

ISPA Measure No:  
2002 BG 16 P PA 003

**FINANCING MEMORANDUM**

**Agreed between the European Commission and  
the Republic of Bulgaria**

**Concerning the grant of assistance from the Instrument for Structural Policies for  
Pre-accession to the following measure**

**Technical Assistance to the Preparation of the National Fund, ISPA Implementing  
Agencies and Public Internal Financial Control Agency to implement the  
Extended Decentralised Implementation System (EDIS)  
in Bulgaria**

## FINANCING MEMORANDUM

The European Commission, hereinafter referred to as "the Commission", acting for and on behalf of the European Community, hereinafter referred to as "the Community" represented by the Commissioner for Regional Policy, Mr. Michel Barnier, for the Commission

on the one part, and

The Government of Bulgaria, hereinafter referred to as "the beneficiary"

on the other part,

HAVE AGREED AS FOLLOWS:

### *Article 1*

The measure referred to in Article 2 below shall be implemented and financed out of the budgetary resources of the Community in accordance with the provisions set out in this Memorandum. The measure referred to in Article 2 below shall be implemented in line with the General Conditions annexed to the Framework Agreement signed between the Commission and the beneficiary and supplemented by the terms of this Memorandum and the provisions annexed hereto.

### *Article 2*

#### **Identification of the measure**

The Instrument for Structural Policies for Pre-accession shall contribute, by way of a grant, towards the financing of the following measure as described in Annex I:

Measure number: 2002 BG 16 P PA 003

Title: Technical Assistance to the Preparation of the National Fund, ISPA Implementing Agencies and Public Internal Financial Control Agency to implement the Extended Decentralised Implementation System (EDIS)

Duration: **Start date:** The date of signature of the financing memorandum by the Commission

**End date:** Until 31 December 2005

Location: Bulgaria

Group:

### Article 3

#### Commitment

1. The maximum public or equivalent expenditure which may be taken into account for the purpose of calculating assistance shall be € 892 555;
2. The rate of Community assistance granted to the measure is fixed at 100 % of total public or equivalent expenditure as indicated in the financing plan in Annex II;
3. The maximum amount of assistance from the Instrument for Structural Policies for Pre-accession is fixed at € 892 555;
4. An amount of € 714 044 is committed from the 2002 budget under budgetary line B7-020. Commitments in respect of subsequent instalments shall be based on the initial or revised financing plan for the measure, subject to the state of implementation of the measure and to budgetary availability.

### Article 4

#### Payments

1. Community assistance shall cover payments on the measure for which legally binding commitments have been made by the beneficiary and for which the requisite finance has been specifically allocated. These payments must relate to the services described in Annex I.
2. Payments made before the date of signature of financing memorandum by the Commission shall not be eligible for assistance from the Instrument for Structural Policies for Pre-accession.
3. The measure described in Annex I and payments by the body responsible for the implementation of the measure shall be completed no later than 31 December 2005.
4. The report required for the payment of the final balance should be submitted not later than 6 months after this date.
5. The advance payment is fixed at € 357 022, which shall be transferred as follows:
  - An amount of € 178 511 is paid out after signature of this memorandum by the beneficiary;
  - The remainder is paid out following the signing of the first technical assistance contract.

*Article 5*

**Respect of Community law and policies**

The measure shall be carried out in compliance with the relevant provisions set out in the Europe Agreements and shall contribute to the achievement of Community policies.

*Article 6*

**Intellectual property**

The Beneficiary and the authority responsible for implementation mentioned in Annex I point 3 shall ensure that they acquire all necessary intellectual property rights to studies, drawings, plans, publicity and other material made in conjunction with planning, implementation, monitoring, and evaluation of the project. They shall guarantee that the Commission, or any body or person delegated by the Commission shall have access and the right to use such material. The Commission will only use such material for its own purpose.

*Article 7*

**Permits and authorisations**

Any type of permits and or authorisations required for the implementation of the measure must be provided by the competent authorities of the Beneficiary in due time and in accordance with national law.

*Article 8*

**Specific conditions related to the measure**

A consultancy contract shall only be eligible for support under this measure after the Commission has given its agreement to the final terms of reference of that contract.

*Article 9*

The implementation provisions described in the Annexes to this financing memorandum form an integral part of it.

Non-compliance with the conditions and implementation provisions shall be dealt with by the Commission according to the procedure stipulated in Annex III.1. Section VIII.

Article 10

The authentic text of this financing memorandum is the present document as signed hereunder.

