the technical specifications of the supply contract.



The ownership of the equipment is transferred to the End Beneficiary with the issuance of the Provisional Acceptance Certificate, upon this the equipment must be registered in the inventory of the End Beneficiary in line with the provisions of the applicable legislation.



E - Warranty Period

The warranty period is governed by Article 32 of General and Special Conditions of the Contract and according to this, it shall begin on the date of issuance of the Provisional Acceptance by the CFCU. This date is formally notified by the Contracting Authority to the End Beneficiary and the Contractor by submission of the signed certificate via official letter.

Unless otherwise stipulated in Article 32 of the Special Conditions, the duration of the warranty period is 1 year.

As soon as the Provisional Acceptance Certificate is signed, the active use of the supplied products by the End Beneficiary shall start. During the warranty period, it is the End Beneficiary's responsibility to officially inform the Contracting Authority and the Contractor, on any problems (malfunction, delay, maintenance, repair, etc.) that arise during use of the equipment. The contractor is responsible for making good any defect in, or damage to, any part of the supplies which may appear or occur during the warranty period.

The End Beneficiary shall notify the Contracting Authority thereof, whether the Contractor has fulfilled its obligations under the warranty, otherwise in order to make the necessary warnings and, if necessary, to apply relevant articles of SC and GC.

F - Final Acceptance

Following the end of the warranty period, the final acceptance certificate shall be issued by the CFCU within 30 days after the expiration of the warranty period or as soon as any repairs ordered under Article 32 have been completed to the satisfaction of the project manager..

During the Warranty Period the End Beneficiary shall inform the Contracting Authority on the following controls carried out:

- ▶ Have the faults/malfunctions previously reported to the Contractor been fixed?
- ▶ Has confirmation been received from the personnel responsible for the equipment at all delivery addresses that there are no defects/malfunctions?
- ▶ Is all equipment in full working order?

If there are no defects/deficiencies that need to be corrected by the Contractor, the Final Acceptance Certificate signed by the Contractor and the End Beneficiary shall be submitted to the Contracting Authority in three originals after the above controls are carried out.

The signature of the Final Acceptance Certificate means that the Contractor has remedied any defect or damage occurred during the warranty period, namely the Contractor has performed in full his obligations under the Contract.. The End Beneficiary is responsible for the continuous use of the equipment for the purposes of the project and must remedy the defects and damages that will be detected later (after manufacturer's warranty expires), with its own resources.

On-the-spot check visit by the Contracting Authority before Final Acceptance

Before the Final Acceptance Certificate is signed by the CFCU, with the participation of two Contract Managers, an on-the-spot check visits shall be organised in order to check on-site that the supplied products are used and functioning in accordance with the Contract.

In this context, the End Beneficiary is expected to provide the necessary support, to assign the relevant and authorised personnel, and to carry out the necessary arrangements, in coordination with the Contracting Authority, for implementation of the said visit.





CHAPTER 5

AMENDMENTS TO THE CONTRACT

The supply Contractor and the parties involved should make an effort to implement the project as originally planned. Nevertheless, situations may arise where there is a need to make some changes in duration of implementation period, brand/model change, the total contract price or variations in the quantities or amendment to any part of the supplies. In such situations, an amendment to the Contract shall be applied. The amendments of the Supply Contract shall be done in accordance with Article 22 of the General Conditions of the Supply Contract.

The procedures for amendment of the supply contract can be categorized into three groups depending on the type of change that should be made:

- ▶ **Notifications by the Contractor**
- ▶ **Administrative Order by the Project Manager**
- ▶ **Addendum to the Contract** to be signed by all parties before implementing the change. Addendum requires prior approval of the CFCU and endorsement of the EUD.

A - Important Principles Related to Contract Amendments

- ▶ Most amendments to Supply Contracts are formalised by way of Administrative Order.
- ▶ Contract amendment must be formalised in writing through an Administrative Order or an Addendum signed.
- ▶ The amendment must be duly justified and substantiate. In particular, must include all information necessary for the Contracting Authority to take an informed decision on the matter including (but not limited to): the reasons behind the amendment, and, the impact of the amendment on the implementation of the contract (i.e. on the supplies and on the budget).
- ▶ Any amendment for the extension of the contract shall consider the implementation to be completed before the operational implementation deadline of the relevant Financing Agreement.
- ▶ The amendments are not acceptable if it is required due to a default or breach of contract by the contractor, any additional cost attributable to such amendment shall be borne by the contractor.



