

## TERMS OF REFERENCE

# Study to support the evaluation of the application of Regulation (EU, Euratom) No 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF)

Contracting Authority: European Commission

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## 1. CONTEXT/INTRODUCTION

### 1.1 Background

The Union and the Member States are required by the Treaty on the Functioning of the EU (TFEU, Article 325) to counter fraud and any other illegal activities affecting the financial interests of the Union. To this end, the European Parliament and the Council should adopt the necessary measures with a view to affording effective and equivalent protection of the EU's financial interests throughout the Union. In addition, the Commission – responsible for the implementation of the EU budget in accordance with Article 317 TFEU - should ensure that there is a framework in place to enable the effective prevention and detection of fraud.

The Commission, therefore, established in 1999 the European Anti-fraud Office (OLAF)<sup>1</sup> to, in particular, conduct administrative investigations against fraud and any other illegal activity affecting the EU financial interests, to assist Member States in the fight against fraud, and to conduct investigations relating to the discharge of professional duties within the Union institutions, bodies, agencies and offices. The co-legislator regulated the conduct of investigations and the governance of OLAF in Regulation (EC) No 1073/1999 and Regulation (Euratom) No 1074/1999. These regulations were replaced by Regulation (EU, Euratom) No 883/2013, which currently governs the exercise of OLAF's mandate, including the powers of investigation conferred on the Commission to fight against fraud, corruption and any other illegal activity affecting the financial interests of the European Union.

### 1.2 Objectives of the initiative/intervention and intervention logic

In order to strengthen the protection of the European Union's financial interests and the procedural rights of persons concerned, the Commission proposed to revise the legal framework of OLAF's investigations, initially laid down in Regulations 1073 and 1074/1999 in the light, *inter alia*, of evaluations made by the Union institutions and on the basis of experience. In particular, the Commission adopted on 2 April 2003 its evaluation of the activities of OLAF pursuant to Article 15 of Regulations 1073 and 1074/1999<sup>2</sup>. In November 2003, the President of the Commission announced at the European Parliament, during his speech on the State of the Union, an Action Plan for OLAF in response to the EUROSTAT case<sup>3</sup>.

The revision of those previous instruments and the adoption of Regulation 883/2013 are the result of long interinstitutional negotiations based on two successive proposals made by the Commission. A first proposal to reform OLAF was tabled by the Commission in 2004, with a view to introducing new rules of procedure, strengthening the flow of information between OLAF and the institutions and the control of the duration of investigations<sup>4</sup>. A second proposal was tabled in 2006<sup>5</sup>, followed by a modified proposal in 2011<sup>6</sup>, which provided the basis for the adoption of Regulation 883/2013.

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<sup>1</sup> Commission Decision 1999/352/EC, ECSC, Euratom.

<sup>2</sup> COM(2003) 154 final.

<sup>3</sup> [http://europa.eu/rapid/press-release\\_SPEECH-03-551\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-03-551_en.htm)

<sup>4</sup> COM(2004) 103 and 104 final.

<sup>5</sup> COM(2006) 244 final.

According to the recitals of Regulation 883/2013, the objectives of the revision were: to improve the effectiveness, efficiency and accountability of OLAF while safeguarding its independence; to strengthen the procedural guarantees and fundamental rights of persons subject to investigation; to strengthen cooperation with Member States, EU institutions and bodies, third countries and international organisations; and to reinforce the governance of OLAF.

### **1.3 Description of the initiative/intervention**

#### *1. Actions/Measures*

On the basis of Regulation 883/2013, OLAF:

- conducts external administrative investigations wherever the EU's financial interests are at stake, in Member States, in third countries and in international organisations (Art. 3 of Regulation 883/2013);
- conducts internal administrative investigations within the Union institutions, bodies, agencies and offices, concerning the protection of the Union's financial interests and serious matters relating to the discharge of professional duties (Art. 4 of Regulation 883/2013);
- provides Member States with assistance in organising cooperation in order to coordinate their action aimed at protecting the financial interests of the Union against fraud, and contributes to the investigations carried out by relevant authorities in the Member States at their request (coordination cases, Art. 1(2) of Regulation 883/2013).

The Regulation maintains the investigative powers of OLAF, which include on-the-spot checks and inspections on the premises of economic operators on the basis of Regulations 2988/95<sup>7</sup> and 2185/96<sup>8</sup>, and access to the premises of EU institutions, bodies, offices and agencies. The investigative powers of OLAF to conduct on-the-spot checks and inspections pursuant to Regulations 2988/95 and 2185/96 are available in the investigation of lost revenue accruing from own resources collected directly on behalf of the Union, or by an unjustified item of expenditure. They do not apply as regards VAT, which – although a financial interest of the Union – is not collected directly on behalf of the Union.

On completion of an investigation, OLAF draws up a report concerning the matter investigated and the estimated financial impact of the facts established, and may adopt recommendations on whether or not action should be taken (disciplinary, administrative, financial and/or judicial) by the Union institutions and bodies, or by the competent authorities of the Member States (Art. 11 of Regulation 883/2013). It is, in the first place, for the institution, body, office or agency concerned by an internal investigation to ensure an appropriate follow-up and report to OLAF. As regards external investigations, the competent authorities concerned shall inform OLAF, at its request, of any action taken. OLAF

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<sup>6</sup> COM(2011) 135 final.

<sup>7</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests.

<sup>8</sup> Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities.

investigations do not affect the powers of the competent authorities of the Member States to initiate proceedings. Where relevant, in close cooperation with the Commission and the EEAS, OLAF also transmits the results of its investigations to the authorities of third countries and to international organisations.

Regulation 883/2013, like the previous Regulations 1073 and 1074/1999, also contains provisions on the governance of OLAF and on inter-institutional issues. The Regulation regulates the role of the Supervisory Committee, already foreseen by Decision 1999/352<sup>9</sup> and Regulation 1073 and 1074/1999, which regularly monitors the implementation by OLAF of its investigative function, in order to reinforce OLAF's independence (Art. 15)<sup>10</sup>. Regulation 883/2013 clarifies the mandate of the Supervisory Committee as regards the duration of investigations and procedural rights, and adds modalities for OLAF to inform and consult the Committee. The Regulation also provides for an annual exchange of views at political level between the European Parliament, the Council, the Commission and the Director-General of OLAF (Art. 16). The Regulation also contains detailed provisions on cooperation between OLAF and its partners (EU institutions, bodies, offices and agencies, Member States, third countries, international organisations).

In addition to its tasks defined in Regulation 883/2013, OLAF provides administrative assistance to the Member States in accordance with Regulation (EC) No 515/1997<sup>11</sup>, on mutual administrative assistance on customs and agricultural matters, and under a number of other Regulations that refer to Regulation 515/97 (in particular Article 36 of Regulation (EU) No 608/2013, concerning customs enforcement of intellectual property rights<sup>12</sup>).

Finally, OLAF also contributes to the European Union's anti-fraud policy and provides fraud prevention support to member States and Union institutions, bodies, offices and agencies (Art. 1(2) of Regulation 883/2013 and Art. 2 of Decision 1999/352). In particular, OLAF cooperates with the Member States in the framework of the Advisory Committee for the Coordination of Fraud Prevention (COCOLAF) and with the Commission services in the framework of the Fraud Prevention and Detection Network.

## *2. Intervention logic*

The specific objectives of Regulation 883/2013 are:

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<sup>9</sup> "Surveillance Committee", Art. 4.

<sup>10</sup> [http://ec.europa.eu/anti\\_fraud/about-us/supervisory-committee/index\\_en.htm](http://ec.europa.eu/anti_fraud/about-us/supervisory-committee/index_en.htm)

<sup>11</sup> Council Regulation (EC) No 515/1997 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters. This Regulation has been amended by Regulation (EC) No 766/2008 of the European Parliament and of the Council of 9 July 2008 and by Regulation (EU) 2015/1525 of the European Parliament and of the Council of 9 September 2015.