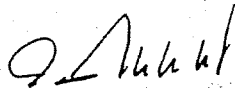
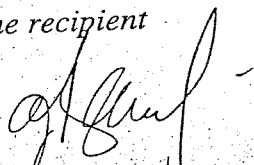
Done at

Done at Brussels,

18-12-2002

For the recipient

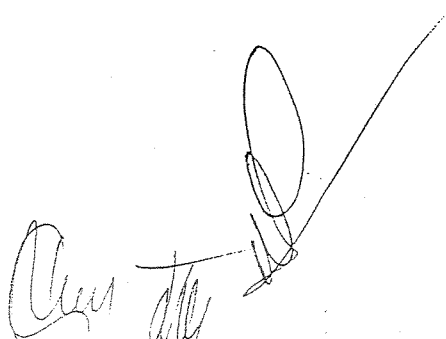
For the Community



M. VELTCHEV  
National Authorising  
Officer or equivalent  
National ISPA  
Co-ordinator

M. Barnier  
Commissioner

01.02.2003r



## List of Annexes

- Annex I Description of measure
- Annex I.A. Provisional Procurement Plan
- Annex I.B. Indicative Terms of Reference for Stage 1 and Stage 3
- Annex I.C. Indicative Breakdown of Prices
- Annex II Financing plan
- Annex III
- Annex III.1 ISPA Financial Implementation provisions
- Annex III.2 Provisions governing eligibility of expenditure for measures assisted by ISPA
- Annex III.3 Model for Payment Claims, for reporting on financial and physical progress and request for modification
- Annex III.4 Agreement on minimum requirements for financial control applicable to ISPA assisted measures
- Annex III.5 Agreement with respect to irregularities and recovery of sums wrongly received under ISPA
- Annex III.6 Information and Publicity requirements

Description of measure  
Commission code No: 2002 BG 16 P PA 003

## 1. MEASURE TITLE

Technical Assistance to the Preparation of the National Fund, ISPA Implementing Agencies and Public Internal Financial Control Agency to implement the Extended Decentralised Implementation System (EDIS)

## 2. AUTHORITY MAKING THE APPLICATION (National ISPA Co-ordinator)

- 2.1. Name: Mr Milen Veltchev, Minister of Finance, National ISPA Co-ordinator
- 2.2. Address: 102, Rakovski Street, 1040 Sofia, Bulgaria
- E-mail: d.krasteva@minfin.government.bg

## 3. AUTHORITY RESPONSIBLE FOR IMPLEMENTATION (AS DEFINED AT SECTION II (2) OF ANNEX III.2)

- 3.1. Name: ~~Mr Milen Veltchev, Minister of Finance, National ISPA Co-ordinator~~ Mrs. Sylvia Indjova, Director of National Fund Directorate, Monitoring & Assessment Department
- 3.2. Address: 102, Rakovski Street, 1040 Sofia, Bulgaria
- E-mail: ~~d.krasteva@minfin.government.bg~~ s.indjova@minfin.bg

## 4. FINAL BENEFICIARY (IN CASE IT IS A DIFFERENT BODY FROM THE AUTHORITY MENTIONED UNDER 3)

- 4.1. Name: National Fund, Ministry of Finance  
Address: 102, Rakovski Street, 1040 Sofia, Bulgaria  
E-mail: ~~s.indjovaminfin.government.bg~~ s.indjova@minfin.bg
- 4.2. Name: Ministry of Transport and Communication  
Address: 9, Vassil Levski, 1000 Sofia, Bulgaria
- 4.3. Name: Ministry of Environment and Water  
Address: 67, William Gladstone Street, 1000 Sofia, Bulgaria
- 4.4. Name: Roads Executive Agency  
Address: 3, Macedonia Boulevard, 1606 Sofia, Bulgaria
- 4.5. Name: Joint Department (Ministry of Regional Development and Public Works and Ministry of Environment)  
Address: 17-19 St Cyril I Metodi Street, 1202 Sofia, Bulgaria

## 5. LOCATION

5.1. Beneficiary country: Bulgaria

## 6. DESCRIPTION

This measure will cover the steps to be undertaken by the Bulgarian Government in order to achieve the minimum criteria set out in the Annex to Council Regulation (EC) No 1266/1999 of 21 June 1999 leading to an EDIS decision. The procedural stages, as outlined in a document entitled "Roadmap to EDIS for ISPA and Phare," are Gap Assessment, EDIS Preparation (Gap Filling) and Compliance Assessment on the path to EDIS.

The first stage will critically examine the financial and management procedures and operations of the Ministry of Finance (National Fund and Public Internal Financial Control Agency (PIFCA), Ministry of Transport and Communications, Ministry of Environment and Water, Ministry of Regional Development and Public Works (Road Executive Agency) and Joint Department between Ministry of Regional Development and Public Works and Ministry of Environment and Water. On the basis of this review, the consultants will make recommendations on identified gaps and weaknesses. In addition to the Gap Assessment, the consultants will develop Terms of Reference for Stage 2 (Gap Filling) through the development and implementation of a working programme for the implementation of the recommendations in the Gap Assessment Report. As part of this stage, the consultants will also assist the national authorities in preparing updated information on compliance with the Negotiation Chapter 28 (Public Finance).

During the second stage of the process towards achieving EDIS minimum criteria, the consultants<sup>1</sup> will assist target institutions in their activities to fulfill the recommendations stated in the previous stage. Together with the national authorities the consultants will participate in the following activities:

- Drawing up a work programme setting out detailed actions and timetable for each recommendation in the Gap Assessment Study.
- Implementation of the work programme.
- Preparation of an audit trail study on the basis of guidance from Commission services.
- Provision of training, seminars, study visits and other support and advice for the actions to be taken.
- Development of financial management and control manuals by target institutions.
- Development of audit manuals by the responsible audit bodies.

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<sup>1</sup> The consultants under the stage 2 will be different from the ones contracted for stages 1 and 3.