B - Notifications by the Contractor

The amendments to the Contract related to the change of the bank account shall be done through written notifications by the Contractor to the Contracting Authority using the Financial Identification form template. The Contracting Authority has the right to oppose the change of the contractor's bank account.

C - Administrative Order for Contract Amendment


The Administrative Order is an instruction issued in writing by the CFCU to the Contractor regarding the implementation of the contract. This may be used when the amendment is not considered to be 'substantial' i.e. does not affect the object or scope of the contract.

Examples of this would include:

- ▶ Additions or omissions to the supplies;
- ▶ Substitutions related to the supplies;
- ▶ Changes in quality, quantity, form, character, kind of supplies;
- ▶ Changes in drawings, designs, or specifications where the supplies are to be specifically manufactured under the contract;
- ▶ Changes in method of shipment/packing;
- ▶ Changes in the place of delivery;
- ▶ Changes in the sequence, method, or timing of implementation of the tasks,
- ▶ Variation of the quantities per lot or per item by +/- 100%, however, the total financial impact of all variations must not be greater than 25% of the accepted contract amount;

Extension of the period of implementation of tasks. The request for such modification can come either from the Contractor or from the Contracting Authority (CFCU), or in some cases from the End Beneficiary. If the modification is on a request of CFCU, the Project Manager shall notify the Contractor of nature and the form of the proposed amendment and ask the Contractor to submit a written proposal with justification and relevant supporting documents (description of the tasks to be performed or measures to be taken, revised programme of implementation of the tasks, adjustment to the total contract price (if any), etc.).

The Contractor shall submit the proposal to CFCU for approval. After reviewing the proposal, The CFCU asks to the End Beneficiary for his consent or comments. If the End Beneficiary provides comments, upon notification of the CFCU, the Contractor shall revise the written proposal for amendment accordingly and resubmit it to the End Beneficiary. Following this, the End Beneficiary submits the whole package of the documents, together with a Letter for approval of the amendments to CFCU.



End Beneficiary shall thoroughly check the written proposal for amendment of the Contractor and shall provide its comments and consent to the CFCU.

The Administrative Order preparation is the responsibility of CFCU. Copy of the administrative order is sent to the LI/EB.

Administrative Order shall not be issued retroactively, except in exceptional circumstances, the amendment may have a retroactive effect provided the execution period has not expired.¹⁴

¹⁴ The Contractor will only receive confirmation that the Contracting Authority has agreed to its request once the addendum has been duly signed or an administrative order has been issued and he bears the financial risk of any costs incurred or goods and services provided before the addendum or administrative order has been issued, because the contracting authority has the right to refuse to sign the addendum or issue the order with retroactive effect.



| STEP NO. | ACTIVITY | RESPONSIBLE | DURATION (RECOMMENDATION) |
|----------|---|-------------|--|
| 1 | Prepare a written proposal for amendment with justification and supporting documents and submit it to CFCU | Contractor | Preferably 20 days before the date of applying the modification or earlier |
| 2 | Sends proposal to the EB for his viewpoint | CFCU | As soon as possible |
| 3 | Provides comments on the Contractor's amendment request (if any), or provides consent CFCU or reject it | EB | Within 3 days following the delivery of the amendment request |
| 4 | Assess the Contractor's amendment request, and: 1. Provides consolidated comments (if any) (procedure to be restarted from step 1), or 2. Issues Administrative Order to the Contractor (copy to EB) if the amendment is approved, or 3. Rejects the request | CFCU | As soon as possible |

Although modifications are allowed, the Contracting Authority has the right to refuse the changes, if it finds that the conditions listed in the General Conditions of the Contract have not been respected. In such cases, the proposed amendment must have no effect and any cost relating to this amendment must be considered ineligible.

It is, therefore, in the interest of the Contractor, who bears the financial responsibility, to inform the End Beneficiary and the Contracting Authority as soon as the need for amendment is identified and if possible, prior to any intended changes taking effect to avoid incurring ineligible costs.

Change of the product/model

In most cases, the changes approved by Administrative Orders are due to substitutions of the supplies, for instance due to discontinuation of the production of the items specified in the Contract. The role of the End Beneficiary is crucial in this case in order to examine and evaluate the newly proposed product in accordance with the minimum requirements in the Technical Specifications and to submit its opinions to the Contracting Authority.

