

## TERMS OF REFERENCE

### AA-010317 - Advisory Support to the EIB Project Advisory Support Unit in implementing the Technical Assistance to Romania's National Agency for Public Procurement ("ANAP")

#### Lot 3: Support to ANAP in public procurement control for intellectual services

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**ACRONYMS USED IN THE DOCUMENT**

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<b>AP</b>	Action Plan
<b>CAC</b>	Contracting Authorities as the Clients of the pilot CPBs
<b>CC</b>	EIB CPB Consultant
<b>CP</b>	Communication Plan
<b>CPB</b>	Central Procurement Body
<b>CWG</b>	CPB Working Group
<b>DG Ex-ante</b>	General Directorate of ANAP that is responsible for ex-ante verifications of the sampled public procurement procedures
<b>EWG</b>	Ex-ante Working Group
<b>GP</b>	Global Plan for Preparation of Opinions/Guidance/Studies
<b>IT&amp;C</b>	Information Technology and Communications
<b>HC</b>	EIB Horizontal Consultant
<b>KS</b>	Key Stakeholder
<b>PASSA</b>	Project Advisory Support Services Agreement
<b>PMA</b>	EIB Project Management Assistant
<b>PC</b>	EIB Procurement Consultants
<b>PPM</b>	Pilot Project Manager
<b>PO</b>	Partner Organisation
<b>PWG</b>	Pilot Working Groups
<b>SEP</b>	Stakeholder Engagement Plan
<b>SIPOCA</b>	Electronic system of the Operational Programme Administrative Capacity (EN-OPAC/ RO-POCA) <sup>1</sup>
<b>SMS</b>	Stakeholders Management Strategy
<b>SW</b>	Semesterly Workshop

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<sup>1</sup> Each project financed under OPAC receives a SIPOCA/SMIS code used as an identification number.

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<b>TCE</b>	Technical Coordination Expert
<b>TIE</b>	Technical Implementation Expert
<b>TMR</b>	Task Monthly Report
<b>TL</b>	EIB Team Leader
<b>TPE</b>	Third Party Experts
<b>QAP</b>	Quarterly Action Plans for Preparation of Opinions/Guidance/Studies
<b>WCM</b>	Weekly Coordination Meetings of the EWG

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## **1 BACKGROUND INFORMATION**

### **1.1 Beneficiary country and Promoter**

The beneficiary country is Romania and the Promoter is the National Agency for Public Procurement (ANAP).

### **1.2 Relevant country background and mandate**

#### **1.2.1 History of the EIB TA in Romania**

The EIB has been very active in Romania over the last 15 years both in terms of lending and technical assistance. Lending is concentrated in the transport, environment, energy, banking and SME sectors. Since the first operations substantial advisory support has been provided, largely by the EIB, both through own staff and through the support of external consultants, at various stages of the project cycle. The Bank's advisory support has increased significantly since accession; first with the involvement of JASPERS<sup>2</sup> in programme/project preparation of EU funded operations only and, since 2012, with increased support during project implementation of the EIB Project Advisory Support Unit (PASU).

During 2011, at the request of the Romanian Authorities and the European Commission (EC), various discussions were held with key stakeholders leading to the signature of a Memorandum of Understanding (MoU) on Project Implementation Support between the Government of Romania and the EIB on January 26<sup>th</sup>, 2012. The MoU identified broad areas where additional support would be required to improve Romania's absorption of EU Structural Funds during the 2007-2013 programming period, as follows:

- Area 1: Horizontal support for strengthening the administrative capacity of the Managing Authorities and intermediate bodies and public beneficiaries, and for streamlining the national legislative and regulatory framework relating to the absorption of structural funds; and
- Area 2: Specific needs relating to the implementation of the Regional Operational Programme (ROP) and Sectoral Operational Programmes for Environment (SOP E), Transport (SOP T) and Increase of Economic Competitiveness.

As a result of this MoU, three Project Implementation Support Service Agreements (PISSAs) were signed with a view to strengthening capacity to absorb EU funds. The largest of these agreements, signed in September 2013, provided a team of dedicated EIB experts offering continuous support in Bucharest to the State administrations, and elsewhere in Romania to the relevant local authorities, responsible for the preparation, implementation and monitoring of transport, water and waste management investments in the SOP T and in the SOP E. Also under this PISSA, the EIB granted support to the Ministry of European Funds (MEF) and to the other involved institutions in the preparation

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<sup>2</sup> <https://jaspers.eib.org/>

of the National Procurement Strategy and in the development of the new Romanian procurement legislation. The PISSAs expired at the end of November 2015.

This support was considered valuable by the Romanian authorities and negotiations began in early 2015 to sign a new MoU covering the 2014 to 2020 programming period, and this document was signed on 23 December 2015. The scope of the MoU is similar to that signed in 2012 with the addition of support to the fulfilment of the Partnership Agreement ex-ante conditionalities<sup>3</sup>, with a particular emphasis on the implementation of the National Procurement Strategy, development of financial instruments and a greater emphasis on the project and contract preparation stage.

As a result of this new MoU, two Project Advisory Support Service Agreements (PASSAs) were signed in Romania and 3 under a separate MoU in Bulgaria, with a total budget of EUR 24.6M under the Project Implementation Support (PIS) Initiative.

The PIS initiative has proven itself to be a powerful complement to other advisory programmes, providing hands-on support on the ground and responding effectively to the needs of Romania and Bulgaria in tackling the challenges of project delivery.