A detailed description of the scope of this stage will be drawn up in the Report on Gap Assessment Study and Terms of Reference carried out by the consultants contracted for Stage 1.

In accordance with the Terms of Reference, the consultants who have implemented the first stage – Gap Assessment – will perform the Compliance Assessment during the third stage in order to ascertain the fulfillment of the preliminary conditions for submission of the Request for Extended Decentralization. The Compliance Assessment will review the extent to which these recommendations have been implemented and the readiness of the institutions for EDIS. This assessment will include a financial audit, full (comprehensive) audit of the systems of the target institutions, audit of the national public procurement procedures and a report of findings and conclusions.

## 7. OBJECTIVES

The principal objective of this measure is to increase the efficiency of the implementation of ISPA and to prepare Bulgaria for the future management of Structural and Cohesion Funds. Extended decentralisation of management responsibilities (EDIS) to the National Fund (NF), headed by the National Authorising Officer (NAO), to the Implementing Agencies (IAs) headed by the Sectoral Authorising Officers (SAOs) and to the Public Internal Financial Control Agency (PIFCA) and to respective supporting staff as foreseen in Article 12 of Council Regulation 1266/1999 is considered by the European Commission and the Bulgarian Government as a high priority and should be achieved in Bulgaria by May 2004. Transition to EDIS is only possible where the conditions and criteria set out in the Co-ordinating Regulation are met, and in particular when the management capacity and financial control procedures and structures are satisfactory. In order to guide the preparatory work of the candidate countries a Commission Working Document "Preparing for Extended Decentralisation" has been drawn up. This document indicates in more detail how the criteria and conditions in the Co-ordinating Regulation are interpreted by the European Commission and provides checklists for use by the relevant bodies. The implementing structures which manage the ISPA measures have been established in Bulgaria. These structures involve various departments as follows:

- the National Fund (NF) in the Ministry of Finance, headed by the National Authorising Officer (NAO);
- the Implementing Agencies (IAs) headed by the Sectoral Authorising Officers (SAOs) for Transport and Environment Sectors in the Ministry of Transport and Communications and Ministry of Environment and Water, as well as SAOs of the Road Executive Agency and Joint Department between Ministry of Regional Development and Public Works and Ministry of Environment and Water, appointed by the NAO in consultation with the NIC, and respective supporting staff;
- the Public Internal Financial Control Agency (PIFCA) at the Ministry of Finance, which shall perform internal control within the National Fund and ISPA Implementing Agencies and shall co-ordinate audits in all the IAs.

8.

**PROJECT PREPARATION WORK IMPLEMENTATION**

	<i>Start date</i>	<i>Completion date</i>
Preparation of ISPA Application form	01/03/2002	31/07/2002
Financing Memorandum	30/11/2002	-
Tendering and Contracting for stage 1 & 3	01/12/2002	31/01/2003
Gap Assessment – stage 1	01/02/2003	30/04/2003
Preparation of ToR for stage 2	01/05/2003	31/05/2003
Tendering and Contracting for stage 2	01/06/2003	31/12/2003
Gap Filling – stage 2	01/01/2004	31/03/2004
Compliance Assessment – stage 3	01/04/2004	31/05/2004
Submission for an EDIS decision to EC	01/06/2004	-

9.

**COST AND ASSISTANCE (IN €)**

Total cost	Private sector contribution	Non eligible expenditure	Total eligible cost	ISPA grant	Grant Rate %
892 555	-	-	892 555	892 555	100

10.

**INVOLVEMENT OF IFIS**

none

11.

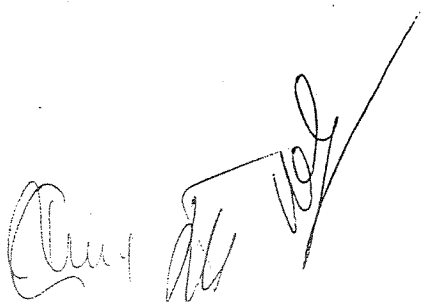
**SPECIFIC CONDITIONS RELATED TO THE MEASURE**

The terms of reference for each assignment are subject to the prior approval of the Commission. The beneficiary country acts as contracting authority. The Commission will receive reports at least every two months on the implementation of individual assignments.

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## Provisional Procurement Plan

Contract No, type and description	Estimated value Euro	Estimated publication date of notice	Remarks
TA for Gap and Compliance Assessment – stages 1 & 3	199 900	December 2002	
TA for EDIS Preparation – stage 2	692 655	May 2003	



**INDICATIVE TERMS OF REFERENCE FOR STAGE 1: "GAP ANALYSIS AND PRODUCTION OF A GAP ASSESSMENT REPORT" AND STAGE 3: "COMPLIANCE ASSESSMENT AND PRODUCTION OF A COMPLIANCE ASSESSMENT REPORT"**

**1. NAME OF ACTIVITY**

Assessment and Improvement of National Fund's and ISPA Implementing Agencies' capacity to implement ISPA projects under Extended Decentralised Implementation System (EDIS). The present Terms of Reference correspond to the stages 1 and 3 of the Roadmap to EDIS for PHARE and ISPA (see 2.5 and Annex I: Roadmap to EDIS for PHARE and ISPA). The content of each of these stages is detailed under points 3 and 4.