<sup>12</sup> Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcements of intellectual property rights and repealing Council regulation (EC) No 1383/2003.

- 1) **Enhancing the effectiveness and efficiency of OLAF's investigative activity, including by introducing criteria for the opening and conduct of OLAF's investigations**
  - Introduction of case selection criteria guiding the initiation of an investigation (investigation policy priorities, need for efficient use of the Office's resources, proportionality of the means employed, and whether the institution, body, office or agency is best placed to act as regards internal investigations), Arts. 5(1) and 17(5);
  - Explicit legal basis for OLAF to adopt comprehensive guidelines on investigation procedures for the staff of the Office, Art. 17(8);
  - Strengthened monitoring of the duration of investigations, Arts. 7(8), 15(1).
- 2) **Strengthening the procedural guarantees of individuals subject to investigation**
  - Procedural guarantees of the persons concerned by OLAF investigations, and rights of witnesses, enshrined in the Regulation, Art. 9;
  - Explicit legal basis for OLAF to designate a Data Protection Officer, Art. 10(4);
  - Obligation to carry out internal legality checks on OLAF's investigative measures, Art. 17(7).
- 3) **Improving cooperation and information exchange with Member States**
  - Member States to designate an anti-fraud coordination service (AFCOS) to facilitate cooperation and exchange of information in the context of investigations and for the prevention of fraud, Arts. 1(2) and 3(4);
  - Possibility to establish administrative arrangements between OLAF and Member States' competent authorities, Art. 1(5);
  - Strengthened information exchange and cooperation between OLAF and the Member State concerned by a possible investigation or investigation in progress - Arts. 3(3), 3(6), 5(4), 5(6) -, including to allow the adoption of precautionary administrative measures where necessary, Art. 7(7);
  - Reporting by Member States of follow-up after an OLAF investigation, Arts. 11(6) and 12(3).
- 4) **Strengthening cooperation with EU institutions, bodies, offices and agencies**
  - Strengthened information exchange between OLAF and the institution, body, office or agency concerned on possible investigations and investigations in progress - Arts. 4(4), 4(8), 5(3), 5(4) and 5(5) -, including to allow the adoption of precautionary administrative measures where necessary, Art. 7(6);
  - Explicit legal basis for cooperation and exchange of operational, technical or strategic information with Eurojust and Europol, Art. 13(1);
  - Access to information in databases held by EU institutions, bodies, offices and agencies at OLAF's request, in the selection phase prior to the opening of an investigation, Arts. 4(2) and 6.

- 5) **Strengthening cooperation with third countries and international organisations**
  - Explicit legal basis for OLAF to conclude administrative arrangements with third country authorities and international organisations, Art. 14.
- 6) **Reinforcing the governance of OLAF**
  - Clarification that the monitoring tasks of the Supervisory Committee include the duration of investigations and the respect of procedural guarantees, Arts. 7(8), 15(1);
  - Clarification that the opinions of the Supervisory Committee to the Director-General of OLAF may include recommendations, Art. 15(1);
  - New modalities of informing and consulting the Supervisory Committee concerning:
    - Internal investigations exceptionally requiring absolute secrecy, Art. 4(6);
    - Prolongation of the period before reporting to the Supervisory Committee on those cases lasting over 12 months, Art. 7(8);
    - Possibility for the Committee to ask OLAF for additional information on investigations, Art. 15(1);
    - Forwarding by the Director-General of the investigation policy priorities prior to their publication in the Annual Management Plan, Art. 17(5);
    - Periodic information from the Director-General to the Supervisory Committee, Art. 17(5);
    - Consultation of the Supervisory Committee before adoption of the guidelines on investigation procedures, Art. 17(8);
  - Introduction of an annual inter-institutional exchange of views, with the participation of the Supervisory Committee, Art. 16.

## 1.4 Implementation – State of Play

### 1. *Implementation measures adopted*

Regulation 883/2013 entered into force on 1 October 2013 and is directly applicable. Certain provisions have been subject of concrete implementation measures, as described below:

- 1) **Enhancing the effectiveness and efficiency of OLAF's investigative function, including by introducing criteria for the opening and conduct of OLAF's investigations**
  - Investigation policy priorities are included in OLAF's Annual Management Plan since 2014. They replace a practice, prior to the entry into force of Regulation 883/2013, of using financial indicators as self-imposed guiding principles for the selection of cases.
  - OLAF carried out an internal reorganisation which led to the creation of a new Selection and Review Unit (Unit 0.1), an independent unit directly under the supervision of the Director-General. It has sole responsibility in OLAF for preparing the case selection by applying the selection principles of Regulation 883/2013 and the investigation policy priorities determined each year by the Director-General.
  - The Director-General adopted Guidelines on Investigation Procedures for OLAF Staff<sup>13</sup>, as required by Regulation 883/2013. They entered into force on 1 October

<sup>13</sup> [http://ec.europa.eu/anti\\_fraud/documents/gip/gip\\_18092013\\_en.pdf](http://ec.europa.eu/anti_fraud/documents/gip/gip_18092013_en.pdf)

2013, and replaced the previous OLAF Instructions to Staff on Investigative Procedures.

## 2) **Strengthening the procedural guarantees of individuals subject to investigation**

- The Selection and Review Unit (Unit 0.1) performs the legality review mandated by Regulation 883/2013 at each step of the investigation, and the overall review of the final reports and proposed decisions and recommendations.
- Complementary internal controls are carried out by the Director-General, by OLAF's Legal Advice Unit and by the Advisers to the investigative Directorates.
- The Guidelines on Investigation Procedures implement the procedural guarantees as well as the internal control procedure, including the legality check. They are complemented by instructions to staff related to the protection of personal data, an Ethics and Conduct Guide for OLAF Staff of June 2014, and by staff and management training.
- As now explicitly provided for in Regulation 883/2013, OLAF has established a Data Protection Officer in charge of monitoring compliance of OLAF with the EU requirements on data protection and reporting annually on this issue<sup>14</sup>. In April 2013, the OLAF Director General adopted Instructions to staff on data protection for investigative activities<sup>15</sup>.
- Beyond the explicit requirements of Regulation 883/2013, OLAF has followed the recommendation of its Supervisory Committee to better formalise its internal complaints procedure. In January 2014, OLAF made public on its internet site modalities for persons involved in OLAF investigations to complain to the Director-General of OLAF about the respect of the procedural guarantees applicable in OLAF investigations<sup>16</sup>.
- External controls are carried out by the Ombudsman, the European Data Protection Supervisor, the EU Courts, and the Supervisory Committee. Furthermore, OLAF is subject to the overall political control of the European Parliament. These external controls may address procedural rights issues in specific cases or they may concern policies and control tools.<sup>17</sup>

## 3) **Improving cooperation and information exchange with Member States**

- The AFCOS network of anti-fraud coordination services, required by Regulation 883/2013, is established (all Member States have designated AFCOS). In addition to bilateral cooperation between OLAF and each AFCOS, OLAF and the AFCOS meet as a network in the AFCOS group of the Advisory Committee for the Coordination of Fraud Prevention (COCOLAF).
- OLAF has signed administrative cooperation arrangements (ACAs) with national authorities in 15 Member States (most of them predate Regulation 883/2013, which

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<sup>14</sup> [http://ec.europa.eu/anti\\_fraud/olaf-and-you/data-protection/dpo/index\\_en.htm](http://ec.europa.eu/anti_fraud/olaf-and-you/data-protection/dpo/index_en.htm)

<sup>15</sup> [http://ec.europa.eu/anti\\_fraud/olaf-and-you/data-protection/guidelines/index\\_en.htm](http://ec.europa.eu/anti_fraud/olaf-and-you/data-protection/guidelines/index_en.htm)

<sup>16</sup> [http://ec.europa.eu/anti\\_fraud/olaf-and-you/complaints-on-olaf-investigations/index\\_en.htm](http://ec.europa.eu/anti_fraud/olaf-and-you/complaints-on-olaf-investigations/index_en.htm) .