EIB has engaged in the cooperation with the National Agency for Public Procurement (ANAP). Through the PASSA that was signed on 15<sup>th</sup> of July 2016, EIB supported ANAP in designing and implementing 3 main reforms envisaged in the National Public Procurement Strategy, namely:

- Ex-ante Control Reform;
- Internal Control Systems for Contracting Authorities; and
- Establishing Central Procurement Body.

EIB has prepared over 200 deliverables through mobilising one permanent EIB staff in addition to third party consultants. The PASSA has been completed on 15<sup>th</sup> of August 2018.

This assignment, for which a new PASSA was signed on 9<sup>th</sup> of July 2019, is a continuation of the previous support that EIB provided to ANAP.

### 1.2.2 Background on the project

This project is a continuation of reform efforts of ex-ante control in public procurement initiated within the previous PASSA for ANAP, during which several important achievements have been obtained, namely:

- Design and implementation of new sampling methodology for procurement procedures and contract modifications to be selected for ex-ante control;
- Preparation of new ex-ante control checklists carrying a distinction between quality and regulatory verification and new areas of control over terms of reference, contract clauses and answers to clarification requests from economic operators;
- New internal working flows designed to increase team cohesion and unitary practice as well as new job descriptions for ex-ante control staff and assessment of future staff needs;
- Assignment of a new legal authority to ex-ante control findings under the form of "aviz conform";
- Preparation of requirements for running a pilot activity for IT&C procurement procedures with the general purpose of reducing the number of biased tender documentations that distort competition;
- Design of the conciliation mechanism with contracting authorities that challenge the findings of ex-ante control.

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<sup>3</sup>[https://www.fonduri-structurale.ro/Document\\_Files/Stiri/00014830/sfvjd\\_Acord%20de%20parteneriat%20oficial.pdf](https://www.fonduri-structurale.ro/Document_Files/Stiri/00014830/sfvjd_Acord%20de%20parteneriat%20oficial.pdf)

The main achievements of the ex-ante reform obtained so far need to be further supported by specific activities and deliverables so as to:

- Ensure the ex-ante control reform is fully implemented as per the provisions of the National Public Procurement Strategy (e.g. running also the pilot activity for IT&C procurement procedures in continuation of the design work performed in previous PASSA);
- Provide an enabling environment where ex-ante controllers can benefit from sectoral/professional procurement specialists' expertise for correct and full application of the verification tools;
- Improve the core technical and soft skills of ex-ante control staff as a mean to provide a higher quality control, while at the same time ensuring new staff is properly emerged into the ex-ante control specificities and is effectively used following recruitment.

In the area of centralised public procurement, the main achievement under the previous PASSA for ANAP was the establishment of the Centralised Public Procurement Body ("Oficiul National pentru Achizitii Centralizate – ONAC"). ONAC's mandate is to carry out centralised public procurement procedures for central public institutions/agencies.

The overall objectives of the **current PASSA** signed with ANAP in 2019 are to:

- Provide daily operational support to ANAP in performing the ex-ante controls more efficiently and effectively;
- Providing support to ANAP and Partner Organizations in setting up Centralised Procurement Bodies (CPBs) at local level.

The project is supposed to be completed in early July 2022, i.e. three years from this PASSA's signing date (09/07/2019).

The table below summarises the activities, sub-activities and tasks included in the project.

Activities	Sub-activities	Tasks
1. Support to ex-ante control function of ANAP	1.1. Provide support to ANAP DG Ex-ante in performing the ex-ante controls in line with the National Public Procurement Strategy	1. Provide opinions/guidance/studies on procurement and sectorial aspects encountered by ANAP in the ex-ante control activity
		2. Support to ex-ante staff in improving their general work competencies and understanding of relevant markets
		3. Reformulation of the sampling methodology
		4. Provide professional opinions with regard to the implementation of various aspects of the National Public Procurement Strategy and to meet "Enabling Conditions" (upon specific ANAP's requests)
	1.2. Technical support provided during verification of technical specifications for the procedures covered by the IT&C pilot project	5. Perform competition related technical reviews of public procurement files subject to IT&C pilot activity
		6. Improving the sectorial knowledge of the Ex-ante verifiers and developing quality control verification tools for the pilot sector
2. Setting up CPBs at local level	2.1. Preparing the Stakeholders' Management Strategy ("SMS") at the project level	7. Preparation of the Stakeholder Engagement Plan ("SEP")
		8. Development of a communication plan ("CP")
		9. Development of Action Plans
	2.2. Conducting a study at county level	10. Selection of three pilot CPBs and of eight additional contracting authorities for whom a CPB roadmap will be developed

		11. Planning and drafting an action plan for setting up three pilot CPBs
		12. Development of a roadmap for the set-up of local CPBs in eight identified counties
	2.3. Configuration of 3 pilot CPBs	13. Defining a set of performance indicators and measuring methodology applicable to the pilot CPBs
		14. Configuration of CPBs in terms of operational and organizational structure
		15. Supporting local authorities in drafting of the establishment act of the CPB
	2.4. Piloting the selected CPBs	16. Organising a study visit
		17. Training and day to day assistance during the three procurement phases
	2.5. Organizing conferences	18. Organization of conferences in the eight counties participating in the study
		19. Organizing conferences in piloting counties
		20. Organization of 4 conferences in counties not included in the studies
		21. Organising a final conference in Bucharest
	2.6. Drawing conclusions and preparing recommendations based on the piloting exercise	22. Drafting of conclusions and recommendations

### 1.2.3 The PAS Team

The PAS Team is the project team established by the EIB with the sole purpose of implementing the second PASSA signed with ANAP. The PAS Team will provide strategic and operational advice, as well as overall project management support to ANAP.