**2. BACKGROUND INFORMATION**

**2.1 Beneficiary Country:** Bulgaria

**2.2 Contract partner:** Ministry of Finance - National Authorising Officer (NAO)- National Fund Directorate

**2.3 Targeted Institutions**

- National Authorising Officer (NAO) - National Fund (NF), Ministry of Finance; Taking into account that the NF has already been "accredited" in respect of SAPARD operations;
- Ministry of Transport and Communications;
- Ministry of Environment and Water;
- Road Executive Agency;
- Joint Department between the Ministry of Regional Development and Public Works and the Ministry of Environment and Water;
- Public Internal Financial Control Agency.

**2.4 ISPA (Instrument for Structural Policies for Pre-accession)**

ISPA is one of the three instruments assisting the applicant countries until they join the EU. ISPA has been established by the Council Regulation 1267/99 of 21 June 1999 ("ISPA Regulation") while the Council Regulation 1266/99 of 21 June 1999 deals with the co-ordination of pre-accession instruments ("Co-ordination Regulation"). Over the period from 2000 to 2006, a total of EUR 1 040 million a year (at 1999 prices) is to be divided between environmental and transport infrastructure projects in the applicant countries.

Its main priorities in preparing the applicant countries for accession will be:

- familiarising them with the policies and procedures of the Union,
- helping them catch up with EU environmental standards,
- expanding and linking with the trans-European transport networks.

Environment – bringing the applicants up to EU standards: as noted in Agenda 2000, the applicant countries generally face much greater environmental problems than the present Member States, particularly with regard to water pollution, waste management and air pollution. Major efforts will therefore be needed, involving considerable amounts of technical and financial aid from the Union, if these countries are to catch up quickly with the “acquis communautaire” on the environment.

Transport - expanding the trans-European transport networks: Agenda 2000 stresses the urgent need to build and repair transport infrastructure in the applicant countries and to link it to the Union's transport networks. For the countries concerned, improving their transport infrastructure is a crucial part of their economic development strategies. Developing efficient transport systems is then an essential component in the pre-accession strategy. ISPA will therefore contribute to funding the development of railways, roads, ports and airports, taking into account requirements for sustainable transport and modal change.

## 2.5 What is EDIS?

The effective and efficient implementation of Community support for Structural Funds inside the Union relies on the decentralisation of implementation to the Member State authorities that is then subject to ex-post control by the Commission. However, as ISPA constitutes external assistance, the Commission currently controls implementation on an ex-ante basis according to Commission Decentralised Implementation System (DIS) procedures.

Currently, ISPA is implemented according to DIS procedures, effectively:

- Ex-ante controls are undertaken by the Commission on all parts of the project cycle, and especially on tender dossiers and contracts.
- Dedicated Commission procedures are used for all operations, including most importantly Commission procurement procedures.

As such, candidate countries would have great difficulty in moving directly from the current ISPA approach to full financial delegation under Structural Funds and Cohesion Fund as new Member States. To facilitate the transition, implementation of ISPA projects may be further decentralised on a country-by-country basis based on the evaluation of each implementing agency involved in project delivery as provided for in Council Regulation 1266/99. This is known as the Extended Decentralised Implementation System (EDIS).

In essence, EDIS boils down to moving Commission controls to an ex-post basis and using national procedures instead of Commission ones (especially in procurement) where strict conditions are met.

EDIS can only be granted if certain "minimum criteria and conditions" are met as described in the Annex to the Regulation 1266/99 and to "specific provisions concerning, inter alia, invitations to tender, scrutiny and evaluation of tenders, the award of contracts" (Art. 12.2).

The decision to move to EDIS can only be undertaken by the Commission "on the basis of a case-by-case analysis of national and sectoral project management capacity, financial control procedures and structures regarding public finance" (Art. 12.2).

A Commission Working Document has been prepared that provides detailed guidance on the "minimum criteria and conditions" that must be met in each of the key EDIS areas – the National Fund (NF), the Implementing Agencies (IAs) and procurement. The Working Document interprets in more detail the general conditions set down in Council Regulation 1266/99. After analysing the general preconditions for EDIS presented in the Regulation, the Working Document then presents detailed checklists in three annexes that can be used by the relevant national authorities requesting EDIS to ensure that the systems meet these "minimum criteria and conditions":

- Annex 1 – preconditions for the National Fund (NF);
- Annex 2 – preconditions for Implementing Agencies (IAs);
- Annex 3 – preconditions for procurement procedures.

A fourth annex provides a glossary of definitions used in the Working Document.

A Roadmap to EDIS for PHARE and ISPA has also been prepared and is complementary to the Working Document. Its aim is to set out the procedural stages leading to an EDIS decision by the Commission. Four stages are presented in the Roadmap to EDIS:

**Stage 1 – Gap Assessment:** the objective is to carry out an assessment of the target national institutions (NAO, National Fund, SAO's, Implementing Agencies) and national procurement procedures in order to determine to what extent the conditions for EDIS are currently met and to identify specific actions, changes and improvements required.

**Stage 2 – EDIS Preparation ("Gap plugging"):** the purpose is to prepare for EDIS by making the necessary changes and improvements to the target institutions and procedures through implementation of the recommendations of the Gap Assessment Report.