<sup>17</sup> The Commission has adopted a proposal for the amendment of Regulation 883/2013 as regards the establishment of a Controller of procedural guarantees, COM(2014) 340 final (see section 1.4.2).



has provided an explicit legal basis), and several more are being negotiated. These arrangements are not a prerequisite for OLAF investigations and cooperation with national authorities, they simply outline practicalities of cooperation. OLAF has a policy of initiating negotiations on an ACA only if there is an identified need.

- In the area of fraud prevention, OLAF works with Member States in the framework of the Advisory Committee for the Coordination of Fraud Prevention (COCOLAF)<sup>18</sup>. Guidance to Member States in the area of fraud prevention is developed in working groups consisting of Member States' and Commission experts. For example, guidelines on detection of forged documents, prevention of conflict of interests, and development of national anti-fraud strategies have been developed.

#### 4) **Strengthening cooperation with EU institutions, bodies, offices and agencies (IBOA)**

- Working arrangements are in force with the Commission, the Parliament, the European External Action Service (EEAS) and the European Economic and Social Committee. Discussions with the Council and the European Court of Auditors are on-going.
- Administrative arrangements with Europol date from 2004, and were based on Art. 9(2) of the Administrative Agreement on Co-operation between the European Commission and Europol. Revised arrangements are currently under discussion. The revision results in part from the new legal basis in Regulation 883/2013, which allows the exchange of information between the two bodies, currently not foreseen in the administrative arrangements. The recent revision of the Europol legal framework<sup>19</sup> may further impact on the cooperation.
- A Practical Agreement on arrangements of cooperation between Eurojust and OLAF was adopted in 2008. It was not considered necessary to update it after the adoption of Regulation 883/2013, as it already covers the exchange of information between the two bodies. The on-going revision of the Eurojust legal framework<sup>20</sup> may, however, have an impact on the further cooperation.
- On 24 June 2011, the Commission adopted the Commission Anti-fraud Strategy (CAFS)<sup>21</sup>. On the basis of the CAFS, the Commission services adopted general principles applicable to the protection of the financial interests of the EU and agreed upon an action plan.
- OLAF cooperates with the Commission services to provide guidance and assistance, and to facilitate the exchange of best practices, in the framework of the Fraud Prevention and Detection Network (FPDNet), established pursuant to the CAFS.

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<sup>18</sup> Created by Commission Decision 94/140/EC of 23 February 1994 setting up an advisory committee for the coordination of fraud prevention, and adapted to legislative developments on the protection of the Union's financial interests by Commission decision 2005/223/EC of 25 February 2005 amending Decision 94/140/EC.

<sup>19</sup> Proposal for a Regulation on the European Union Agency for Law Enforcement Cooperation and Training (Europol), 2013/0091 (COD) / COM (2013)173 final. Political agreement of 26 November 2015, Regulation not yet adopted.

<sup>20</sup> Proposal for a Regulation on the European Union Agency for Criminal Justice Cooperation (Eurojust), 2013/0256 (COD) / COM (2013) 535. Regulation not yet adopted.

<sup>21</sup> COM(2011)376 final.



5) **Strengthening cooperation with third countries and international organisations**

- OLAF has signed administrative cooperation arrangements (ACAs) with 24 third country authorities and 11 with international/regional organisations.

6) **Reinforcing the governance of OLAF**

- Working arrangements between the Supervisory Committee and OLAF, implementing Regulation 883/2013, were adopted on 14 January 2014, replacing earlier arrangements of September 2012<sup>22</sup>. Revised working arrangements are under discussion.
- Modalities for OLAF to report to the Supervisory Committee concerning investigations, in the context of the Committee's new or clarified tasks, are included in the Guidelines on Investigation Procedures for OLAF Staff.

*2. Proposals to amend Regulation 883/2013*

Two proposed amendments of Regulation 883/2013 are currently being examined by the co-legislator. The contractor is expected to take these proposals, and the status of the negotiations, into account when considering the evaluation questions.

Following up to the commitment taken in its 2013 Communication on the governance of OLAF, the Commission proposed, in June 2014, to amend Regulation 883/2013 and establish a **Controller of procedural guarantees**<sup>23</sup>, with a view to further complementing the existing complaint mechanisms concerning OLAF investigations. In the context of the legislative negotiations, the Council has taken the view that it is premature to launch a new reform of OLAF, in view of the current evaluation. The European Parliament so far has not tabled any draft report on the proposal.

On 4 March 2016, the Commission adopted a proposal concerning the **secretariat of the Supervisory Committee**<sup>24</sup>. Currently, this secretariat is provided by OLAF, in accordance with Article 15(8) of Regulation 883/2013, and Article 18 of the Regulation places the budgetary appropriations for the Supervisory Committee and its secretariat within the budget line and the establishment plan of the Office. In response to calls by the European Parliament and by the Supervisory Committee for a strengthened independent functioning of the Committee's secretariat and in order to avoid any appearance that the Committee's independence might be impaired, this proposal provides that the Committee's secretariat should, in future, be provided by the Commission, while guaranteeing the independence of the Supervisory Committee from the Commission, and that its budgetary appropriations should be moved from the budget line and the establishment plan of OLAF to that of the Commission.

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<sup>22</sup> [http://ec.europa.eu/anti\\_fraud/documents/legal-framework-agreements/working\\_arrangements\\_olaf\\_supervisory\\_committee\\_en.pdf](http://ec.europa.eu/anti_fraud/documents/legal-framework-agreements/working_arrangements_olaf_supervisory_committee_en.pdf)

<sup>23</sup> COM(2014) 340 final – 2014/0173(COD).

<sup>24</sup> COM(2016) 113 final - 2016/0064 (COD).

## 1.5 Evaluation and Monitoring Provisions

### 1. Monitoring Provisions

The following monitoring information is available:

- Member States reports to the Commission on suspected and detected irregularities and fraud on the basis of obligations in sectoral legislation in areas of shared management. On behalf of the Commission, OLAF manages the IMS (Irregularity Management System) in the expenditure area, and DG BUDG manages the OWNRES database in the revenue area. The Commission reports on the data above in the annual report on the "Protection of the European Union's financial interests — Fight against fraud"<sup>25</sup>.
- Concerning its investigative activity, OLAF' reports statistical data in the annual OLAF Report<sup>26</sup>.
- Further information can be found in OLAF's Strategic Plan, Management Plan and Annual Activity Report.

### 2. Previous evaluations and other reports

This is the first evaluation of the application of Regulation 883/2013. However, this Regulation replaces two earlier instruments (Regulations 1073/1999 and 1074/1999), which have been the subject of evaluation by the Commission, and opinions from OLAF's Supervisory Committee and the European Court of Auditors. These documents – which underpin the objectives of Regulation 883/2013 – should be taken into account for the evaluation.

Information on the application of, or relevant to, Regulation 883/2013 is available from reports of, *inter alia*, the Supervisory Committee, the European Parliament and the European Court of Auditors, as well as from several studies funded by the European institutions.

A detailed list of documents is provided in Section 6.

## 1.6 Other Relevant Developments in the Policy Area

### a) European Public Prosecutor's Office

On the basis of a new provision in the Lisbon Treaty (TFEU, Art. 86), on 17 July 2013 the Commission tabled a legislative proposal on the establishment of a European Public Prosecutor's Office (EPPO)<sup>27</sup>, an independent Union body for the investigation and prosecution of criminal offences affecting the Union's financial interests.

