

# TERMS OF REFERENCE FOR AN EXPENDITURE VERIFICATION OF A GRANT CONTRACT

## - EXTERNAL ACTION OF THE EUROPEAN UNION -

The following are the terms of reference ('ToR') under which The African Commission on Human and Peoples' Rights (The term "Coordinator" refers to the Beneficiary identified as the Coordinator in the Special Conditions) agrees to engage 'the Auditor' to perform an expenditure verification and to report in connection with a European Union financed grant contract for an external action concerning **"Strengthening the role of the ACHPR in the African Human Rights System"**

Where in these ToR the '**Contracting Authority**' is mentioned, this refers to the **European Union**, which has signed the Grant Contract with the Beneficiary and is providing the grant funding. The Contracting Authority is not a party to this agreement.

### 1.1. Responsibilities of the Parties to the Engagement

The term "Beneficiary(ies)" refers collectively to all Beneficiaries, including the Coordinator, of the Action. When there is only one Beneficiary of the Action, the terms Beneficiary(ies) and Coordinator should both be understood as referring to the only Beneficiary of the Action (see footnote 1). Where applicable the term 'Beneficiary(ies) includes its affiliated entity(ies).

- The Coordinator is responsible for providing a Financial Report for the action financed by the Grant Contract which complies with the terms and conditions of the Grant Contract and for ensuring that this Financial Report reconciles to the Beneficiary's accounting and bookkeeping system and to the underlying accounts and records. The Beneficiary is responsible for providing sufficient and adequate information, both financial and non-financial, in support of the Financial Report.
- The Coordinator accepts that the ability of the Auditor to perform the procedures required by this engagement effectively depends upon the Beneficiary(ies), and as the case may be its affiliated entity(ies), providing full and free access to its (their) staff and its (their) accounting and bookkeeping system and underlying accounts and records.
- 'The Auditor' is responsible for performing the agreed-upon procedures as specified in these ToR. 'Auditor' refers to the audit firm contracted for performing this engagement and for submitting a report of factual findings to the Beneficiary. 'Auditor' can refer to the person or persons conducting the verification, usually the engagement partner or other members of the engagement team. The engagement partner is the partner or other person in the audit firm who is responsible for the engagement and for the report that is issued on behalf of the firm, and who has the appropriate authority from a professional, legal or regulatory body.

By agreeing these ToR the Auditor confirms that he/she meets at least one of the following conditions:

- The Auditor and/or the firm is a member of a national accounting or auditing body or institution which in turn is member of the International Federation of Accountants (IFAC).
- The Auditor and/or the firm is a member of a national accounting or auditing body or institution. Although this organisation is not member of the IFAC, the Auditor commits him/herself to undertake this engagement in accordance with the IFAC standards and ethics set out in these ToR.
- The Auditor and/or the firm is registered as a statutory auditor in the public register of a public oversight body in an EU member state in accordance with the principles of public oversight set out

in Directive 2006/43/EC of the European Parliament and of the Council (this applies to auditors and audit firms based in an EU Member State').

- The Auditor and/or the firm is registered as a statutory auditor in the public register of a public oversight body in a third country and this register is subject to principles of public oversight as set out in the legislation of the country concerned (this applies to auditors and audit firms based in a third country).

## **1.2. Subject of the Engagement**

The subject of this engagement is the final Financial Report in connection with the Grant Contract for the period covering 1<sup>st</sup> January to 31<sup>st</sup> December 2022 and the action entitled strengthening the role of the ACHPR in the African Human Rights System, the 'Action'. Annex 1 to these ToR contains information about the Grant Contract.

## **1.3. Reason for the Engagement**

The Coordinator is required to submit to the Contracting Authority an expenditure verification report produced by an external auditor in support of the payment requested by the Coordinator under Article 15 of the General Conditions of the Grant Contract. The Authorising Officer of the Commission requires this report because the payment of expenditure requested by the Coordinator is conditional on the factual findings of this report.

## **1.4. Engagement Type and Objective**

This expenditure verification is an engagement to perform certain agreed-upon procedures with regard to the Financial Report for the Grant Contract. The objective of this expenditure verification is for the Auditor to carry out the specific procedures listed in Annex 2A to these ToR and to submit to the Coordinator a report of factual findings with regard to the specific verification procedures performed. Verification means that the Auditor examines the factual information in the Financial Report of the Coordinator and compares it with the terms and conditions of the Grant Contract. As this engagement is not an assurance engagement the Auditor does not provide an audit opinion and expresses no assurance. The Contracting Authority assesses for itself the factual findings reported by the Auditor and draws its own conclusions from these factual findings.