*Stage 3 – Compliance Assessment:* the objective is to enable the national authorities responsible for the financial management of the Community instrument to determine whether the pre-conditions are fulfilled for formal application for EDIS. Stage 3 “Compliance assessment” is seen as the key element in the process. It is this, which gives the NAO the basis for a submission of the Request for an EDIS decision to the Commission. The external auditor leading the Compliance Assessment audit will have to draw a report (Compliance Assessment Report) setting out the findings and conclusions of the audit work and giving an audit opinion, which provides positive assurance that the requirements are met.

*Stage 4 – Preparation for Commission Decision:* preparation of all elements necessary to enable the Commission to decide whether to grant EDIS under Article 12.2 of the Regulation 1266/99.

Where procurement rules are found not to meet the minimum condition of meeting the requirements of Title IX of the Financial Regulation, the ex-post control and responsibility elements of EDIS can still occur but the relevant IA must follow the DIS procurement rules, as stated in the Practical Guide to PHARE, ISPA and SAPARD – Contract procedures.

Under EDIS, the Commission shall continue to exercise ex-ante control at the programming level while reinforcing its involvement in project monitoring and carrying out on the spot project checks and audits. The European Court of Auditors may perform external audits.

There are no circumstances where it is mandatory for the Commission to undertake EDIS. The Commission can, at any time and at its own discretion, reverse its approval to extend decentralised implementation to relevant national authorities.

## 2.6 Legal basis and background documentation

- Council Regulation 1266/99 of 21 June 1999 (Annex I a);
- Council Regulation 1267/99 of 21 June 1999 (Annex I b);
- Roadmap to EDIS for PHARE and ISPA (Annex I);
- Financing Memorandum (in particular Annex III): a Financing Memorandum is signed by the European Commission and the Candidate Country for each selected measure to be financed under ISPA;
- Memorandum of Understanding on the Establishment of the National Fund on 7 December 1998, ratified by the Bulgarian National Assembly on 11 February 1999;
- Memorandum of Understanding for the Utilisation of the National Fund for ISPA on 22 November 2000;
- Financing Agreements for the Implementing Agencies (signed once by the NAO and the various Implementing Agencies involved in ISPA projects, to set the exact roles and responsibilities of each body);
- EDIS Working Document checklists (as supplemented by further documents, notably Practical Guidance Document giving guidance to Candidate Countries to prepare a detailed document describing the capacity for decentralised management of ISPA);

- Concept paper for achievement of Extended Decentralised Implementation System of PHARE and ISPA projects.

The ~~High Level~~ <sup>EDIS</sup> Working Group established on the basis of the Concept paper for the purpose of overall monitoring of the whole process of preparation till the official Request for EDIS, will take the decisions for successful running of the process and all principal decisions will be approved by it. The Secretariat of the ~~High Level~~ <sup>EDIS</sup> Working Group will be Monitoring and Assessment Department within the National Fund Directorate. This department will have the overall responsibility for preparation of all necessary documents needed for the submission by the NAO of the Request for EDIS. The unit will also be a contact point for all consultants working on EDIS and all institutions involved in the process and will co-ordinate the whole process of preparation for EDIS. The established ~~High Level~~ <sup>EDIS</sup> Working Group will meet at least 2 times per year. The ~~High Level~~ <sup>EDIS</sup> Working Group takes all principal decisions with regards to the successful realisation of the EDIS. Rules of Procedures of the Group will be adopted on the first meeting. On operational level a Technical Working Group is established. It consists of representatives from all institutions involved in the process on relevant administrative level - Director of Directorate or Head of Department, who have the power to take all necessary decisions considering the capacity, resources available and trends of progress of the relevant institution, in order to ensure timely and adequate start of the process.

### 3. DESCRIPTION OF STAGE 1 "GAP ANALYSIS AND PRODUCTION OF THE GAP ASSESSMENT REPORT"

This stage is undertaken under the responsibility of the national authorities of Bulgaria and led by the NAO. This stage comprises the analysis of the structures involved in the management of ISPA as well as the production of a gap assessment report to be used as a basis for developing the existing structures against the EDIS criteria.

The analysis will provide an assessment of the system for management of ISPA already in place against the EDIS requirements including analysis of the management and control system<sup>2</sup>. A SWOT analysis of the structures currently involved in the management of ISPA will be carried out.

The contractor will work with the Bulgarian authorities involved in the implementation of ISPA management, which apart from the NF and PIFCA include Road Executive Agency, the Ministry of Transport and Communications, the Ministry of Environment, the Ministry of Regional Development and Public Works, the Ministry of Finance and the National ISPA Co-ordinator (thereafter called NIC). The contractor will also work with SIGMA, which has been appointed to assist the NAO and the National Fund in the process of preparing the introduction of EDIS. The contractor will have access to all available materials and studies in the target institutions.

<sup>2</sup> In the context of these ToR, the *system* means national financial control system over management structures (IAs) supported by internal control mechanisms within the structures themselves.



Where implementation responsibilities are being delegated to final beneficiaries or local authorities (e.g. municipalities, etc), the contractor will only assess the extent of and the integrity of the mechanisms for the delegation of responsibilities and proper supervision (in particular specific Financing Agreements or Memoranda of Understanding between IAs and final beneficiaries) and the delegated bodies themselves. If necessary, the contractor may perform some audit work in bodies to which some tasks have been delegated, on a sample basis.