The establishment of the EPPO will call for a redefinition of OLAF's investigative role. This was already specifically acknowledged by Regulation 883/2013<sup>28</sup>. The legislative negotiations

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<sup>25</sup> [http://ec.europa.eu/anti\\_fraud/about-us/reports/communities-reports/index\\_en.htm](http://ec.europa.eu/anti_fraud/about-us/reports/communities-reports/index_en.htm)

<sup>26</sup> [http://ec.europa.eu/anti\\_fraud/documents/reports-olaf](http://ec.europa.eu/anti_fraud/documents/reports-olaf)

<sup>27</sup> 2013/0255 (APP) – COM(2013) 534 final.

<sup>28</sup> Recital 50: "The Commission should assess the need for revision of this Regulation in the event that a European Public Prosecutor's Office is established".

on the EPPO are quite advanced, and therefore the Commission will consider in the context of this evaluation the impact of the EPPO to be established on the future functioning of OLAF. The contractor is expected to address this issue as described in section 2.2 below.

The Commission proposal provided that the EPPO and OLAF should cooperate with a view to avoiding duplication of work, ensuring complementarity and enabling the EPPO to obtain the relevant information at the disposal of OLAF, as well as to draw on OLAF's support in accordance with its mandate. In the context of the legislative negotiations, the main elements of such cooperation between the EPPO and OLAF are being discussed under Dutch Presidency during the first half of 2016.

b) Other relevant legislative changes, trends and priorities in the fight against fraud

A number of on-going legislative and policy developments in relation to the protection of the Union's financial interests may impact future policy as regards investigations conducted by OLAF and Regulation 883/2013. The contractor should take them into account as described in section 2.2 below.

The Early Detection and Exclusion System (EDES)<sup>29</sup>

The EDES is the new system established by the Commission, pursuant to the revised Financial Regulation (Art. 105a)<sup>30</sup>, to reinforce the protection of the Union's financial interests against unreliable economic operators. It replaces the Early Warning System and the Central Exclusion Database as of 1 January 2016. The purpose of the system is to facilitate the early detection of an economic operator representing risks threatening the Union's financial interests, the exclusion of an economic operator from receiving Union's funds, and the imposition of financial penalties. The information on early detection/exclusion/financial penalty may stem, *inter alia*, from OLAF findings.

Proposal for a Directive on the fight against fraud to the Union's financial interests by means of criminal law

On 11 July 2012, the Commission adopted a proposal for a Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law<sup>31</sup>. The Directive provides for common definitions of offences against the EU budget and for minimum sanctions, including imprisonment in serious cases, and for a common level playing field for periods within which it is possible to investigate and prosecute offences. Legislative negotiations are on-going.

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<sup>29</sup> [http://ec.europa.eu/budget/explained/management/protecting/protect\\_en.cfm](http://ec.europa.eu/budget/explained/management/protecting/protect_en.cfm)

<sup>30</sup> Regulation (EU, Euratom) 2015/1929 of the European Parliament and of the Council of 28 October 2015 amending Regulation (EU, Euratom) No 966/2012 on the financial rules applicable to the general budget of the Union.

<sup>31</sup> COM(2012) 363 final - 2012/0193 (COD)

## Mutual administrative assistance

In its Communication of 26 May 2011<sup>32</sup>, the Commission announced to replace its 2004 proposal on mutual administrative assistance for the protection of financial interests<sup>33</sup> by a proposal that would create a basis for cross-cutting exchanges of information among police, customs, tax authorities, the judiciary and other competent authorities. This proposal has not been tabled yet. However, discussions in the Council under the Italian Presidency in 2014 indicated that there might still be a need for such an initiative, in particular in the area of structural funds.

## Stepping up the fight against VAT fraud

The Commission has published in January 2016 a roadmap announcing an *Action Plan for a simple, efficient and fraud-proof definitive system of Value Added Tax tailored to the single market (Commission Communication)*. The roadmap stresses the high level of VAT fraud and announces different actions – to be identified in the Action Plan - to reduce it.

On 3 March 2016, the Court of Auditors has released its Special Report No 24/2015, *Tackling intra-Community VAT fraud: More action needed*. It concludes that, in order to effectively protect the EU financial interests, OLAF should be granted clear competences and tools to investigate intra-Community VAT fraud.

## Non-financial fraud

Anti-fraud activities at EU level – by OLAF and by other Commission services - focus strongly on the protection of the EU's financial interests, in the context of the Commission's responsibility for the implementation of the EU budget. However, certain types of fraud that can - but do not necessarily - affect the EU's financial interests can, at the same time, endanger the health and safety of citizens or damage consumer confidence. This includes in particular counterfeit goods violating health, safety and food regulations, and sub-standard goods violating sectoral regulations.

## 2. SPECIFICATIONS OF THE ASSIGNMENT

### 2.1 Objectives of the evaluation

The **purpose** of this evaluation is to assess the application of Regulation 883/2013 and whether there is a need to amend it. More particularly, the objectives of the evaluation are: the assessment of the key elements in the Regulation and the extent to which the objectives pursued have been met and remain relevant; and to assess the operation of the Regulation in the context of an evolving anti-fraud landscape.

**The evaluation is required by Article 19 of Regulation 883/2013**, which provides that "By 2 October 2017, the Commission shall submit to the European Parliament and the Council an evaluation report on the application of this Regulation. That report shall be accompanied by

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<sup>32</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the protection of the financial interests of the European Union by criminal law and by administrative investigations - An integrated policy to safeguard taxpayers' money, COM(2011) 293 final.

an opinion of the Supervisory Committee and shall state whether there is a need to amend this Regulation".

## **2.2 Scope of the evaluation**

The task of the contractor is the assessment of the operation of the key elements of the Regulation, their impact on the general and specific objectives pursued by Regulation 883/2013, and the extent to which these objectives have been met and remain relevant.

This will be done, first, by examining the functioning and impact of the Regulation in the current legal environment, and taking into account Commission proposals amending Regulation 883/2013 (Controller of procedural guarantees and secretariat of the Supervisory Committee).

In addition, the contractor will assess Regulation 883/2013 in the larger context of an evolving anti-fraud landscape, as described in sections 1.4 and 1.6.

As regards the impact of the establishment of the EPPO on OLAF (section 1.6.a), the contractor's work is expected to contribute to the identification of the necessary adaptations to Regulation 883/2013, on the basis of the rules on the cooperation between the EPPO and OLAF emerging from the negotiations on the EPPO Regulation. Due to the still evolving discussion on the set up of the planned European Public Prosecutor's Office at the level of the Council and the European Parliament, this issue might need to be covered in more detail in the Commission's own report.

As regards other relevant legislative changes, trends and priorities in the fight against fraud (section 1.6.b), the contractor should take them into account when considering the evaluation questions, in particular under the evaluation criteria of relevance and coherence and the evaluation questions on future outlook. It is expected that examination of these policy developments informs the evaluation, and allows collecting relevant information and stakeholders' views, but it does not need to lead to concrete recommendations about Regulation 883/2013. Table 1 in section 2.3 provides indicative guidance on issues to consider.

In compliance with the Better Regulation Guidelines<sup>34</sup>, the evaluation exercise will have to answer the Commission's standard evaluation criteria of effectiveness, efficiency, coherence, and relevance.

The further criterion of EU added value is considered as addressed (and will not be covered by the evaluation), given that OLAF carries out a specifically European task - the protection of the EU's financial interests in the framework of Articles 317 and 325 TFEU which cannot, in the same way, be carried out at national level. This is also acknowledged by the current work on the establishment of a European Public Prosecutor's Office.

The time period covered by the evaluation will be 1 October 2013 (when Regulation 883/2013 entered into force) to December 2016.

## **2.3 Evaluation questions**

The evaluation is expected to examine issues related to the questions below. Tenderers are invited to propose an evaluation matrix with judgment criteria for the evaluation questions in

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<sup>34</sup> [http://ec.europa.eu/smart-regulation/guidelines/toc\\_guide\\_en.htm](http://ec.europa.eu/smart-regulation/guidelines/toc_guide_en.htm)

their technical offers, and may also propose evaluation sub-questions. The questions may be further developed during the inception phase in parallel to the development of the work plan. The contractor will answer all the evaluation questions and sub-questions.