The PAS Team will comprise:

- EIB Team Leader ("TL");
- EIB Expert(s);
- EIB Consultants:
  1. Horizontal Consultant (hereinafter called "HC") – to be contracted through this tender procedure, Lot 1: Support to the overall project management;
  2. Procurement Consultant with experience focused on construction works tenders/contracts (hereinafter called "PC1") – to be contracted through this tender procedure, Lot 2: Support in public procurement control for construction works;
  - 3. Procurement Consultant with experience focused on intellectual services (hereinafter called "PC2") – to be contracted through this tender procedure, Lot 3: Support in public procurement control for intellectual services;**
  4. Procurement Consultant with experience focused on IT&C (hereinafter called "PC3") – to be contracted through this tender procedure, Lot 4: Support in public procurement control for IT&C equipment and/or software;
  5. CPB Consultant (hereinafter called "CC") – to be contracted through this tender procedure, Lot 5: Support in establishing local Centralised Procurement Bodies (CPBs);
  6. Project Management Assistant (hereinafter called "PMA") – to be contracted through this tender procedure, Lot 6: Project Management Assistance to the EIB PAS Team.

The EIB Consultants will be hired on a full-time project basis. They are expected to spend most of their working time in Bucharest, in the ANAP's and EIB's offices, as well as outside Bucharest as required

from time to time mainly under Activity 2. They will carry out Project Management Office activities for the Assignment, as well as will contribute to preparation of the deliverables, as follows:

- Contributing to the preparation of deliverables (HC, PMA);
- Assisting the Team Leader in planning of the Third Party needs (HC);
- Assisting the Team Leader in drafting the description of activities for Third Party terms of reference (HC);
- Arranging weekly progress meetings with the ANAP DG Ex-ante, issuing minutes and monitoring follow-up of joint actions (HC);
- Arranging monthly progress meetings with the ANAP, issuing minutes and monitoring follow-up of joint actions (HC);
- Arranging the Steering Committee meetings, issuing invitations and documents to be discussed at the meetings (HC);
- Quality control over the Outputs from the linguistic, format, completeness and accuracy perspectives (HC);
- Organisational matters related to the events included in the project (e.g. workshops, study-visits, trainings, etc.) (PMA);
- Preparing project related reports (PMA);
- Short and ad-hoc translations/interpretations for the Team Leader (PMA);
- Providing logistical support to other full-time EIB Consultants (PMA);
- Day-to-day administration of the project activities.
- Preparation of Outputs under Activity 1 (PCs);
- Quality control over the Outputs prepared by Third Party specialists (PCs, in their area);
- Contributing in drafting of the terms of reference for Third Party assignments regarding Activity 1 (PCs);
- Contributing in drafting the progress reports (PCs, in their area).
- Contributing to the preparation of Outputs under Activity 2 (CC);
- Day-to-day management of Third Party assignments under Activity 2 (CC);
- Liaison with the members of ANAP's Project Management Team with regard to implementation of Activity 2 (CC);
- Quality control over the Outputs prepared by Third Party specialists under Activity 2 (CC);
- Contributing in drafting of the terms of reference for Third Party assignments regarding Activity 2 (CC);
- Contributing in drafting the progress reports.

➤ Third Party Experts ("TPE").

Third Parties, i.e. consultancy firms, will be contracted through separate procedures by the Bank for providing support services as follows:

- a) Provision of soft skills training (time management, conflict management, negotiation skills training, performance evaluation training, presentation and writing skills training), project management and contract administration trainings.
- b) Day-to-day support to ex-ante verification activities.
- c) Supporting ANAP in verification of procurement decisions in the field of IT&C.
- d) Supporting ANAP in reformulating and monitoring of the sampling system.
- e) Setting-up local CPBs.

The PAS Team will act as an independent advisor to the ANAP. Hence, the role of the PAS Team is to advise and complement, but not to replace, displace or fulfil the roles and responsibilities of the relevant counterparts in ANAP, nor those of other existing technical assistance for ANAP. The PAS Team will play a supportive but not a predominant role in the decision making related to the project activities. Final performance in project implementation will remain the responsibility of ANAP, as per its specific roles and accountabilities defined in the PASSA.

## **2 OBJECTIVE, PURPOSE & EXPECTED RESULTS**

### **2.1 Overall objective**

The overall objective of this assignment (the **Assignment**) is framed under the specific objective formulated in PASSA 2 with ANAP in relation to the support to be provided to ANAP's ex-ante control staff: enhancing the specific procurement knowledge of ex-ante control staff to that they can correctly and fully apply the verification tools developed in the project.

In this context, the **overall objective of this Assignment** is to provide support in the ex-ante control activities related to public procurement (tender documents, contract modifications), with focus on intellectual services and concession contracts.