### 3.1 Immediate Objectives

- To assess the degree of preparation of the NF, IAs and PIFCA for meeting the minimum criteria and conditions necessary for moving to EDIS and in particular in the following key areas (management structure and organisation, tendering and contracting procedures, monitoring of projects implementation, management and control of funds, accounting procedures and filing system and audit trail, IT process and computer security, internal audit and external audit, on the spot checks, prevention and treatment of irregularities;
- To assess the compliance of national procurement procedures with the requirements for EDIS;
- To identify the existing points of non-compliance and other shortcomings and constraints in the NF, the IAs and PIFCA and in their procedures;
- To make recommendations for improvements necessary to meet the requirements for EDIS in the form of a detailed gap assessment report (GAR);
- To provide an indicative timetable for implementation of these recommendations, and a reasonable estimation of the resources required;
- To develop with the NF a separate draft Terms of Reference for Phase 2 for contracting of specialist expertise to implement the GAR;
- To present the findings and recommendations to a seminar/workshop for all the actors/beneficiaries and other parties involved such as SIGMA (facilitators of this assignment) with a view to reaching a clear consensus on the efficacy and practicality of the GAR.

### 3.2 Keys areas to be audited

The assessment is a full financial and systems' analysis of each target institution.

For each institution, the assessment will notably focus on the following areas, which constitute the key areas for EDIS:

- management structure and organisation, and notably:
  - existence of written procedure;
  - existence of a sound and clear legal basis for the relations between NAO, NIC, NF, IAs and PIFCA, including accountability and reporting schemes;

- existence of clear and adequate organisation charts;
- clearly defined delegation of responsibilities, using written agreements (notably Financing Agreements between NAO and IAs and agreements between IAs and final beneficiaries);
- staff (status, retention/stability including salary schemes competence, language skills, adequate number, jobs and responsibilities defined in writing, training programmes);
- separation of functions: no official can have responsibility at any time for any project for more than one of the responsibility for authorising payments, paying and accounting ; each task must always be conducted under the supervision of a second official and there must be evidence of the review of the work;
- project programming capacity (analytical capacity of staff and management, eligibility and ranking criteria, as appropriate, etc.).
- there must be detailed manuals explaining the procedures and identifying supporting documentation:
  - for the tendering and contracting activities;
  - for the receipt, recording and processing of claims (from contractors, from IAs to NF, from NF to EC);
  - for the internal financial control for PIFCA.
- there must be a detailed checklist for commitment and pre-payment checks:
  - tendering and contracting procedures: specific provisions to be set up concerning, inter alia, invitations to tender, scrutiny and evaluation of tenders, the award of contracts and the implementation of Community public procurement directives. Particular attention should be paid on checking if the national procurement rules effectively meet the requirements of Title IX of Financial Regulation of 21/12/77 (basis of the art 12.2 of Council Regulation 1266/99) with focus on the art. 108 (2) (advertising rules, tendering rules, technical evaluation rules, participation and contract award rules). The ex-ante approval controls on tender dossiers and contracts should be analysed in detail (this ex-ante approval function may be delegated to an independent body);
  - monitoring of projects implementation: existence of an appropriate system to report progress on each project towards pre-defined indicators (both physical and financial indicators). The reporting system must be shared by NF and IAs and be reconciled with accounts;

*Am H. [signature]*

— management and control of funds: budgeting procedures and budget classification supporting national co-financing, bank accounts system and authorisation procedures, including management of cash flow, co-ordination of ISPA and co-financing funds, double signature system, pre-payments checks, payments, reconciliation procedures and treatment of interests should notably be audited. Authorisation of payments must be based on detailed checklists of verification, containing among others eligibility, completeness and correctness of supporting documents, date of receipt, compliance of invoices with contracts, identity of the claimant and physical controls. Any delegation of responsibilities needs to be defined in writing. There must be a system of risk management awareness and system operations;

— there must be adequate accommodation, security of buildings/ documents;

— accounting procedures and filing system and audit trail: the accounting system must be based on commitments and shall provide per project the total cost, the committed expenditures, payments and balance. Reconciliation procedures shall exist to ensure completeness, accuracy and existence of accounts. Arrangements must exist for recovery, reallocation and repayment of funds. The accurate EURO conversion rate must be applied. A project file must be maintained with all relevant document to audit the project (audit trail);

— there should be adequate filing and archiving arrangements and a document retention policy;

— reporting on project implementation both to NF and to the EU;

— IT process and computer security: when a computer system is used, access to the computer system shall be protected and controlled so as to:

— all information entered into the system is properly validated (errors are detected and corrected);

— no data may be entered, modified or validated except by authorised officials to whom individual passwords are attributed;

— the identity of each official entering or modifying data or programmes is recorded in an operations log. Passwords shall be changed regularly to avoid misuse. Computer systems shall be protected from unauthorised access by physical controls, and the data shall be backed up by copies stored in a separate safeguarded location. Data entry shall be checked by logical checks aimed at detecting inconsistent or extraordinary data.