***A. Effectiveness:***

- **Q1:** To what extent have the specific objectives of Regulation 883/2013 been met so far? To what extent have the different components of the Regulation contributed to achieving the specific objectives of Regulation 883/2013 and to an improved protection of EU financial interests (recovery/financial corrections, prosecution, indictment and deterrence)?
- **Q2:** Which are the external factors beyond the influence of OLAF (including the follow-up responsibilities – once OLAF concludes an investigation - of Member States and other Commission services and EU institutions, bodies, offices and agencies) that have contributed to or influenced the achievement of the objectives of Regulation 883/2013, and how?
- **Q3:** To what extent do the legal instruments contained in Regulation 883/2013 provide OLAF with sufficient tools to accomplish its mandate?
- **Q4:** What are the shortcomings that can be identified in the different components of Regulation 883/2013 or in their implementation, which negatively affect the achievement of the Regulation's objectives?

***B. Efficiency:***

- **Q5:** To what extent has the implementation of Regulation 883/2013 impacted on OLAF's resources and the use of those resources? And on the resources of other actors in the application of Regulation 883/2013?
- **Q6:** To what extent are the tools available in Regulation 883/2013 for the conduct of OLAF administrative investigations, their follow-up and the successful cooperation with other entities efficient for the achievement of the overarching objective of protecting the financial interests of the EU?

***C. Coherence:***

- **Q7:** To what extent does the current set of rules in Regulation 883/2013 provide OLAF with a coherent legal framework to accomplish its tasks? In particular, to what extent has the Regulation achieved a proper balance between investigative powers and procedural rights? And to what extent has Regulation 883/2013 achieved a proper balance between independence, cooperation, supervision and control?
- **Q8:** To what extent does Regulation 883/2013 fit into the wider EU policies and current policy developments (in particular as referred to in sections 1.4 and 1.6) for the protection of the EU's financial interests?

***D. Relevance:***

- **Q9:** To what extent have the specific objectives of Regulation 883/2013 proved to be relevant for the overarching objective of protecting the financial interests of the EU?
- **Q10:** To what extent have the tools and control mechanisms introduced by Regulation 883/2013 proved to be relevant to achieve the specific objectives?

- **Q11:** To what extent are the specific objectives of Regulation 883/2013 relevant in the context of wider EU policies and current policy developments (in particular as referred to in sections 1.4 and 1.6) for the protection of the EU's financial interests?

***E. Outlook:***

- **Q12:** In the current institutional and legal framework, and in the light of current policy developments described in particular in sections 1.4 and 1.6, if shortcomings regarding the protection of the financial interests of the Union are identified in Regulation 883/2013 or its application, how could they be addressed?
- **Q13:** To what extent should Regulation 883/2013 be reviewed in the new institutional context emerging from the negotiations on the EPPO Regulation?

Table 1 provides indicative guidance of the main topics identified so far to be addressed.



**Table 1:**

<p>Effectiveness of Regulation 883/2013 in relation to:</p>	<p><i>a. Opening, conduct and follow-up to investigations</i></p> <ul style="list-style-type: none"> <li>- Impact of the changes in the procedure for case selection following the application of the case selection criteria, the investigation policy priorities and the establishment of a central selection function as single point of entry in OLAF;</li> <li>- Sufficiency of powers and tools available to OLAF (especially to conduct on-the spot checks and inspections, inspections of premises, interviews of witnesses and persons concerned, digital forensic activities);</li> <li>- Quality, duration and timeliness of OLAF's investigations, final reports and recommendations, and how these factors influence results at the level of: <ul style="list-style-type: none"> <li>(a) quality, reliability and admissibility of evidence in administrative and criminal judicial proceedings in Member States and indictment;</li> <li>(b) the imposition of disciplinary sanctions as a result of disciplinary recommendations;</li> <li>(c) recoveries to the EU budget/financial corrections, prevention of funds unduly spent, prevention of EU revenues being evaded; and</li> <li>(d) the imposition of administrative sanctions by IBOA, improved control and administration systems in IBOA;</li> </ul> </li> <li>- Follow-up to OLAF recommendations by Member States and IBOA and how this influences the protection of the EU financial interests;</li> <li>- Implementation of the Regulation and how this influences the achievement of results and the protection of the EU financial interests.</li> </ul> <p><i>b. Procedural rights</i></p> <ul style="list-style-type: none"> <li>- Appropriateness of provisions on procedural rights and procedures to ensure the respect with procedural guarantees of persons under investigation, including internal and external control and complaint mechanisms;</li> <li>- Implementation of the provisions regarding procedural guarantees.</li> </ul> <p><i>c. Cooperation and information exchange with Member States</i></p> <ul style="list-style-type: none"> <li>- Available mechanisms for cooperation and information exchange between OLAF and the Member States and their impact on the quality and timeliness of investigations, information sharing and cooperation (in particular in relation to the quality, reliability and admissibility of evidence), and, ultimately, on the protection of the EU-financial interests. Elements of the Regulation to consider: <ul style="list-style-type: none"> <li>• Reporting mechanisms of suspicions of irregularity, fraud and corruption, cooperation during the investigative phase;</li> <li>• Role and profile of AFCOS;</li> <li>• Assistance provided by OLAF to Member States;</li> <li>• Information provided by the Member States to OLAF as regards the follow-up to recommendations;</li> </ul> </li> <li>- Implementation of the available mechanisms and how this influences the achievement of results and the protection of the EU-financial interests;</li> <li>- Specific difficulties (if any) encountered by Member States' judicial authorities to follow-up OLAF recommendations and possibility to address them at the level of the Regulation.</li> </ul>
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	<p><i>d. Cooperation and information exchange with IBOA</i></p> <ul style="list-style-type: none"> <li>- Available mechanisms for cooperation and information exchange between OLAF and IBOA and their impact on the quality and timeliness of information sharing and cooperation for the achievement of results (in terms of administrative sanctions imposed by IBOA, financial recoveries to the EU budget, prevention of funds unduly spent/evaded and improved control and administration systems) and, ultimately, the protection of the EU financial interests and the investigation of serious matters relating to the discharge of professional duties within the IBOA. Elements of the Regulation to consider: <ul style="list-style-type: none"> <li>• Inter-institutional agreements and working arrangements;</li> <li>• Reporting mechanisms of suspicions of irregularity, fraud and corruption;</li> <li>• Exchange of information and cooperation with IBOAs during the investigative phase;</li> <li>• Communication about dismissals, cooperation after the closure and monitoring of OLAF recommendations;</li> <li>• Facilitating exchange of best practices in the Fraud Prevention and Detection Network;</li> </ul> </li> <li>- Implementation of the available mechanisms and how this influences the achievement of results and the protection of the EU financial interests and the investigation of serious matters relating to the discharge of professional duties within the IBOA.</li> </ul> <p><i>e. Cooperation and information exchange with third countries and international organisations</i></p> <ul style="list-style-type: none"> <li>- Available mechanisms for cooperation and information exchange between OLAF and third countries and international organisations in the course and at the end of investigations, and their impact on the quality and timeliness of information sharing and cooperation for the achievement of results in terms of timely opening and completion of investigations in the areas of EU external aid and customs;</li> <li>- Implementation of the available mechanisms and how this influences the achievement of results and the protection of the EU financial interests</li> </ul> <p><i>f. Supervisory Committee</i></p> <ul style="list-style-type: none"> <li>- Mandate of the Supervisory Committee, relationship with OLAF and provisions to ensure the independence and autonomy of the Supervisory Committee and its secretariat; how this influences the achievement of the objectives of Regulation 883/2013;</li> <li>- Tools and information available to the Supervisory Committee to implement its mandate according to Regulation 883/2013.</li> </ul> <p><i>g. Inter-institutional exchange of views</i></p> <ul style="list-style-type: none"> <li>- Scope and organisation of the annual exchange of views with the institutions and how this influences the achievement of the objectives of Regulation 883/2013.</li> </ul>
<p>Efficiency of Regulation 883/2013 in relation to:</p>	<ul style="list-style-type: none"> <li>- Tools available in Regulation 883/2013 for the achievement of the overarching objective of protection of the financial interests of the EU;</li> <li>- Implementation of Regulation 883/2013 and impact on OLAF's resources and the use of those resources, and on the resources of other actors in Regulation 883/2013;</li> <li>- Selection procedure for the opening of an investigation (including selection criteria, investigation policy priorities, the establishment of a central selection function in OLAF and a single point of entry), to promote an efficient use of OLAF's resources</li> </ul>