Change of the place of delivery

Changes to the place of delivery specified in the Contract for the product to be supplied are carried out with an Administrative Order to be issued by the Contract Authority. If changes in the delivery locations are required, the End Beneficiary must inform the Contracting Authority formally in advance, in order for the Administrative Order to be issued in due time.

Extension of the period of implementation of tasks

The extension of the period of implementation is governed under Article 20 of the General Conditions. In case the Contractor requests time extension, the End Beneficiary should evaluate the change requests in technical terms i.e. whether the delay in delivery will constitute a technical problem, and inform the Contracting Authority thereof.



D - Addendum to the Contract

The addendum procedure can be long and complicated and should be initiated only if absolutely necessary.


An amendment to the contract shall be formalised through an Addendum in case the change affects the object or scope of the contract, such as:

- ▶ amendment to the total contract amount;
- ▶ Variation of the quantities per lot or per item for more than $\pm 100\%$,
- ▶ Variations of quantities per lot or per item for by $\pm 100\%$, where the total financial impact of all variations is greater than 25% of the accepted contract amount;

The PRAG version applicable to the Contract in question, as well as the provisions of the Contract Notice and the Contract itself, must be carefully inspected, since the rules related to this issue change throughout the different PRAG versions.

In both cases the outcome is the signature of an Addendum, however, the negotiation procedure is more time consuming and must be duly justified.

Only once the addendum enters into force the Contractor can claim payments for the costs.



**The addendum takes effect on the date of the last signature.
The Contractor cannot implement the change before
the signature of the Addendum.**

The role of the End Beneficiary in the procedure of preparing an addendum to the contract is of crucial importance. Taking into account that the process is long lasting, as there are many actors involved (Contractor, End Beneficiary, CFCU, EUD), well prepared request for addendum can significantly facilitate and accelerate the whole procedure.

Thus, the CFCU is the first filter for the eligibility of the requests for addendum from the Contractor. The End Beneficiary bears the responsibility towards the CFCU for giving consent to the requested addendum. Therefore, the comments provided from the End Beneficiary to the CFCU, in the early stage of preparation of the request, can only contribute to better preparation and justification of the request and subsequently to its approval.

In addition to the assessment of the justification for the request, the End Beneficiary is responsible to make an assessment of the annexes of the Contract that are affected by the Addendum and cross-check whether the Contractor has duly reflected the changes in all of them.



Steps to be followed in case of Addendum, if the initiator is the contractor

| STEP NO. | ACTIVITY | RESPONSIBLE | DURATION |
|----------|---|-------------|--|
| 1 | Prepare addendum with its annexes (in 3 originals) and with supporting documents and submit to CFCU | Contractor | At least 50 days before the amendment or before project completion |
| 2 | Sends proposal to the EB for his viewpoint | CFCU | As soon as possible |
| 3 | Provides comments on the Contractor's addendum request, or provides its consent or reject it | EB | Within 5 days following the delivery of the addendum request |
| 4 | Assesses addendum request, and: 1. Provides consolidated comments to Contractor (the procedure to be restarted from step 1), or 2. If approved submit it to the EUD for endorsement | CFCU | Preferably within 30 days upon receiving the request |
| 5 | 1. Rejects the request, or; 2. Provide comments (the procedure to be restarted from step 1), or; 3. if it is acceptable, provides endorsement to the addendum | EUD | |
| 6 | If endorsed, CFCU sends the addendum (3 originals) to the Contractor for the last signature | CFCU | As soon as possible |
| 7 | Keep one original of the signed addendum and sends the other two originals and their annexes back to the CFCU | Contractor | As soon as possible |
| 8 | Send a copy of the signed Addendum to EB, send 1 original to EUD | CFCU | As soon as possible |
| 9 | Implement project according to the final decision (approval/ rejection) of addendum | Contractor | As soon as possible |