## 2.2 Purpose

The purpose of the present Assignment is for the PC2 to provide support in the ex-ante control activities related to public procurement (tender documents, contract modifications), with focus on intellectual services and concession contracts, by:

- planning such a support on a global (i.e. over the project lifetime) and quarterly basis, including planning of workshops to be held every 6 months, as well as planning of study visits for ANAP staff in Romania and outside Romania;
- provision of opinions/ guidance/ instructions/ studies in the above mentioned procurement areas, with support from Third Parties when needed, as detailed hereinafter.

## 2.3 Results to be achieved by the Consultant

In respect of the specific activities listed under point 4.2 below, the main results to be achieved by the PC2 under this Assignment are:

- global and quarterly plans for providing the above mentioned support;
- provision of opinions/ guidance/ instructions/ studies in the above mentioned procurement areas, with support from Third Parties when needed;
- planning of the above mentioned workshops and study visits, and participation thereto according to the procurement areas covered by this PC2;
- quality control of the Outputs to be elaborated by the Third Parties to be hired under this PASSA 2 for the provision of support in the verification of procurement decisions and in the training of ANAP's staff respectively in the above mentioned procurement areas.

To achieve these results, the PC2 will cooperate with the PC1 and PC3 (especially in planning activities), as well as with the Third Parties to be hired under this PASSA 2 for the provision of support in the verification of procurement decisions and in the training of ANAP's staff respectively, the overall coordination being made by the HC and EIB Team Leader.

## 3 ASSUMPTIONS & RISKS

### 3.1 Assumptions underlying the Assignment

The overall assumptions upon which this assignment is based are:

- There will be no institutional and/or legal modifications that could affect the objectives of this Assignment. In case such institutional/legal modifications occur during the project implementation, the EIB and ANAP may decide on an amendment to the current PASSA;
- The Consultant will benefit from the continued and active collaboration of all stakeholders as defined in the current PASSA, in particular with ANAP;
- The Consultant will be given timely and complete access to all relevant documents, other information and people related to projects or activities to be carried out under this Assignment;
- ANAP shall coordinate within its organisation's departments, with other public institutions and local authorities throughout the project implementation;

- The actual implementation of the Assignment will require a high level of flexibility to reflect the nature of each activity/sub-activity/task, local conditions (wherever applicable), implementation progress and, possibly, institutional/legal modifications that might occur during the project implementation. In such circumstances, the scope of the activities/sub-activities/tasks under this Assignment will be decided by ANAP together with the EIB (see also the first bullet point above).

### **3.2 Risks**

The main risks that could affect the successful implementation of the Assignment are related to the non-meeting and/or non-timely meeting of any of the conditions specified under point 3.1 (Assumptions), as well as by institutional and/or legal modifications that could affect the objectives of this Assignment, as the case may be. These risks should be mitigated by the EIB together with ANAP, who will conduct negotiations over such difficulties, including in the case of institutional and/or legal modifications that could affect the objectives of this Assignment.

Also lack of interest from various stakeholders regarding this Assignment and its results, imperfect legal framework (under modification, unfinished or with contradictions) could delay the expected value added.

## **4 SCOPE OF THE WORK**

### **4.1 General**

#### **4.1.1 General description of the Assignment**

This Assignment is to provide day-to-day support under PASSA 2 with ANAP in the field of the ex-ante control of public procurement procedures (tenders and modifications to contracts), especially in the areas of intellectual services and concession contracts. Also support shall be provided in the procurement-related training programmes and study visits. Details are given at point 4.2 below.

#### **4.1.2 Operating environment for the Consultant**

The operating environment is described above at point 1.2.3 – The PAS Team.

#### **4.1.3 Geographical area to be covered**

Romania

#### **4.1.4 Target groups**

The target groups are members of:

- ANAP;
- Key Stakeholders (KS) for setting up local CPBs;
- Partner Organisations (POs) in setting up local CPBs;
- Potential local contracting authorities/entities interested in setting up local CPBs.

### **4.2 Specific activities**

The main specific activities of the **Procurement Consultant no. 2 (PC2)** will include:

- Providing day-to-day support in the field of the ex-ante control of public procurement procedures (tenders and modifications to contracts), mainly in the areas of intellectual services (such as institutional reform/reorganisation, studies of various nature, audit, project management/ implementation/ evaluation support, etc.), as well as in connection with concession contracts;
- Providing support in the procurement-related training programmes and study visits of the ANAP's ex-ante staff and of the staff of local CPBs to be established during the project;
- Preparation of opinions/ guidance/ instructions/ studies mainly in relation to public procurement related matters in the above mentioned areas, with support from Third Parties when needed. Examples of good practice, also from other EU countries, should also be used in this respect. The specific topics to be addressed will be provided by ANAP.

The public procurement law covers all possible areas. The correct application of this law to specific areas also depends on the understanding and interpretation of various situations/issues that are specific to those areas. Therefore, the above mentioned professional opinions and guidance are meant to support the decision-making process of the ex-ante control staff of ANAP mostly in connection with technical, financial and commercial issues related to the public procurement of intellectual services, as well as to concession contracts. The opinions, guidance and studies for various areas or sectors of public procurement and contract modifications (addressing quality aspects) are meant to be used by the ex-ante control staff as part of its work as well as, where appropriate, to be shared with the core public procurement market (e.g. contracting authorities, economic operators).