		<p>and respond to the subsidiarity principle;</p> <ul style="list-style-type: none"> <li>- Clarity of OLAF's mandate (including rules of Regulation 883/2013 applicable to coordination cases, to tasks assigned to OLAF by Regulation 608/2013 in the area of counterfeiting, and to internal investigations as referred to in Art. 2(1)(b) of Commission Decision 1999/352);</li> <li>- Respective roles and available mechanisms for cooperation and information exchange between OLAF and IBOA, Member States, third countries and international organisations, and their implementation, to promote an efficient use of resources for OLAF and its partners;</li> <li>- Clarity of provisions on procedural guarantees (in particular the notion of person concerned);</li> <li>- Clarity of provisions on the Supervisory Committee's mandate and on the relationship between the Supervisory Committee and OLAF;</li> <li>- Appointment and renewal procedure for members of the Supervisory Committee;</li> <li>- Relevance of the period (12 months from the opening, and every 6 months thereafter) after which OLAF should report to the SC on open investigations.</li> </ul>
Coherence of Regulation 883/2013 relation to:	of in	<ul style="list-style-type: none"> <li>- Specific objectives of Regulation 883/2013 and the overarching objective of protection of the financial interests of the EU;</li> <li>- Balance and consistency among the different objectives of the Regulation;</li> <li>- Balance and consistency between the level of procedural guarantees and control, supervision and complaint procedures in relation to the investigative powers of OLAF;</li> <li>- Wider EU policies and current policy developments for the protection of the EU's financial interests.</li> </ul>
Relevance of Regulation 883/2013 relation to:	of in	<ul style="list-style-type: none"> <li>- Specific objectives of Regulation 883/2013 for the achievement of the overarching objective of protection of the financial interests of the EU;</li> <li>- Different tools and controls mechanisms provided by Regulation 883/2013 in relation to its specific objectives;</li> <li>- Wider EU policies and current policy developments for the protection of the EU's financial interests.</li> </ul>
Outlook		<ul style="list-style-type: none"> <li>- In the light of the negotiations on the establishment of an EPPO, how to ensure complementarity and added value of administrative and criminal law investigations at Union level, appropriate support from OLAF to the EPPO, and an equivalent level of protection of the EU financial interests across the Member States;</li> <li>- In the light of the new early detection and exclusion system (EDES) of the Financial Regulation, how to ensure appropriate and timely interaction between investigations conducted in the framework of Regulation 883/2013 and the operation of EDES;</li> <li>- Current and future potential added value of Regulation 883/2013 in the light of current policy developments as described in sections 1.4 and 1.6.</li> </ul>

## 2.4 Other tasks under the assignment

### *Stakeholder Consultation Report*

The contractor will summarise the main steps and findings of the consultation of interested parties and stakeholders (see section 3, Methodology) in a Stakeholder Consultation Report, attached to the Final Report. The contractor will outline clearly how the consultation has informed the conclusions and recommendations.

## 3. METHODOLOGY

### 3.1 Methods

The contractor will prepare the detailed methodology to be used to gather and analyse information and to perform the assessment. The methodology must take account of the following:

- The evaluation must be based on recognised evaluation techniques, including triangulation methods. The European Commission's guidelines on evaluation<sup>35</sup> will also provide overall guidance on good practices concerning conducting an evaluation.
- The choice and a detailed description of the methodology must form part of the offer submitted. Advantages, limitations and risks involved with possible mitigating measures in using the proposed tools and techniques should be explained. There should be a clear link between the evaluation questions addressed and the corresponding methodology proposed. The evaluation questions may be further elaborated during the inception phase, including proposing evaluation sub-questions when relevant.
- The Contractor must support findings and recommendations by explaining the degree to which these are based on opinion, analysis and objectively verifiable evidence. Where opinion is the main source, the degree of consensus and the steps taken to test the opinion should be given. Quantitative indicators should be sought and used as far as possible.
- It is not expected that all individual measures of the initiative be assessed, but the sample of measures examined should be drawn up in a manner suitable for each evaluation question addressed, and should be such as to enable the evaluators to draw general conclusions on the measures and address the key application issues identified by the Steering Committee and stakeholders.
- The approach proposed by the contractor must be clearly set out in the bid. It should clearly identify:
  - a. Data to be collected;
  - b. Consultation strategy;
  - c. Analysis to be conducted;
  - d. Timeline of activities;

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<sup>35</sup> [http://ec.europa.eu/smart-regulation/evaluation/index\\_en.htm](http://ec.europa.eu/smart-regulation/evaluation/index_en.htm)

[http://ec.europa.eu/smart-regulation/better\\_regulation/key\\_docs\\_en.htm](http://ec.europa.eu/smart-regulation/better_regulation/key_docs_en.htm)

e. Man/day/activity allocation.

- The inception report will include an evaluation matrix which will provide the judgement criteria and sources of information to be used to answer the evaluation questions.

### **3.2 Steps in the process**

In general the evaluation should follow the steps described below. The description of the steps is indicative and can be modified or extended on the basis of suggestions put forward by the contractor.

#### **1. Context analysis:**

In order to obtain a comprehensive but succinct overview of the application of Regulation 883/2013, information from the following resources has to be gathered and analysed as a first step:

- a. Relevant documentation (referenced in these Terms of Reference, and provided to the contractor upon signature of contract and any other relevant documents);
- b. Interviews with Steering Committee members;
- c. Interviews in OLAF.

The results of this analysis will be part of the Inception Report.

#### **2. Evaluation approach, methodology and work plan:**

While these aspects already need to be set out in the technical offers, they may have to be refined / completed during the inception phase, in particular as regards:

- a. Completion of the evaluation approach, methodology and work plan, including the evaluation matrix and final evaluation questions. The evaluation matrix should provide the judgement criteria and sources of information to be used to answer the evaluation questions;
- b. Mapping of stakeholders, and detailed plan for interested parties' and stakeholders' consultation, including interview guides and questionnaires for surveys.

The output of this step will also be part of the Inception Report.

#### **3. Data collection and analysis (field phase):**

This phase will include:

- a. Collection of additional relevant documentation and data;
- b. Personal/telephone interviews with OLAF staff;
- c. Conduct targeted consultations of relevant interested parties and stakeholders outside OLAF;
- d. Analysis of documentation and data.

To complement documentary sources available, the contractor will consult OLAF staff, interested parties and stakeholders. These consultations will aim at collecting, on the one hand, evidence on the application of Regulation 883/2013 and, on the other hand, views on

the application of the Regulation, the evaluation questions, the possible need to amend the Regulation, and OLAF's role in the future anti-fraud landscape.

The contractor will organise a plan of interviews of relevant OLAF staff (including management and staff in investigative, support and policy units). OLAF's operational units rely on Regulation 883/2013 in their investigative work for the protection of the Union's financial interests, and will therefore be an important source of information regarding the application of the Regulation. Consultation of OLAF staff should cover all relevant aspects of the evaluation.

For the purposes of interested parties and stakeholders outside OLAF, the contractor will conduct several consultations (e.g. surveys, interviews,...) amongst different stakeholders which will be targeted to reflect the components of the Regulation that specifically concern these stakeholders. This will be supplemented as necessary with workshops, dedicated meetings of relevant networks and participation to relevant conferences.