## **1.5. Standards and Ethics**

The Auditor shall undertake this engagement in accordance with:

the International Standard on Related Services ('ISRS') 4400 Engagements to perform Agreed upon Procedures regarding Financial Information as promulgated by the IFAC;

- the IFAC Code of Ethics for Professional Accountants, developed and issued by IFAC's International Ethics Standards Board for Accountants (IESBA), which establishes fundamental ethical principles for Auditors with regard to integrity, objectivity, independence, professional competence and due care, confidentiality, professional behaviour and technical standards. Although ISRS 4400 provides that independence is not a requirement for agreed-upon procedures engagements, the Contracting Authority requires that the Auditor is independent from the Beneficiary (ies) and complies with the independence requirements of the IF AC Code of Ethics for Professional Accountants.

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<sup>2</sup> Directive 2006/43 of the European Parliament and of the Council of 147 May 2006 on statutory audits of annual accounts and consolidated, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253 EEC.

## **1.6. Procedures, Evidence and Documentation**

The Auditor plans the work so that an effective expenditure verification can be performed. The Auditor performs the procedures listed in Annex 2A of these ToR ('Listing of specific procedures to be performed') and applies the guidelines in Annex 2B (Guidelines for specific procedures to be performed). The evidence to be used for performing the procedures in Annex 2A is all financial and non-financial information which makes it possible to examine the expenditure claimed by the Coordinator in the Financial Report. The Auditor uses the evidence obtained from these procedures as the basis for the report of factual findings. The Auditor documents matters which are important in providing evidence to support the report of factual findings, and evidence that the work was carried out in accordance with ISRS 4400 and these ToR.

## **1.7. Reporting**

The report on this expenditure verification should describe the purpose, the agreed-upon procedures and the factual findings of the engagement in sufficient detail to enable the Coordinator and the Contracting Authority to understand the nature and extent of the procedures performed by the Auditor and the factual findings reported by the Auditor.

The use of the Model Report for an Expenditure Verification of an EU Grant Contract in Annex 3 of these ToR is compulsory. This report should be provided by the Auditor to the ACHPR within 30 working days after the day of signature of these ToR.

## **1.8. Other Terms**

The fee for this engagement shall be as agreed by the Coordinator and the Auditor.

### **Annex 1**      Information about the Grant Contract

**For the Coordinator:**

**For the Auditor:**

Signature

Signature

<Date>

## **Annex 1- Information about the Grant Contract**

<b>Information about the Grant Contract</b>	
Reference number and date of the	
Grant Contract	EU/ 23 November 2020
Grant contract title	Strengthening the role of the ACHPR in the African Human Rights System
Country	African Union Member States
Coordinator	African Commission on Human and Peoples' Rights 31 Bijilo Annex Layout, Kombo North District, Western Region. P.O.Box 673, Banjul, The Gambia
Beneficiary(ies) and affiliated entity(ies)	Human Rights Stakeholders
Start date of the implementation period of the Action	January 2022
End date of the implementation period of the Action	December 2022
Total eligible cost of the Action	EUR 717,647.75
Contracting Authority	[European Union]
European Commission	Delegation of the European Union to the African Union To the attention of Head of Finance and Contracts Section P.O. Box 25223/1000 Addis Ababa, Ethiopia
Auditor	

<b>A Logistics</b>		
<b>Issue</b>	<b>Question</b>	<b>Reply</b>
Locations	1. Where do the Coordinator and other Beneficiary(ies) and affiliated entity(ies) retain the accounting records?	
	2. Where do the Coordinator and other Beneficiary(ies) and affiliated entity(ies) retain the original supporting documents?	
	3. Where were contractual activities carried out?	
	4. Where are key project staff available to provide information and explanations?	
Languages	5. Which is the contractual language?	
	6. Which is the language of the accounting records?	
	7. Which are the languages of supporting documents?	
	8. Which languages are spoken by key project staff?	