- Global and Quarterly Action Plans for the presentation of opinions/ guidance/ instructions/ studies will be prepared by PC2 in cooperation with PC1 and PC3. The preparation of such opinions/ guidance/ instructions/ studies will be based on procurement and sectorial issues encountered by the ex-ante staff during the verification activity.
- Assisting the EIB Team Leader and Horizontal Consultant in planning of the Third Party needs for the provision of support in the verification of procurement decisions and for the staff training respectively in the above mentioned areas;
- Assisting in drafting the description of activities to be included in the terms of reference for the Third Parties that will provide (i) support in the verification of procurement decisions, and (ii) the above mentioned staff training programmes;
- Participation in the progress meetings with the ANAP when the agenda of such meetings includes topics in the above mentioned areas (as a rule, progress meetings would be organised on a monthly basis; however, such meetings could also take place in between two consecutive monthly meetings);
- Contributions with documents/presentations for the Steering Committee meetings;
- Quality control over the Outputs of the Third Parties to be hired under this PASSA 2 for the provision of support in the verification of procurement decisions and in the training of ANAP's staff respectively in the above mentioned areas;
- Contributing in drafting the PASSA progress reports;
- Providing inputs to the various work programmes that will be developed in line with the overall project plan;
- Providing advice, including of technical nature, in his/her own area of expertise.

### **4.3 Project management**

#### **4.3.1 Responsible body/Contracting Authority**

The European Investment Bank, through the Consultant Procurement and Contract Management Division of the Advisory Services Department, will act as Contracting Authority and will be responsible for managing this technical assistance (TA) operation.

#### **4.3.2 Promoter/Beneficiary of the Assignment:**

The Promoter/beneficiary is ANAP.

The other beneficiaries are:

- Key Stakeholders (KS) for setting up local CPBs;
- Partner Organisations (POs) in setting up local CPBs;
- Potential local contracting authorities/entities interested in setting up local CPBs.

#### **4.3.3 The Consultant**

The Consultant's expert (PC2) will closely work with the HC and TL, as well as with other members of the PAS Team. Taking into account the complexity of the assignment, in the responsibility area hereby assigned to him/her, the Consultant will ensure an appropriate communication and cooperation with all the bodies involved as per the current PASSA 2 with ANAP, in particular with ANAP and its counterparts as defined in the project. The Consultant will also participate in meetings with other consultants that will be mobilised under this project when called by the EIB Team Leader, HC and/or ANAP, but also when he/she will consider this as necessary.

Important note: During this Assignment, the Consultant's expert (PC2) may also be mobilised for short-term assignments under other PASSAs.

#### **4.3.4 Facilities to be provided by the Contracting Authority and/or other parties**

##### **Contracting Authority**

The Contracting Authority will provide the Consultant's expert, upon request, with all information relevant to the project that is available to it and not covered by any confidentiality agreements and will fully cooperate with the Consultant in order to achieve the best results. The Contracting Authority will also provide the Consultant with "hot desk facilities" (desk with internal connection) at EIB's Bucharest office.

##### **Promoter/beneficiary (ANAP)**

ANAP will provide, at its premises, an equipped working space (with desk, communication and printing/scanning equipment, or access to such equipment) for the Consultant's expert.

## **5 LOGISTICS AND TIMING**

### **5.1 Location**

All services will have to be performed from Bucharest, Romania. The PC2 will mostly work at ANAP's premises (80% of the working time), as well as at EIB premises. His/her participation in training programmes, study visits (in Romania and/or abroad), workshops and/or conferences in the responsibility area hereby assigned to him/her is also envisaged.

The PC2 might be requested to be involved in the activities related to the Tasks no. 16, 17 and 22 in the countryside, as mentioned in the table under point 7.1.2. He/she might also be requested to participate in relevant working meetings with the European Commission in Brussels or in Romania.

### **5.2 Commencement date & Period of implementation**

The intended commencement date is the signing date of the Contract and the period of implementation of the contract would be 30 months from this date or until the completion of the PASSA support, i.e. by June 2022.

Should the necessity to perform additional services which were not included in these Terms of Reference and which would have become necessary to the completion of the Assignment during the term of the Assignment, the EIB reserves the right to amend the contract and to extend the scope of the services of the contract in accordance with the Procurement Guidelines of the EIB.

## **6 REQUIREMENTS**

### **6.1 Personnel**

If, during the implementation of the Contract, the EIB conclude that the Consultant's expert is unable to meet the level of quality required for preparing the written outputs such as reports, the contract will be terminated at no additional cost to the EIB.

#### **Conflict of interest**

**The Consultant's expert must be independent and free from conflicts of interest in the responsibilities accorded to him/her.**

**The Consultant (legal or natural person) to whom this contract will be awarded will not be allowed to participate any other tenders that will be launched by EIB under this project as the Consultant will be involved in preparation and implementation of the subsequent contracts that will be launched by the EIB under the ANAP PASSA 2.**

In providing support to ANAP, the expert (Procurement Consultant no. 2 – PC2) or the Consultant may be in a situation of conflict of interest. Where the Consultant and/or the expert has an ongoing or previous involvement in such project in a different role, the Consultant shall disclose all related details during the tendering stage of the present assignment.

### **6.1.1 Consultant's expert**

The Consultant's expert, i.e. the Procurement Consultant no. 2 (PC2), has a crucial role in implementing the Contract. The total input of this Consultant's expert is estimated at minimum 550 person-days (i.e. in approx. average 20 working days per 11 months/year of the implementation period of 2.5 years). These Terms of Reference contain the required expert's profile. The tenderer shall submit CV for the following expert:

#### **Qualification:**

- Master's Degree or an academic equivalent in engineering, economics, public administration or law (minimum requirement).