- internal and external audit : there must be internal audit activities which objective is to ensure that the system of internal control to manage ISPA projects operates effectively. The internal audit can be performed by the NF and IAs or by a central audit body or both. In any case, the internal audit service(s) should be independent from the management functions. The internal audit service shall be performed according to internationally accepted audit standards. There should be adequate risk management awareness. A centralised audit body shall exist to harmonise, support and assess the work done by internal audit teams in each ministry/body;
- on the spot checks;
- adequate scheme publicity arrangements need to be in place;
- prevention and treatment of irregularities, according to Annex III of Financing Memorandum.

Some more detailed information may be given on areas to be assessed at the beginning of the assignment.

### 3.3 Scope of the Gap Assessment Report

The Gap Assessment Report will clearly identify for each target institution and procedure the elements of non-compliance with EDIS requirements and a recommendation (with timetable) on the actions to be taken. The report should include a table identifying all the internal control requirements and specifying the responsible service. The contractor will also provide separate draft Terms of Reference for Phase 2 for contracting of specialist expertise to implement the GAR.

## 4. DESCRIPTION OF STAGE 3 "COMPLIANCE ASSESSMENT AND PRODUCTION OF THE COMPLIANCE ASSESSMENT REPORT"

This stage is undertaken under the responsibility of the national authorities of Bulgaria led by the NAO.

After the completion of Stage 2 by the separate consultants the main consultant for stages 1 and 3 should perform the stage 3.

### 4.1 Immediate objectives

The objective of stage 3 is to enable the national authorities responsible for the financial management of the Community instrument to determine whether the pre-conditions are fulfilled for formal application for EDIS.

*Am* *STB* *[Signature]*

This audit objective includes:

- Full financial and systems' audit by the external auditor on behalf of the national authorities of each target institution (as detailed under 2.3) covering:
- the requirements set out under Stage 1 with particular attention to the points identified in the Gap Assessment Report;
- the manuals and other documents relevant to the fulfilment of these requirements;
- full verification of the national procurement procedures as part of the audit.

#### 4.2 Key areas to be audited

The audit is a full financial and systems audit of each target institution.

For each institution, the audit will notably focus on the areas stated in point 3.2.

Some more detailed information may be given on areas to be audited at the beginning of the assignment.

#### 4.3 Scope of the Compliance assessment report

After completion of the audit mentioned above, the external auditor will have to produce a compliance assessment report. This report will set out, separately for each institution for which EDIS is proposed, the findings and the conclusions of the audit work and will give the opinion of the external auditor as regards assurances that the minimum criteria and conditions for extended decentralised implementation system are met.

The report should cover all matters relating to the audit work which, in the Contractor's opinion, are relevant to the achievement of the overall audit objective. The report should also set out any recommendations deemed to be necessary.

The Compliance Assessment Report will be the basis for the submission by the NAO to the Commission of an application for EDIS for relevant IAs.

### 5. GENERAL REQUIREMENTS

#### 5.1 Professional standards

The Contractor shall exercise due skill and care in undertaking the ordered audit work, according to the highest professional standards appropriate to the provision of services of a similar nature.

The Contractor shall ensure that the ordered audit work is carried out by staff that possess the experience, technical skills, professional capabilities and linguistic abilities that are appropriate for the task.

The Contractor shall ensure that the audit work is carried out in accordance with internationally accepted audit standards.

## 5.2 Relationship between the contractor and the bodies to be audited

The Contractor shall exercise discretion and consideration in his relationships with the staff of bodies to be audited and should programme the audit work as not to cause disruption to the operations. If the Contractor experiences any significant difficulties in obtaining access to the supporting documents, records and systems, he/she should report the matter to the NAO, which shall attempt to rectify the matter.

## 5.3 Confidentiality

The Contractor shall respect the confidentiality of all information obtained in the course of the audit work.

## 5.4 Documentation

The Contractor shall maintain records of the audit work performed that are sufficient to demonstrate the work done and to justify his/her conclusions. The NAO or a body designated by the NAO shall have the right to inspect these records, as well as the European Commission.

## 5.5 Contractor's profile

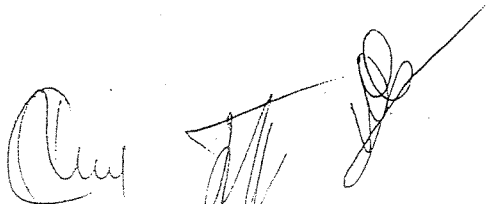
- proven auditing professional experience in EU matters, especially Structural Funds, Cohesion Funds and Pre-accession Funds implementation,
- proven professional experience in tendering and procurement matters (at least one procurement specialist in the audit team),
- familiarity with EC procedures and terminology,
- knowledge of Bulgarian legal aspects especially in the field of internal financial control, tendering and procurement,
- proven management and organisational skills, good communication skills,
- fluency in English with full drafting capability.

It is required to be available one team leader and 10 short-term experts during the execution of the stage 1 and one team leader and 5 short-term experts during the stage 3. The names and CVs of the persons who would undertake the requested audit work should be precise in the Contractor's proposal.

## 6. LOCATION AND DURATION

### 6.1 Location

Central project office will be set up in the Ministry of Finance. The tasks will be delivered on-spot, in the premises of the audited bodies. The auditors are will have the possibility to entitled to use available technical equipment in the target institutions e.g. telephone, fax, internet connection. The costs of the telephone and fax should be covered under the project.