The Commission services will organise, in the context of the evaluation of Regulation 883/2013, a conference to bring together interested parties and stakeholders to discuss the future of OLAF, in particular in view of the establishment of the EPPO and of other policy developments in the area of anti-fraud. The conference is tentatively scheduled to take place in November 2016. It will be organised and financed by the Commission. The contractor will be expected to attend the conference. The conference will be considered an element of the consultation strategy and its results will be reported by the contractor in the Stakeholder Consultation Report.

Interested parties and stakeholders (non-exhaustive list):

- EU institutions;
- EU bodies, offices and agencies;
- OLAF's Supervisory Committee;
- Member States (administrative and judiciary). The relevant administrations and bodies will be mapped in detail with support of the Steering Group and input from the network of AFCOS. The AFCOS network should be relied on as main contact point in the Member States;
- Selected third countries and international organisations with experience working with OLAF;
- Prosecutors' and defence lawyers' associations;
- Academia (fraud and criminal law associations).

#### **4. Synthesis Phase:**

This phase will be mainly devoted to the preparation of the evaluation report based on the analysis of the information gathered during the previous phases. It shall take into consideration the outcomes of the feed-back provided by the Steering Group following the presentation of the Interim Report and the end-of-field work meeting.

#### **5. Reporting:**

For details see the next section.

## 4. REPORTING AND DELIVERABLES

### 4.1 General reporting requirements

Each report (except the final version of the Final Report) should have an **introductory page** providing an overview and orientation of the report. It should describe what parts of the document, on the one hand, have been carried over from previous reports or been recycled from other documents and, on the other hand, represent progress of the evaluation work with reference to the work plan.

All reports must be drafted in English and submitted according to the timetable below to the responsible body. Electronic files must be provided in Microsoft ® Word for Windows format. Additionally, besides Word, the Final Report must be delivered in Adobe ® Acrobat pdf format and in 6 hard copies.

The contractor should ensure an effective quality control (see section 7) of the different reports submitted. The bidders are invited to include a description of this quality control in their proposals.

All reports will be submitted to the Steering Group for feedback. Within 7 working days (unless otherwise agreed), of receiving the Commission's observations the Contractor will submit the report in definitive form, taking full account of these observations, or explaining clearly why they could not be followed. Should the Commission still not consider the report acceptable, the Contractor will be invited to amend the report insofar as such amendments do not interfere with the independence of the evaluator in respect of their findings, conclusions or recommendations.

### 4.2 Inception Report

The report should include a context analysis and a detailed explanation of how the evaluation approach, methodology and work plan proposed by the Contractor will be implemented, including the final evaluation matrix (see also 3.2). It shall not exceed **50** pages, annexes excluded.

### 4.3 Interim Report

The report is to be produced on completion of the field work and, to the extent possible, should include some preliminary conclusions. The report must as a minimum provide:

An overview of the status of the evaluation project;

A description of problems encountered and solutions found;

An assessment of the data gathered, whether it meets expectations and will provide a sound basis for responding to the evaluation questions;

Where available, a summary of preliminary findings;

A conclusion whether any changes are required to the work plan, or any other solutions should be sought in order to ensure that the required results of the evaluation are achieved. If any such issues are to be identified, they must be discussed in the meeting with the Steering Group dedicated to this report;



A proposal for the final structure of the Final Report (see also 4.4), as well as a structure of the Executive Summary.

It shall not exceed **70** pages, annexes excluded.

#### **4.4 Draft Final Report**

This document should deliver the results of all tasks covered as per these Terms of Reference and the Inception Report. The draft report will be submitted to the Steering Group for comments. The Steering Group will provide the contractor with a draft Quality Assessment of the draft Final Report. The Steering Group will then decide on the further distribution to the stakeholders.

The structure of the report should include the following parts:

**Executive Summary** of no more than 6 pages.

**Main report:** The main report must be limited to 100 pages (not including annexes) and present, in full, the results of the analyses, draft conclusions and recommendations arising from the evaluation. It must also contain a brief description of the subject evaluated, the context of the evaluation. A brief explanation of the methodology used should also be included, while the details of the methodology should be included in an annex. Assessment of the robustness of the method chosen and its impact on the reliability of conclusions has to be provided.

**Annexes:** These must collate the technical details of the evaluation, including the methodology, and must include questionnaire templates, interview guides, any additional tables or graphics, and references and sources. The draft Stakeholder Consultation Report will be also an annex.

#### **4.5 Final Report**

The Final Report follows the same format as the draft Final Report. It is accompanied by an **Executive Summary** of no more than **6** pages<sup>36</sup> and an **Abstract** of no more than 200 words. The Executive Summary summarises the evaluation's main conclusions, the main evidence supporting them and the recommendations arising from them. The purpose of the abstract is to act as a reference tool helping the reader to quickly ascertain the evaluation's subject. After being agreed with the Commission Services, the Executive Summary and the Abstract should be translated into French and German by a professional translation agency.

The document must take into account the feedback from the Steering Group on the draft Final Report, in particular from the draft Quality Assessment, insofar as these do not interfere with the autonomy of the contractor in respect of the conclusions it has reached and the recommendations made.

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<sup>36</sup> 1 page = 1500 characters

The views expressed in the evaluation report will be those of the evaluator and will not necessarily reflect those of the Commission. A standard disclaimer has to be included in the report for this purpose.

The contracting authority will publish the Final Report, the Executive Summary, the Abstract, the annexes and the overall conclusions of the Quality Assessment of the Final Report provided by the Steering Group on the Commission's central website.

In view of its publication, the final report by the contractor must be of high editorial quality. In cases where the contractor does not manage to produce a final report of high editorial quality within the timeframe defined by the contract, the contracting authority can decide to have the final report professionally edited at the expense of the contractor (i.e. deduction of these costs from the final payment).

#### **4.6 Progress Reports**

The contractor will deliver Progress Reports on two-monthly basis summarising on **two pages** progress of the evaluation work made with reference to the work plan. The contractor will report particularly on difficulties encountered and mitigation measures taken or suggestions for changes required to the work plan to ensure that the required results of the evaluation are achieved. The Steering Group might call for a meeting if the Progress Report raises concerns about progress of the work.

The Progress Report preceding the progress meeting between the contractor and the Steering Group once part of the field work is completed, referred to in section 5.2, will include:

An overview of the degree of completion of the field work;

An assessment of the data gathered so far, whether it meets expectations and is expected to provide a sound basis for responding to the evaluation questions;

A conclusion whether any changes are required to the field work plan, or any other solutions should be sought in order to ensure that the field work delivers the required results.

This mid-field work Progress Report may contain up to **20** pages.

### **5. ORGANISATION, TIMETABLE AND BUDGET**

#### **5.1 Organisation**

The contract will be managed by Unit D.1 (Policy Development & Hercule) of the European Anti-Fraud Office.

A Steering Group will be involved in the management of the evaluation. The responsibilities of the Steering Group include:

- establishment and endorsement of the evaluation roadmap;
- establishment and endorsement of the Terms of Reference;

- supporting the contractor with access to information, identification of key stakeholders and organisation of interviews;
- monitoring progress on the implementation of the evaluation work by the contractor;
- assessing the reports submitted by the contractor, while ensuring that the contractor's independence is not compromised.

The quality of the draft final report and the final report will be examined on the basis of the Quality Assessment grid (Annex 1). The Steering Group can only validate the deliverables after the quality assessment took place.

The Steering Group includes staff from: OLAF, SG, SJ, DG BUDG, DG HR and DG JUST. Other Commission services may be invited to specific discussions of the Steering Group's work on the basis of the needs of the evaluation.

## 5.2 Meetings

It is estimated that the contractor will participate in 5 to 7 meetings in Brussels with the evaluation Steering Group:

A "Kick-off" meeting within 2 weeks of the signature of the contract.