#### **Professional experience:**

- Minimum 15 years of general professional experience. International working experience will be considered as an important asset;
- Specific experience in the preparation, and/or in providing technical assistance for the preparation (e.g. review, quality control, etc.), of:
  - tender documents (including total estimated duration, total cost estimates, deliverables, time schedule etc.) – for or on behalf of contracting authorities/entities; and/or
  - technical proposals (including planning of resources, quality assurance and control, contract management, etc.) and financial proposals (including their substantiation) – for or on behalf of tenderers,

for **at least 2 service contracts** of a minimum aggregate value of EUR 1,000,000 (exclusive of VAT) in the area of intellectual services such as institutional reform/reorganisation, studies of various nature, audit, project management/ implementation/ evaluation support. Such a specific experience in more than one of the above mentioned fields will be considered as an advantage;

- Specific experience in contract management/implementation in at least one intellectual service contract of a minimum value of EUR 500,000 (exclusive of VAT) in the area of intellectual services such as institutional reform/reorganisation, studies of various nature, audit, project management/ implementation/ evaluation support;
- Involvement as either a concession operator, concession provider or provider of technical assistance in the preparation, awarding and/or implementation of at least one concession contract;
- The participation, as member of, or as external expert attached to, the evaluation committee in at least one tender evaluation for works and/or related service contracts in at least one of the above mentioned fields will also be considered as an advantage.

**Professional skills (to be assessed during the Interview – see 14.2.2. Interviews of the Instructions to Tenderers for more details):**

- Advanced knowledge of the Romanian and EU public procurement legislation (at the interview, at least one specific procurement or contract implementation related issue encountered during the past experience shall be presented together with the solution thereto adopted by the expert);
- Good understanding of the assignment requirements;
- Good communication and interpersonal skills. Abilities of delivering and decision making under pressure, avoiding and resolving conflicts, problem solving and adaptability;
- Advanced command of English and Romanian.

### 6.1.2 Support staff & backstopping

No support or backstopping staff will be required for the implementation of this assignment.

### 6.2 Office accommodation

Office accommodation of a reasonable standard will be provided by ANAP and EIB.

### 6.3 Facilities to be provided by the Consultant

No facility shall be provided by the Consultant.

### 6.4 Equipment

No equipment is to be purchased on behalf of the Contracting Authority / beneficiary country as part of this service contract or transferred to the Contracting Authority / beneficiary country at the end of this contract. Any equipment related to this contract which is to be acquired by the beneficiary country must be purchased by means of a separate supply tender procedure, under the financing and responsibility of the beneficiary country.

### 6.5 Incidental Expenditures

Expenses related to business trips deemed necessary to the performance of the tasks to be undertaken by the Consultant's expert that take place outside Bucharest or outside Romania during the term of the Assignment will be reimbursed by the EIB in accordance with the provisions below.

Upon submission of such relevant invoices received from the Consultant, the EIB shall reimburse expenses incurred during business trips outside of Bucharest or Romania, provided that the business trip undertaken has been previously authorised by the EIB. Before undertaking any business trips on behalf of the Bank, the Consultant shall address a request for travel authorization, with detailed budget estimate, to the EIB.

All authorised travel and accommodation expenses shall be refunded provided that all original invoices have been submitted to the EIB, including all airplane boarding passes (where applicable).

- Air	- Economy Class. Business class could be authorized only where the air travel includes four or more hours of actual flight
- Rail	- Day: first class - Night: single sleeper
- Hotel expenses	- Only room and breakfast charges
- Taxis	- Each journey to be itemized and supported by a receipt where possible (N.B. Reasonable use of taxis without prior agreement will be accepted).
- Other	- Eligibility of other expenses should be verified, as a rule, in advance.

No translation services will be eligible for reimbursement.

The provision for incidental expenditure for this Contract is estimated at max. **EUR 12,000**.

## 7 REPORTS

### 7.1 Reporting requirements

#### 7.1.1. Administrative reports

The Consultant shall provide the following reports:

Name of reports	Time of submission
<p><b>Weekly progress updates</b></p> <p>At the end of each week of activity, the Consultant's expert will submit to the EIB Team Leader a short progress report (in English) through e-mail. These reports should be readable through smart phones. Weekly e-mail reports will contain the following:</p> <ul style="list-style-type: none"> <li>• Main Progress (few bullet points)</li> <li>• Plan for the following week (few bullet points)</li> <li>• Challenges ahead (if any)</li> <li>• Pressing matters (e.g. deadlines, etc.)</li> <li>• Any other important matter</li> </ul> <p><u>Note:</u> The weekly progress updates do not need EIB's approval. They will be considered as approved when the corresponding monthly progress reports are approved.</p>	<p>On the last working day of the week</p>
<p><b>Monthly progress reports</b></p> <p>At the beginning of each month of activity, the Consultant's expert will submit to the EIB Team Leader a monthly progress report in English.</p> <p>The monthly progress reports will contain at least the following information in the main body of the report:</p> <ul style="list-style-type: none"> <li>• Summary of the progress</li> <li>• Review of the activities (e.g. tasks performed, outputs produced/contributed, etc.)</li> <li>• Changes in implementation arrangements and/or institutional set-up</li> <li>• Challenges encountered</li> <li>• Outstanding issues and challenges ahead</li> <li>• Pressing matters (e.g. deadlines, etc.)</li> <li>• Time input</li> <li>• Plan for the following month</li> <li>• Any other important matter</li> </ul> <p>The monthly progress reports will contain the following annexes:</p> <p>Annex 1: The list of all outputs produced/contributed</p>	<p>No later than on the 5<sup>th</sup> working day of the following month</p>