<b>B Contractual Conditions</b>		
Contract amount	9. What is the total amount of the contract?	
EC contribution	10. What is the amount of the EC contribution?	
Other contributions	11. Which are the other sources of funding (including the Coordinator )?	Source 1 / amount
		Source 2 / amount
		Source 3 / amount
		Source 4 / amount
		Source 5 / amount

<b>C Financial Report (enclosed as Annex 1.1)</b>		
Financial report	12. Approximately how many expense transactions have been reported / are expected to be reported in the Financial Report?	
	13. What is the distribution of these transactions (e.g. capital expenditure, operating expenditure, fees, simplified costs, per diem, etc.), Are the transactions few/many of large/small value?	
	14. To what extent have Project transactions been carried out in cash?	<b>[high, medium, low]</b>

	15. In which currencies has expenditure been incurred?	
	16. What is the reporting currency?	
	17. How many other Financial Reports have already been presented by the Coordinator under this contract?	

## D Procurement

Procurement	18. How many procurement procedures have been undertaken during the period covered by the Financial Report?	
	19. Was the EC involved in any of the procurement procedures referred to in question 18 (e.g. ex-ante verifications or derogations to the rule of origin)?	
	20. Are works done and supplies delivered under the contract located centrally or are they dispersed?	

## E Previous contracts verifications, audits or monitoring

Previous verifications, audits or monitoring	21. Which previous experience did the Entity have with EC contracts and associated regulations?	
	22. How many of the previously presented Financial Reports (if any) have been subject to audit/verification by external consultants contracted by the Coordinator?	
	23. Have any verification, audit or monitoring exercises other than those referred to under numeral 22 been carried out with regard to the contract or the Coordinator that are relevant for the scope of the current verification?	
	24. Have any significant findings been raised under the exercises referred to in questions 22 and 23? If so, what are they?	
	25. Have any instances of fraud or irregularities been previously identified in dealings with the particular Entity?	

Annex 1/<... >.1: Financial Report(s) to be verified

## F Contact Details

**Coordinator:** <full name of the entity subject to audit>

Address		Country	
Phone		Fax	
Website			

*Key contact*

Annex 1/<... >.2: Contract and riders

<Other documents to be sent to the Auditor, (e.g. narrative reports, previous audit reports)>

# Annex 2: Guidelines for risk analysis and verification procedures

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## 1. RISK ANALYSIS AND DETERMINATION OF THE SAMPLE

The Expenditure Verifier should assess the risks of material errors or misstatements in the expenditure and revenue declared in the Financial Report in order to determine the size and structure of the expenditure sample to be tested according to the procedures described in Section 2.

This work involves an assessment of the inherent risks that:

- The Financial Report is not reliable, i.e. that it does not present, in all material aspects, the actual expenditure incurred and the revenue received in conformity with applicable conditions.
- Expenditure declared in the financial report has not, in all material aspects, been incurred in conformity with applicable contractual conditions.
- Revenues generated by the Coordinator in the execution of the contract are not deducted from the declared expenditure in conformity with applicable conditions.
- Fraud and irregularities have occurred which could have had an impact on expenditure and/or revenue reported under the contract.

The Expenditure Verifier should assess the inherent risk based, inter alia, on the number and complexity of the transactions, the complexity of the activities provided for by the Contract, the number of implementing Entities involved and the environment where the Contract is implemented. In addition the Expenditure Verifier, based inter alia on the information provided in annex 1 to the Terms of Reference (*Engagement Context / Key Information*) will consider the control risk, i.e. whether the design of the Internal Control System sufficiently mitigates the identified inherent risks and whether it is plausible that it is operating effectively.

## 2. EXPENDITURE VERIFICATION PROCEDURES

The following checks must be performed by the Expenditure Verifier unless they are irrelevant in relation to the eligibility criteria applicable to the contract type. Therefore the Expenditure Verifier is required to gain appropriate understanding of such requirements in order to carry out only the relevant checks and properly apply the relevant eligibility requirements.

### **2.1 The expenditure was incurred by and pertains to the Entity.**

### **2.2 The expenditure is recorded in the accounting system of the Coordinator and other Beneficiary(ies) and affiliated entity(ies)**

The expenditure is recorded in the accounting system of the Coordinator and other Beneficiary(ies) and affiliated entity(ies) in accordance with the applicable accounting standards and the Coordinator's usual cost accounting practices.

