

Interreg IPA CBC Italy–Albania–Montenegro Programme

PROGRAMME MANUAL

4.9 “Nulla osta” release and cancellation procedure for the Italian First Level Controller

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Contacts js@italy-albania-montenegro.eu



Index

<i>Introduction</i>	3
1. ITALIAN DECENTRALISED FLC SYSTEM.....	3
2. INTERNAL FLC	3
3. EXTERNAL FLC.....	3
4. TRANSMISSION OF DOCUMENTATION.....	4
5. REVOCATION OF NULLA OSTA.....	5

Introduction

This factsheet provides technical guidance to Italian Partners on the “Nulla Osta” release procedure for First Level Controllers.

1. ITALIAN DECENTRALISED FLC SYSTEM

Italian Beneficiaries may use two methods for certifying the expenditure actually incurred in the implementation of the project: appoint an “internal” FLC (selected within the Partner Organization) or an external FLC.

The verification ex art. 23 of Reg. (EU) No. 1299/2013 and art. 125 of Reg. (EU) 1303/2013 should be entrusted to highly qualified designated FLCs, having professional, integrity and independence requirements (as specified in *Annex A*).

The FLC function must be wholly independent from the statutory auditor's function or any other role held by the beneficiary.

2. INTERNAL FLC

Only Italian Public Administrations (as mentioned in art. 1 of the Dlgs. 165/2001 and subsequent amendments and additions) may make use of internal FLCs.

The beneficiary identifies the internal office that will, also through its component, perform the control activity, respecting the functional independence from the office responsible for implementing the project and/or the payment activity.

The beneficiary sends to Regione Puglia - Dipartimento Sviluppo Economico, Innovazione, Istruzione, Formazione e Lavoro - P.O. “Studies, research and controls in Cooperation Program” the documents proving that all requirements have been met.

In particular:

- Transmission letter (*Annex 1a*) on beneficiary's letterhead, duly signed and stamped;
- Information sheet (*Annex 2*);
- Statement attesting to the independence requirements of the internal office identified, supported by an administrative act (e.g. a jury decision) or by an organization chart (*Annex 3*);
- Declaration attesting the knowledge of the language of the programme by the internal staff member performing the certification activity (*Annex 4*);
- Authorization to treatment of personal data (*Annex 9*).

3. EXTERNAL FLC

The beneficiary is required to select FLC with public evidence procedures and in compliance with the public procurement programme and national rules.

The beneficiary receives from the selected FLC the following documentation demonstrating that the abovementioned requirements have been met:

- “dichiarazione sostitutiva di certificazione” attesting to be enrolled in the National Register of the chartered accountants (*Annex 5*); i.e. a “Dichiarazione sostitutiva di certificazione” attesting the registration of the "Company" in the Register of Auditor Accountants (*Annex 6*);
- “dichiarazione sostitutiva di atto notorio” according to the applicable law, attesting the requirements of integrity, expertise, independence and knowledge of the foreign language (*Annex 7* as for "individual" external auditor and *Annex 8* as for external "company" controller);
- photocopy (duplex) of an identity document;
- authorization to process personal data for "individual" external controller (*Annex 9*) and for external "company" controller (*Annex 10*).

Afterwards, the beneficiary sends to Regione Puglia - Dipartimento Sviluppo Economico, Innovazione, Istruzione, Formazione e Lavoro - P.O. “Studies, research and controls in Cooperation Program” the above listed documentation together with:

- transmission letter (*Annex 1b*) on beneficiary's letterhead, with outgoing protocol number, duly signed by the Legal Representative and stamped;
- all the documentation regarding public evidence procedures to select FLC.

4. TRANSMISSION OF DOCUMENTATION

Beneficiary transmits all documentation to Regione Puglia - Dipartimento Sviluppo Economico, Innovazione, Istruzione, Formazione e Lavoro - P.O. “Studies, research and controls in Cooperation Program”, via PEC at the email address: certificazionecontrollori.italme@pec.rupar.puglia.it

The P.O. “Studies, research and controls in Cooperation Program” verifies the completeness of the documentation and, together with the results of the examination summarized in a checklist (*Annex 11a* or *Annex 11b*). If needed, it requests to LP/PPs integrations, which are sent back to office responsible. On the basis of a risk analysis (legal nature of beneficiary, number of projects financed, type of selection adopted, etc.), before the release of Nulla Osta, public procedure implemented for the selection will be checked, in compliance with Quality Review procedure.

The Office Manager, either:

- a) releases the Nulla osta (*Annex 12*) with the authorisation, incl. used check-list, and sends it via PEC to LP/PP and MA;
- b) sends a denial with motivation to LP/PP and MA, together with the used check list.

In case of denial or serious gaps in the documentation sent:

1. MA assesses risk of irregularities and possible mitigating measures;
2. MA informs LP/PP of measures to be implemented;
3. LP/PP implements measures;
4. MA receives the information on the follow-up.

5. REVOCATION OF NULLA OSTA

During the project implementation and during the term of office, the FLC is obliged to maintain professional, integrity, independence and all other requirements.

The Nulla Osta (formal appointment of First Level Controller) could be revoked by P.O. “Studies, research and controls in Cooperation Program” of the Managing Authority, after a formal notice sent to concerned First Level Controller and the Beneficiary, in case of loss of requirements set in Annex 11 of the Programme Manual (integrity, professionalism, independence and evidence of complete inability to work in the programme language) or loss of registration in the Register of chartered accountants and accounting experts or in the Register of auditors.

In addition, at any subsequent control of the quality of the on-desk and on-the-spot verifications carried out by the appointed Controller, should any serious failure of the First Level Controller become evident, the P.O. “Studies, research and controls in Cooperation Program”, heard the legal officer of the JS, informs the Beneficiary about the breaches and proposes corrective measures or the termination of FLC appointment, in proportion to the severity of the failures, with revocation of Nulla Osta as last and major penalty. Should the Beneficiary decide to continue to operate and certificate the expenses in the eMS with the appointed First Level Controller, in spite of the revocation of Nulla Osta, the Managing Authority may suspend or withdraw payments, as well as start recovery procedures, related to the concerned certificates, on the basis of non-fulfilling the obligations of sound financial management, provided both in subsidy contract and in partnership agreement.

The procedure for revocation of Nulla Osta could also be activated if, after a formal notice sent to FLC and Beneficiary, during the project implementation, the First Level Controller does not apply guidelines and recommendations issued by the Managing Authority, included those provided during FLC training sessions, and in this way invalidate the outcome of the performed control.

The revocation could operate by the MA or by the side of the FLC (in the case of resignation) or by the LP (in case of detection of a cause of requirements loss).

In case of revocation of Nulla Osta issued by the MA, the Office Manager:

1. send to FLC (with LP in copy) the letter of revocation on Nulla Osta containing the reasons of the revocation via PEC (to the same address mentioned in section 4);
2. the FLC could reply to MA pointing at any counter-arguments within 7 working days to the receiving date of the letter of revocation;
3. after the aforementioned deadline, the revocation becomes final and the MA provides to cancel the eMS credentials of FLC.

In case of resignation of FLC or if the LP detects a cause of requirement loss, the FLC or the LP are obliged to send promptly by PEC a note to the Office Manager, who will proceed to elaborate Revocation of N.O. and send it by certified e-mail to the Beneficiary, to the MA and p.c. to the FLC. Subsequently the MA provides to cancel the eMS credentials of First Level Controller.