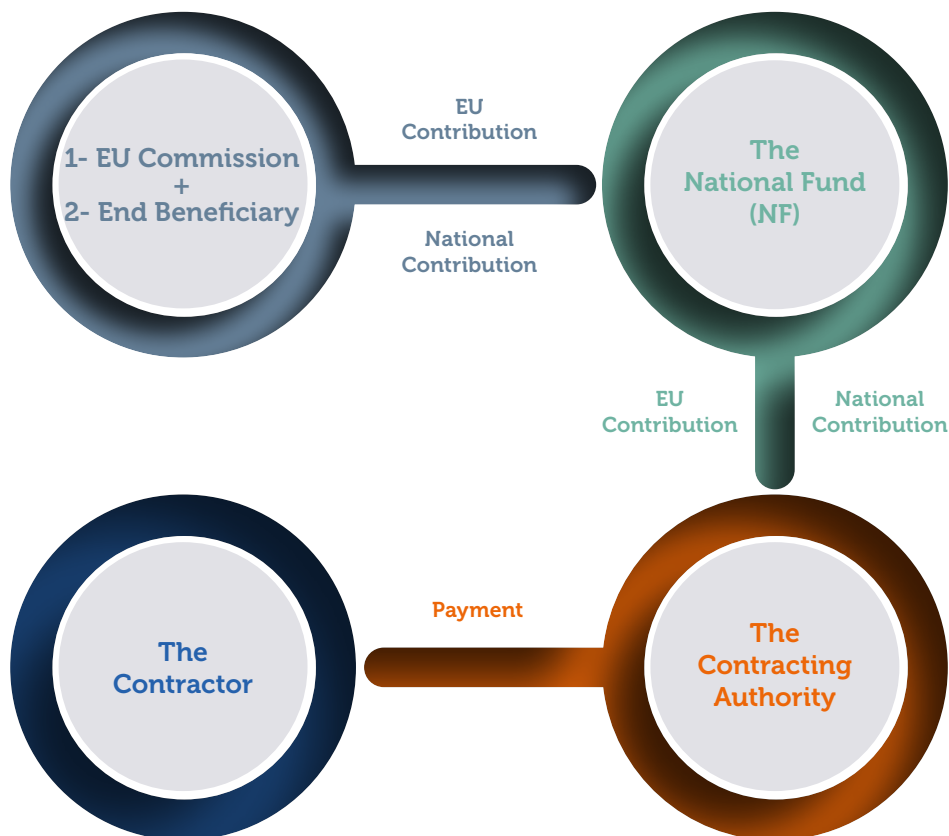


CHAPTER 6

FINANCIAL ISSUES

A - National Contribution

The majority of the projects (so the contracts) require financial contribution from the Beneficiary in addition to the European Union. For the projects requiring national contribution, the End Beneficiary is responsible for providing the necessary national contribution. In this context, the National Fund requests the national contribution from the End Beneficiary taking into account the fund requests/forecasts made by the CFCU. Following the transmission of the requested amount to the National Fund by the Beneficiaries, the National Fund transfers the national contribution amounts to the relevant accounts. CFCU becomes to be able to make payments to the Contractors only after the transfer is made by the National Fund (please see below the table showing the fund flow).



In order to avoid any delay in the payment process of a contract, the End Beneficiary is expected to transfer the contribution requested by the National Fund in a timely manner.

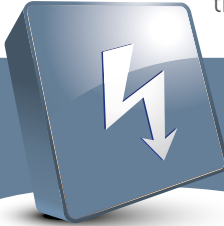




B - Role of the End Beneficiary in the Payment Process

End Beneficiary's approval for the invoices is required before the CFCU execute the related (interim or final) payment. Therefore, a copy of the invoice issued by the Contractor for the products subject to Provisional Acceptance and copies of the origin certificate(s) of the products, and a Checklist (to be filled by the End Beneficiary), are sent by the Contracting Authority to the End Beneficiary with an official letter.

Within the period specified in the CFCU's letter, the End Beneficiary's authorised representative and one more authorised End Beneficiary's employee shall provide approval ("read and approved") and send it to the Contracting Authority. If an invoice cannot be approved by the End Beneficiary, the CFCU must be informed with the reasons in writing without any delay. This shall be done in order for the Contracting Authority to be able to execute the payment within the deadline, otherwise, the Contractor is entitled to claim late payment interest in case the payment is not executed within the period stated in the General Conditions.



It is important the End Beneficiary to submit the requested information and documents by the Contracting Authority in due time, correct and complete, in order to ensure smooth payment process.







CHAPTER 7

SUSTAINABILITY OF PROJECTS

The importance of the **sustainability issue** of the EU assistance under IPA II has been emphasized and underlined.