## 6.2 Duration

The contract will start in 2003 for a period of 6 months allocated as follows:

- Stage 1 - Gap assessment - will be carried out during February - May 2003.
- Stage 3 - Compliance assessment - will spread over April - May 2004.

## 7. REPORTING

### 7.1 Inception report

The contractor shall submit an Inception report within three weeks after the start of contract activities. The Inception Report will develop a detailed work plan and work schedule for achieving the stages 1 and 3 objectives. It will provide detailed planning for the implementation of each stage component. This Inception Report shall be endorsed by the NAO.

### 7.2 Final reports

The Contractor leading the Gap assessment and the Compliance assessment audit will have to draw draft reports (Gap Assessment Report and Compliance Assessment Report) no later than ten days before the end of each stage, setting out the findings and conclusions of the audit work and giving amendment proposals to the existing structures (stage 1) or audit opinion on whether the requirements are met (stage 3) for each body for which EDIS is proposed. Before submitting those reports to the NAO, the Contractor should discuss his/her recommendations or audit findings with the responsible staff of the audited bodies.

### 7.3 Reporting requirements

Reports shall be in English and must be endorsed by the NAO. Reports shall be submitted in four hard copies to the NAO, in one hard copy to the National ISPA Co-ordinator (NIC) and electronically to each SAO.

## 8. COST

The maximum budget including fees and reimbursement of expenses is EUR 199 900. This covers stage 1 and stage 3 - Gap and Compliance Assessment.

The fees cover all tenderer's costs (time spent in providing its findings, planning of the work, preparation of the reports, overheads) the expenses related to travel, subsistence costs and contingencies.

## 9. MONITORING AND EVALUATION

NAO (in consultation with NIC) will carry out monitoring and evaluation of this technical assistance assignment.

Further audits may be carried out by or under the authority of the Commission and the European Court of Auditors.

## INDICATIVE BREAKDOWN OF PRICES

	People		Days	Daily Rate	Total Fee	Travel Cost	Per Diem	Direct Cost	Contingencies	Training & Team Building	Total
	Qualification	Number		EUR	EUR	EUR	EUR	EUR	EUR	EUR	EUR
Stage 1											
	Team Leader	1	12	900,00	10.800,00						
	Expert I	6	35	500,00	105.000,00						
	Expert II	4	20	400,00	32.000,00						
<b>Total for stage 1</b>					<b>147.800,00</b>			<b>5.000,00</b>	<b>3.000,00</b>		<b>155.800,00</b>
Stage 2											
	Team Leader	1	15	900,00	13.500,00	3.000,00	2.955,00				
	Security Expert	2	25	600,00	30.000,00	4.000,00	9.850,00				
	Public Procurement Expert	4	60	750,00	180.000,00	8.000,00	47.280,00				
	Accounting Expert	3	20	550,00	33.000,00	3.000,00	11.820,00				
	Internal Control Expert	5	30	550,00	82.500,00	10.000,00	29.550,00				
	Financial Control Expert	4	25	550,00	55.000,00	8.000,00	19.700,00				
<b>Total for stage 2</b>					<b>394.000,00</b>	<b>36.000,00</b>	<b>121.155,00</b>	<b>11.500,00</b>	<b>10.000,00</b>	<b>120.000,00</b>	<b>692.655,00</b>
Stage 3											
	Team Leader	1	5	900,00	4.500,00						
	Expert I	3	20	500,00	30.000,00						
	Expert II	2	12	400,00	9.600,00						
<b>Total for stage 3</b>					<b>44.100,00</b>						<b>44.100,00</b>
<b>Total for stages 1 &amp; 3</b>											<b>199.900,00</b>
<b>GRAND TOTAL</b>											<b>892.555,00</b>

Note: the budget allocation related to the stages 1 & 3 includes all the expenses



## FINANCIAL PLAN (based on commitments from EU budget)

Title of measure: Technical Assistance to the Preparation of the National Fund, ISPA Implementing Agencies and Public Internal Financial Control Agency to implement the Extended Decentralised Implementation System (EDIS) in Bulgaria

ISPA No: 2002 BG 16 P PA 003

Year	Total Cost	Non Eligible Cost	Eligible Cost								Euro	
			Total		ISPA		National authorities				Loan from IFI	
			3	4 (%)	5	6 (%)	Central Government	Regional Authority	Local Authority	Other*	11	12 (%)
	=2+3		=5+7+8+9+10	=3/1		=5/3						=11/1
2000	-	-	-	-	-	-	-	-	-	-	-	-
2001	-	-	-	-	-	-	-	-	-	-	-	-
2002	714.044	-	714.044	100	714.044	100	-	-	-	-	-	-
2003	-	-	-	-	-	-	-	-	-	-	-	-
2004	-	-	-	-	-	-	-	-	-	-	-	-
2005	178.511	-	178.511	100	178.511	100	-	-	-	-	-	-
2006	-	-	-	-	-	-	-	-	-	-	-	-
non annualised	-	-	-	-	-	-	-	-	-	-	-	-
<b>Total</b>	<b>892.555</b>		<b>892.555</b>	<b>100</b>	<b>892.555</b>	<b>100</b>						