### **2.3 Expenditure incurred during the contractual eligibility period**

The expenditure declared in the financial report was incurred during the contractual implementation period of the Action, except for expenditure relating to final reports, expenditure verification, audit and evaluation. Expenditure paid after the submission of the financial report, is listed in the final report along with the estimated date of payment.

### **2.4 Expenditure indicated in the contractual estimated budget**

The expenditure included in the financial report was indicated in the contractual budget.

The applicable budget ceilings were not exceeded.

The expenditure has been allocated to the correct heading of the Financial Report.

### **2.5 Expenditure necessary for the implementation of the contractual activities, reasonable and justified**

It is plausible that the direct and indirect expenditures included in the financial report were necessary for the implementation of the contractual activities.

The amount of the expenditure items included in the financial report is reasonable and justified and respects the principle of sound financial management.

### **2.6 Expenditure identifiable and verifiable**

The expenditure is backed up by sufficient supporting documentation (e.g. invoices, contracts, order forms, pay slips, time sheets) and proof of payment.

Where expenditure was apportioned, the applied allocation key was based on sufficient, appropriate and verifiable underlying information.

The expenditure is backed up by evidence of works done, goods received or services rendered. The existence of assets is verifiable.

### **2.7 Compliance with Procurement Principles and Nationality and Origin Rules**

For the expenditure items concerned, the Coordinator has complied with the contractual requirements for procurement. Contractual nationality and origin rules have been applied, including those on derogations to be awarded by the Commission.

### **2.8 Expenditure complies with the requirements of applicable tax and social legislation**

For the expenditure items concerned, the Coordinator complies with the requirements of tax and social security legislation (for example: employer's part of taxes, pension premiums and social security charges).

## **2.9 Financial support to third parties (sub-granting)**

Financial support to third parties is provided for by the contractual conditions and its amount does not exceed the contractual limits.

The expenditure incurred by the third parties meets the relevant eligibility requirements. In particular it was incurred by and pertains to the third party, during the contractual eligibility period, is necessary for the implementation of the contractual activities and is identifiable and verifiable (see definition at point 2.6).

## **2.10 Other eligibility requirements**

Duties, taxes and charges, (e.g. VAT) included in the financial report cannot be recovered by the Entity unless otherwise provided for in the contractual conditions (accepted costs system). In the latter case these expenses are reported separately and relate to eligible direct expenditure.

The correct exchange rates are used where applicable.

The contingency reserve has been established in accordance to the contractual conditions and its use authorised by the Contracting Authority.

The indirect costs do not exceed the maximum contractual percentage of the eligible direct costs and do not include ineligible expenses or expenses already declared as direct ones.

Contributions in kind are not included in the financial report, unless otherwise provided for in the contractual conditions.

Expenditure specifically considered ineligible by the contractual conditions is not included in the financial report.

Expenditure declared under the simplified cost options respects the contractual requirements.

The revenues generated by the Coordinator in the execution of the contract are disclosed in the financial report and deducted from the declared expenditure, unless otherwise provided for in the contractual conditions.

## **<Annex 3: Model for > Expenditure verification Report**

**<To be printed on AUDITOR'S letterhead>**

### **Report for an Expenditure Verification of a Grant Contract External Actions of the European Union**

**<Title of and number of the grant contract >**

#### **How this model should be completed by the Expenditure Verifier**

- **insert** the information requested between the <...>
- **choose** the optional text between [...] highlighted in grey when applicable or delete
- **delete** all yellow instructions and the present text box

# **1. Background information**

## **1.1. Short description of the action subject to verification**

<b>Contract number and title:</b>	
<b>Contract type</b>	grant contract,
Financial Report(s) subject to verification	<DD/MM/YYYY-DD/MM/YYYY> <DD/MM/YYYY-DD/MM/YYYY> <DD/MM/YYYY-DD/MM/YYYY>
Coordinator and other Beneficiary(ies) and affiliated entity(ies)	< Identify the Coordinator and other Beneficiary(ies) and affiliated entity(ies) and provide key information about their legal form, nationality, size, main field(s) of activity and other elements deemed relevant – max 200 words>
<b>Location(s) where the Contract is implemented</b>	
<b>Contract execution period</b>	
<b>Contract implementation status</b>	< indicate on-going or completed >
<b>General and specific objectives of the Contract</b>	
<b>Synthetic description of the activities, outputs and target group</b>	<max 300 words>