Namely, the Common Implementing Regulation stipulates the following: *“The longer-term outcomes and impacts and the sustainability of effects of the Instruments shall be evaluated in accordance with the monitoring, evaluation and reporting rules and procedures applicable at that time”.*

In addition to this, the IPA II Implementing Regulation states: *“The sectoral monitoring committee shall report to the IPA monitoring committee and may make proposals on any corrective action to ensure the achievement of the objectives of the actions and enhance the efficiency, effectiveness, impact, and sustainability of the assistance provided”.*

The use of the term sustainability is broad and it is difficult to be defined precisely. **Sustainability is the ability to exist constantly.** Sustainability relates to whether the positive impact of the project at the purpose level is likely to continue after the end of the external funding.

Sustainability of a project implies the continuation of project activities and sustenance of project outcomes after the contract finalization.



The monitoring of the sustainability is launched with the completion of the contract and following the approval of the Final Report.

The responsibilities related to monitoring for ensuring sustainability are as follows:

1. NIPAC has an overall responsibility to monitor and ensure the sustainability of the projects/actions financed under the IPA framework.
2. Lead Institution has a responsibility to monitor and ensure the sustainability of the project/actions within the relevant IPA programmes under its responsibility and acts as a liaison between NIPAC office and End Beneficiary.
3. End Beneficiary has the final responsibility to ensure and maintain the sustainability of the completed projects.



Responsibilities related to sustainability of the contracts

| LEAD INSTITUTION | END BENEFICIARY |
|--|---|
| Prepares and submits the evaluation plan to the NIPAC (copy to CFCU) in compliance with the Framework Agreement by 15 November each year | Helps the LI in preparation of the evaluation plan which shall be submitted to the NIPAC in compliance with the Framework Agreement |
| Asks and supervises the EB, particularly for the monitoring of sustainability of the projects | Ensures sustainability of project results to be used in the scope of the contracts and in line with the action objectives |
| Monitors the action's outputs in order to ensure the sustainability of the action/programme | Helps LI for monitoring the action's outputs in order to ensure the sustainability of the action/ programme |

The ownership of the supplied equipment according to the Contract is wasted to the Contracting Authority. However, they shall be transferred to the End Beneficiary as a final owner of the supplies under the Contract. Therefore, the End Beneficiary shall ensure the sustainability of the completed projects in a long term.

In relation to the Supply Contracts this might refer to the following:

- ▶ the delivered equipment is installed
- ▶ the equipment is operational and in use
- ▶ the maintenance of the equipment is assured
- ▶ the trained staff is retained, etc..

The monitoring of the Supply contracts in relation to sustainability should provide answers to the following questions:

- ▶ Has the purchased supply been fully put into operation?
- ▶ Is the personell trained to use the equipment?
- ▶ Is the equipment provided fully used for the same purpose that was designed and by the beneficiary designed for?
- ▶ Is the appropriate cost of maintenance covered by the End Beneficiary?
- ▶ What is the immediate change happened?
- ▶ Describe the elements of the visibility actions and possible effects produced?
- ▶ Were the identified impacts sustainable?
- ▶ What are the other mid-term and long-term impact(s) expected?
- ▶ Does the equipment provide better legal, economic and social protection services to the public?
- ▶ Where the achieved results sustainable, especially in terms of retaining improved administrative capacity and maintenance of provided investment?
- ▶ What are the prospects for the financing of possible follow up projects?
- ▶ Is the relevant project/contract documentation kept properly?





The Lead Institution can also perform monitoring visits for verification of sustainability. Lead Institution shall report to NIPAC on the sustainability of all the projects within the relevant IPA Programme under its responsibility on a consolidated basis before each Sectoral Monitoring Committee.

List of situations considered to be a breach of project sustainability requirements:

- ▶ The Assets in the ownership of the End Beneficiary are not maintained appropriately and used for the intended purpose;
- ▶ Change of legal status of the End Beneficiary without rightful takeover of the assets by the legal successor;
- ▶ Change in ownership of the assets;
- ▶ Change of legal status or reorganisation of the End Beneficiary without notification;
- ▶ Assets are not registered in the End Beneficiary inventory book and/or other equivalent database and taxes and administrative fees are not paid;
- ▶ The changes to the condition of the End Beneficiary or the Asset have not been duly reported;
- ▶ Non- compliance with the visibility rules;
- ▶ Any other situations that have or might have negative impact on the sustainability requirements.

In case of any situation stated above arise sanctions shall be imposed to the End Beneficiary. The NAO has the right to recover the funds partially or in full from the End Beneficiary.