<p>Annex 2: Timesheet</p> <p>Annex 3: List of meetings participated</p> <p>Annex 4: Weekly progress updates</p>	
<p><b>Quarterly progress reports</b></p> <p>At the beginning of each quarter of activity, the Consultant's expert will submit to the EIB Team Leader a quarterly progress report in English and Romanian.</p> <p>The quarterly progress reports will contain at least the following information in the main body of the report:</p> <ul style="list-style-type: none"> <li>• Summary of the progress</li> <li>• Review of the activities (e.g. tasks performed, outputs produced/contributed, etc.)</li> <li>• Changes in implementation arrangements and/or institutional set-up</li> <li>• Challenges encountered</li> <li>• Outstanding issues and challenges ahead</li> <li>• Pressing matters (e.g. deadlines, etc.)</li> <li>• Time input</li> <li>• Any other important matter</li> </ul> <p>The quarterly progress reports will contain the following annexes:</p> <p>Annex 1: All outputs produced/contributed (as an annex to the report)</p> <p>Annex 2; Timesheets (as an annex to the report)</p> <p>Annex 3: List of attended meetings</p> <p>Annex 4: Monthly progress reports</p>	<p>No later than on the 5<sup>th</sup> working day of the following quarter</p>
<p><b>Assignment Completion Report</b></p> <p>The Consultant's expert will submit to the EIB the Assignment Completion Report, in English and Romanian, which will contain the following:</p> <ul style="list-style-type: none"> <li>• A summary of the services performed during the Assignment with reference to the tasks/deliverables set out in the AToR, including, as the case may be, all changes to the tasks/deliverables incurred during the course of the Assignment;</li> <li>• If any, a list of the points diverging from those fixed in the initial objectives/tasks together with a comment on the steps undertaken to remedy the situation;</li> <li>• If any, a statement summarising the various difficulties encountered and an evaluation of the impact of the above-mentioned difficulties in terms of the project itself, total cost for the Assignment and deadlines.</li> </ul>	<p>Within 15 days from the completion of the Assignment</p>

In order to avoid double reporting, quarterly reports of each third month replaces the monthly report.

### 7.1.2. Technical Deliverables

The PC2 shall provide, and/or control the quality of, at least the technical deliverables specified below with the estimated number of such deliverables.

The table below contains the deliverables and responsibilities of the PC2 in relation to each of the tasks defined in PASSA 2 with ANAP, the responsibilities being marked as follows: PIP – participation in preparation; P – preparation; QC – quality control; S – supervision of activities.

Task no. and name	Duration	Deliverables, their number and related PC2 responsibilities in the area assigned to him/her
<b>Activity 1 – Sub-activity 1.1</b>		
1. Provide opinions/ guidance/ studies on procurement and sectoral aspects encountered by ANAP in the ex-ante control activity	Within 24 months from the Mobilization and Inception Period	<ul style="list-style-type: none"> <li>• Global Plan for preparation of opinions/ guidance/ studies – 1 – PIP (together with PC1 and, if the case may be, PC3, as well as with Third Parties where needed);</li> <li>• Quarterly Action Plans for preparation of opinions/ guidance/ studies – 8 – PIP (together with PC1 and, if the case may be, PC3, as well as with Third Parties where needed);</li> <li>• Opinions/ guidance/ studies – approx. 24 (1 per month) – P (with Third Parties' support where needed);</li> <li>• Database of opinions/ guidance/ studies – 1 – P (cooperation with the two other PCs);</li> <li>• Task Monthly Reports – approx. 22 – PIP (together with PC1 and, if the case may be, PC3);</li> <li>• Plans for Workshops to be held every 6 months – 4 – PIP (together with PC1 and, if the case may be, PC3);</li> <li>• Materials for the above mentioned Workshops – 4 sets – P (together with Third Parties where needed);</li> <li>• General Reports after the above mentioned Workshops – 4 – PIP (together with PC1 and, if the case may be, PC3, as well as with Third Parties where needed).</li> </ul>
2. Support to ex-ante staff in improving their general work competencies and understanding of relevant markets	Within 12 months from the Mobilization and Inception Period	General concept for 4 study visits – 1 – PIP (cooperation with the two other PCs).
3. Reformulation of the sampling methodology	Within 18 months from the Mobilization and Inception Period	N/A
4. Provide professional opinions with regard to the implementation of various aspects of the National Public	Within 24 months from the Mobilization and Inception Period	Independent review reports on strategic or macro-operational aspects in the attention of ANAP decision-making – As per ANAP's request and within the limits