## 1.2. Basic financial information of the Contract (at the time of the verification)

### 1.2.1 Expenditure

<b>Budget Headings</b>	<b>Budgeted Expenditure (amount)</b>	<b>Reported Expenditure (amount)</b>
Budget Heading "..."		
...		
<b>Total</b>		

### 1.2.2 Contributions

<b>Source of Contribution</b>	<b>Budgeted Contribution (amount)</b>	<b>Actual Contribution (amount)</b>
EU		
Coordinator		
Other Beneficiary(ies) and affiliated entity(ies)		
...		
Other Donor 1		
...		
<b>Total</b>		

### 1.2.3 Revenues

<b>Revenue Types</b>	<b>Budgeted Revenues (amount)</b>	<b>Actual Revenues (amount)</b>
Type "..."		
Type "..."		
...		
<b>Total</b>		

### **1.3.Verified Financial Reports**

See annex 3.1

## **2. Risk analysis**

### **2.1. Outcome of risk analysis**

Based on the risk analysis performed according to the Terms of Reference, provide succinct information about the identified risks possibly affecting the verified report, regarding the action, the context in which the latter is implemented, the beneficiaries and the target group.

<E.g. action implemented via complex procurement procedures, financial assistance to third parties (sub-grants) or revolving funds, transactions incurred in several currencies, technical complexity, high corruption perception index, instances of political interference, predominance of cash payments, number of parties involved, partners lacking administrative capacity, known weaknesses in internal control systems, lack of involvement or cooperation of the target group, history of fraud cases. (max. 300 words)>

In addition, please identify possible mitigating factors.

< E.g. previous audit or verification work, evidence of close follow up by the contracting authority, good results yielded in the past by the implementing partner, etc. (max. 150 words)>

### **2.2 Implications on the sampling**

Explain how the identified risk factors are reflected in the structure and size of the sample.

<Based on the identified risk factors, describe how the sample was selected (e.g. statistical/judgemental sampling, stratification, etc.), what type of transactions were prioritised (e.g. amount above xx EUR, expensed declared by co-beneficiary XY, staff expenditure, payments to sub-grantees, etc.) what is the coverage ratio in amount and number of transaction (max. 200 words)>

## **3. Transaction population and sample**

### **Sampling Highlights/Overview**

The sample size was determined based on a materiality threshold of 2% of the total amount of reported expenditure with a confidence level of 95% and considering the risk analysis presented above.

Report/invoice: <indicate the report/invoice number and cut-off dates>		
	Population	Audited sample
Number of transactions		
Value of transactions EUR		

[If more than one financial report/invoice is verified, repeat as applicable]

A complete list of the transactions included in the population is to be included in Annex 3.3.

## **4. Substantive testing**

### ***Short description of the testing process***

Compliance with the Terms of Reference and with the International Standard on Related Services (ISRS) 4400.

<Confirm that the testing procedures established in the annex 2 to the Terms of Reference were fully applied or disclose any scope limitation. Also confirm that the testing was executed in accordance with the International Standard on Related Services (ISRS) 4400, “Engagements to Perform Agreed-upon Procedures Regarding Financial Information”.>

Provide the key information about the testing process.

<E.g. describe if the verification work took place at the implementing partner's premises, whether qualified representatives of the auditee were present, if they were cooperative, if the supporting documentation was available in full, if additional documents had to be received after the field mission, whether evidence of the equipment transfer is available, if physical inspections were performed, any scope limitations, etc. (max. 300 words)>

## **5. Summary of findings**

### ***5.1 Summary of errors detected***

<Description of the main outcomes of the transaction testing (e.g. type of errors detected, type of transactions, geographic scope, sector, involved implementing partners, etc.) (max. 200 words)>

### ***5.2 Audit team***

<List names and expert category levels for this report.>

<Name and signature of the Verifier>

<Verifier's address: office having responsibility for the audit>

[for final reports <Date of signature> the date when the final report is signed]

**Annex 3.1: Financial reports provided by the auditee**

**Annex 3.2: Procedures performed**

**Annex 3.3: Table of transactions - provided as Excel file**

**Annex 3.4: Table of errors - provided as Excel file**