CHAPTER 8

OTHER ISSUES

A • Value Added Tax (VAT) Exemption and Application

Contractors will be exempted from VAT for services rendered and/or goods supplied and/or works carried out under the European Community (EC) contract. Goods provided or services rendered or works performed by the sub-contractor are also exempt from VAT. This exemption applies only to the goods provided or services rendered by the Contractor under the EC contract or to the works or services performed or works performed in connection with the goods provided. The term "Contractor" will also include members of the consortium or joint venture.

An application must be made to the Turkish Revenue Administration or the relevant Tax Office by the contractor. In order to benefit from the VAT Exemption Certificate, the following documents must be submitted during the application:

- a. A copy of the contract signed between the Contracting Authority and the Contractor, initialed by the authorized representative of the applicant firm and stamped as "same as the original",
- b. A copy of the Project budget clearly indicating which part of the budget will be used by the partners (members of the consortium or joint venture) or a statement from the Beneficiary indicating which part of the Project budget will be used by the Partner. This issue should also be specified in the Information Form to be signed by the Contracting Authority.
- c. First of all, the VAT Exemption Information Form prepared by the Contractor and submitted for the approval of the Contracting Authority and approved and sealed by the Contracting Authority.

Detailed and up-to-date information and documents on the subject of tax exemption (VAT exemption and other tax exemptions) can be found on the Revenue Administration page: https://www.gib.gov.tr/uluslararasi_mevzuat

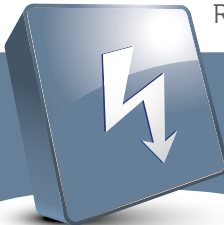




B - Vehicle Handover Procedures

After the Provisional Acceptance Certificate is signed for the motor vehicle(s) supplied under the Contract, the "Motor Vehicle Transfer Protocol" shall be signed between the Contracting Authority and the End Beneficiary, in order the End Beneficiary to carry out the license plate and registration procedures.

Following the signing of the above-mentioned protocol by the parties, the necessary notification is made to the units authorized for registration by the Contracting Authority. Registration must be completed within 3 months from the signature date.



The transfer, license plates, insurance, TÜV and registration procedures for the vehicles are under responsibility of the End Beneficiary, as well as the costs related for these procedures.

C - Irregularity Reporting

The End Beneficiary shall inform when an irregularity of fraud has been detected.

According to EU regulations, an irregularity is any infringement of a provision of EU law resulting from an act or omission by an economic operator which has, or would have, the effect of prejudicing the general budget of the European Union or budgets administered by the EU by charging an unjustified item of expenditure, reducing or losing revenue collected on behalf of the EU from national sources.

The Irregularity Report shall be prepared in case of suspicion of the existence or in case of detection of situations that may harm funds of EU and Republic of Türkiye.

CFCU should be notified about irregularities without any delay upon its suspicion or detection.

D - Audit Trail

The End Beneficiary shall ensure at all times a sufficiently detailed audit trail. In order to create adequate audit trails and in order to facilitate the retrieval of documents at any given point of time by any authorised person a proper filing and archiving system shall be established and maintained.

The End Beneficiary will ensure that:

- ▶ For each Contract, a file is opened and the respective documents are archived in it
- ▶ Keep the following record in an accurate and reliable manner:
 - Copy of the Contract and all amendments (Addendums and Administrative Orders),
 - Programme of implementation of the tasks,
 - Provisional and Final Acceptance Certificates,
 - Copies of Monitoring Visit Reports,
 - Checklists and amendment request,
 - Irregularity Reports,
 - All correspondence related to the respective Contract.

In accordance with the Framework Agreement, the documents must be kept **for at least six (6) years** after the closure of the respective IPA programme under which the contracts have been financed.



References

- ▶ Procurement and Grants for European Union external actions (PRAG) Version 2020.0 - 1 August 2020
- ▶ DEVCO Companion to financial and contractual procedures (Version 11.0 - February 2021)
- ▶ Presidential Circular numbered 2019/20 regulating the distribution of roles and responsibilities of the relevant institutions in Türkiye entered into force on 4 October 2019
- ▶ Cooperation Agreement between the Central Finance and Contracts Unit and the Lead Institution on the functions and the responsibilities of the Operating Structure - template

REPUBLIC OF TÜRKİYE
MINISTRY OF TREASURY AND FINANCE
CENTRAL FINANCE AND CONTRACTS UNIT

T.C. Hazine ve Maliye Bakanlığı Kampüsü
İnönü Bulvarı No: 36 E Blok
06490 Emek / ANKARA

T: +90 312 295 49 00

F: +90 312 286 70 72