Procurement Strategy and to meet "Enabling Conditions" (upon specific ANAP's requests)		of the available Third Party budget for this Task and available time of the PCs – PIP (together with PC1 and, if the case may be, PC3, as well as with Third Parties).
<b>Activity 1 – Sub-activity 1.2</b>		
5. Perform competition related technical reviews of public procurement files subject to IT&C pilot activity	Within 12 months from the Mobilization and Inception Period	N/A
6. Improving the sectoral knowledge of the ex-ante verifiers and developing quality control verification tools for the pilot sector (i.e. public tenders in the IT&C sector)	Within 12 months from the Mobilization and Inception Period	N/A
<b>Activity 2 – Sub-activity 2.1</b>		
7. Preparation of the Stakeholder Engagement Plan ("SEP") in view of establishing local CPBs	Within 2 months from the Mobilization and Inception Period	N/A
8. Development of a communication plan ("CP")	Within 1 month from the finalization of Task 7	N/A
9. Development of Action Plans for the identified Key Stakeholders	Within 1 month from the finalization of Task 8	N/A
<b>Activity 2 – Sub-activity 2.2</b>		
10. Selection of three pilot CPBs and of eight additional contracting authorities for whom a CPB roadmap will be developed	Within 3 months from the finalization of Task 9	N/A
11. Planning and drafting an action plan for setting up three pilot CPBs	Within 4 months from the finalization of Task 10	N/A
12. Development of a roadmap for the set-up of local CPBs in eight identified counties	Within 12 months from the finalization of Task 11	N/A
<b>Activity 2 – Sub-activity 2.3</b>		
13. Defining a set of performance indicators and measuring methodology applicable to the pilot CPBs	Within 1 month from the finalization of Task 11	N/A
14. Configuration of CPBs in terms of operational and organizational structure	Within 3 months from the finalization of Task 13	N/A
15. Supporting local authorities in drafting of the establishment act of the CPB	Within 1 month from the finalization of Task 14	N/A
<b>Activity 2 – Sub-activity 2.4</b>		
16. Organising a study visit	Within 6 months from the finalization of Task 15	<ul style="list-style-type: none"> <li>• General concept for study visit – 1 – Support to EIB CPB consultant (CC), if required;</li> <li>• Post study visit report – 1 – Support to CC, if required.</li> </ul>

17. Training and day to day assistance during the three procurement phases	Within 15 months from the finalization of Task 15	<ul style="list-style-type: none"> <li>• Procurement documents for selected procedures – 4 to 6 – Support to CC, if required;</li> <li>• Training Needs Analyses (TNA) &amp; Training Plans – 2 or 3 – Support to CC, if required;</li> <li>• Training materials – As per TNA &amp; training plan – Support to CC, if required;</li> <li>• Post training reports – 2 or 3 – Support to CC, if required;</li> <li>• Monthly monitoring reports – 15 – Support to CC, if required.</li> </ul>
<b>Activity 2 – Sub-activity 2.5</b>		
18. Organization of conferences in the eight counties participating in the study	Within 18 months from the start of Task 12	N/A
19. Organizing conferences in piloting counties	Within 18 months from the start of Task 12	N/A
20. Organization of 4 conferences in counties not included in the studies	Within 18 months from the start of Task 12	N/A
21. Organising a final conference in Bucharest	Within last 3 months of the implementation of the Activity 2	N/A
<b>Activity 2 – Sub-activity 2.6</b>		
22. Drafting of conclusions and recommendations	Within last 3 months of the implementation of the Activity 2	<ul style="list-style-type: none"> <li>• CPB Activity Completion Report – 1 – Support to CC, if required;</li> <li>• Handbook with recommendations for the implementation of centralised procurement at local level – 1 – Support to CC, if required.</li> </ul>

Important note: Most of the documents to be reviewed or delivered will be in Romanian language.

## 7.2 Submission & approval of reports/deliverables

All reports (apart from weekly progress updates) and technical deliverables shall be produced in A4 size and printed on both sides of the paper. Spreadsheets and schedules shall be produced in a maximum of A3 size for reporting purposes and may be printed single-sided. File origins shall be clearly identifiable in a header or footer. A list of essential contact persons is to be included. The reports should have a title page, which should include project name, project code or reference, report title, date issued and period covered, and the name and address of the Consultant. **The Contracting Authority shall provide the Consultant, after the starting date of the assignment, with a recommended structure of the Reports.** The Consultant may propose changes to this structure, which must be agreed with the Contracting Authority in advance

Reports/deliverables and other documents required in the ToR will be made available in electronic format (CD, USB stick, etc.). They will have to be provided in Microsoft Word compatible format, in a single file or with a series of files following a structure that makes it easy to print and generate hard copies, with all support files also attached. All produced spreadsheets have to be provided in Microsoft Excel compatible format, including all underlying formulas. Such formulas shall be unprotected and available to the EIB.

All reports/technical deliverables (except the weekly and monthly reports) will be delivered in English and Romanian language unless otherwise requested in writing by the EIB Team Leader.

All reports (except the weekly reports) will be delivered in 1 hard copy and 1 electronic copy.

The EIB will have 15 working days to examine each Report/Deliverable. Should the EIB request amendments, the Consultant will be requested to re-submit the Report/Deliverable within 15 working days following the request, completed and adequately amended. If no feedback is received from the EIB within 15 working days, the output will be considered as approved.

As a general principle, ANAP and EIB (as the Contracting Authority) should mutually agree on approval of technical deliverables.

### **7.3 Visibility requirements**

All deliverables and reports will observe visibility requirements set under the PASSA. Templates will be provided to the Consultant in this respect.

## **8 MONITORING AND EVALUATION**

### **8.1 Definition of indicators**

The main indicator is the timely delivery of the tasks assigned to him/her and of the reports, as well as their quality.

The quality of all deliverables, including reports, will be measured by their approval by the EIB Team Leader and, as the case may be, by ANAP.