Briefing meetings within a week of delivery of the Inception, Interim and Draft Final Report.

Progress meeting once part of the field work is completed.

Two additional ad-hoc meetings may be planned as needed.

In addition, the contractor should plan a presentation of the Final Report to OLAF, and attendance to the conference referred to in section 3.2.

For these meetings, **minutes should be drafted by the Contractor**, to be agreed among the participants.

## 5.3 Timetable

The indicative starting date is **July 2016**. The contract will start after both parties have signed it. The period of execution of the contract is **13 months**.

The following outline work plan and indicative timetable are envisaged:

Deadline (from starting date)	Task
<i>Kick off meeting</i> [T0 + 2 weeks]	Meeting with contractor to discuss and clarify expectations about the project.
<i>Inception Report</i> [T0 + 6 weeks]	Contractor provides the Steering Group with the <b>Inception Report</b> . A Steering Group Meeting is organised in Brussels at the latest 1 week after delivery of the report.
<i>Progress meeting</i> [T0 + 6 month(s)]	Meeting with contractor once part of the field work is completed to review and discuss progress (upon delivery of an <b>extended Progress Report</b> ).

<i>Interim Report</i> [T0 + 8 month(s)]	Contractor provides the Steering Group with the <b>Interim Report</b> . A Steering Group Meeting is organised in Brussels at the latest 1 week after delivery of the report.
<i>Draft Final Report</i> [T0 + 10 month(s)]	Contractor provides the Steering Group with the <b>Draft Final Report</b> . A Steering Group Meeting is organised in Brussels at the latest 1 week after delivery of the report. A draft Quality Assessment is provided to the contractor on the Draft Final Report.
<i>Final Report</i> [T0 + 13 month(s)]	Taking account of the Steering Group's comments contractor sends the <b>Final Report and Executive Summary</b> to the Steering Group. The Steering Group provides the contractor with the Quality Assessment of the Final Report.

## 5.4 Budget

The estimated maximum budget for the evaluation of the action, covering all the results to be achieved by the contractor as listed above, is **EUR 500 000**.

## 6. REFERENCES

### 6.1 Basic documents

1) Relevant legislation and guidelines (non exhaustive list):

- Commission Decision 94/140/EC of 23 February 1994 setting up an advisory committee for the coordination of fraud prevention, and Commission Decision 2005/223/EC of 25 February 2005 amending Decision 94/140/EC;
- Commission Decision 1999/352/EC, ECSC, Euratom of 28 April 1999 establishing the European Anti-Fraud Office (OLAF);
- Commission Decision 1999/396/EC, ECSC, Euratom of 2 June 1999 concerning the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any illegal activity detrimental to the Communities' interests, SEC(1999) 802;
- Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council regulation (Euratom) No 1074/1999;
- Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests;

- Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning the on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities;
- Council Regulation (EC) No 515/1997 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters;
- Regulation (EU, Euratom) No 966/2012 on the financial rules applicable to the general budget of the Union;
- Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcements of intellectual property rights and repealing Council regulation (EC) No 1383/2003;
- Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-Fraud Office;
- Working Arrangements between OLAF and the Supervisory Committee (2014)<sup>37</sup>;
- Commission Anti-Fraud Strategy (CAFS), COM(2011)376 final;
- Guidelines on Investigation Procedures for OLAF Staff<sup>38</sup>.

2) Work preceding Regulation 883/2013 of relevance to evaluation (non exhaustive list):

- European Commission, Evaluation of the Activities of the European Anti-Fraud Office (OLAF), COM (2003)154 final;
- President of the European Commission, Speech/03/551, The State of the Union: The Commission's legislative and work programme for 2004 (including an Action Plan for OLAF), 18 November 2003<sup>39</sup>;
- OLAF Supervisory Committee, Opinion No 2/03 accompanying the Commission's report, Evaluation of the activities of the European Anti-Fraud Office (OLAF);
- Court of Auditors, Special Report 1/2005 concerning the management of the European Anti-Fraud Office (OLAF);
- Court of Auditors, Opinion No 6/2005 on a proposal for a Regulation of the European Parliament and of the Council amending Regulations (EC) 1073/1999 and (Euratom) 1074/1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF);

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<sup>37</sup> [http://ec.europa.eu/anti\\_fraud/documents/legal-framework-agreements/working\\_arrangements\\_olaf\\_supervisory\\_committee\\_en.pdf](http://ec.europa.eu/anti_fraud/documents/legal-framework-agreements/working_arrangements_olaf_supervisory_committee_en.pdf)

<sup>38</sup> <http://olaf-intranet/assets/public/Uploads/Staff-issues/GIP-18092013.pdf> .

<sup>39</sup> [http://europa.eu/rapid/press-release\\_SPEECH-03-551\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-03-551_en.htm)

- Court of Auditors, Opinion No 7/2006 on a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) 1073/1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF);
  - European Commission, Reflection Paper on the reform of the European Anti-Fraud Office (OLAF), SEC(2010) 859;
  - Court of Auditors, Special Report No 2/2011, Follow-up of Special Report No 1/2005 concerning the management of the European Anti-Fraud Office (OLAF);
  - Court of Auditors, Opinion No 6/2011 on the amended proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1073/1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (Euratom) No 1074/1999.
- 3) Reports and other documents concerning or relevant to the application of Regulation 883/2013 (non- exhaustive list):
- Annual OLAF Report<sup>40</sup>;
  - Commission annual report on the "Protection of the European Union's financial interests — Fight against fraud"<sup>41</sup>;
  - Annual activity reports, other reports and opinions from the Supervisory Committee which address issues related to the implementation of Regulation 883/2013 by OLAF, and the responses provided by OLAF to those reports and opinions<sup>42</sup>;
  - European Parliament's decisions on discharge in respect of the implementation of the general budget of the European Union, and its resolutions on the Commission Annual Reports on the protection of the EU's financial interests – Fight against fraud, and on the OLAF Supervisory Committee's annual reports;
  - Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the protection of the financial interests of the European Union by criminal law and by administrative investigations - An integrated policy to safeguard taxpayers' money, COM(2011) 293 final;
  - Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Improving OLAF's governance and reinforcing procedural safeguards in investigations: A step-by-step approach to accompany the establishment of the European Public Prosecutor's Office, COM(2013) 533 final;
  - European Commission, Analysis of impacts that accompanies the legislative proposal for the establishment of a Controller of procedural guarantees, SWD(2014) 183 final;

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<sup>40</sup> [http://ec.europa.eu/anti\\_fraud/documents/reports-olaf](http://ec.europa.eu/anti_fraud/documents/reports-olaf)

<sup>41</sup> [http://ec.europa.eu/anti\\_fraud/about-us/reports/communities-reports/index\\_en.htm](http://ec.europa.eu/anti_fraud/about-us/reports/communities-reports/index_en.htm)

<sup>42</sup> [http://ec.europa.eu/anti\\_fraud/about-us/reports/supervisory\\_reports/index\\_en.htm](http://ec.europa.eu/anti_fraud/about-us/reports/supervisory_reports/index_en.htm).

- Court of Auditors, Opinion No 6/2014 concerning a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU, Euratom) No 883/2013 as regards the establishment of a Controller of procedural guarantees;
  - European Parliament resolution of 10 June 2015 on OLAF Supervisory Committee annual report 2014<sup>43</sup>;
  - Court of Auditors, Special Report No 24/2015, Tackling intra-Community VAT fraud: More action needed.
- 4) Studies funded by the EU institutions in areas relevant to the evaluation (non exhaustive list):
- Ph. Gournev/T. Bezlov, Examining the links between organised crime and corruption, 2010<sup>44</sup>;
  - Pwc/I-Force, Corruption and Conflict of Interest in the European Institutions: the Effectiveness of Whistleblowers, 2011<sup>45</sup>;
  - Pwc, How does organised crime misuse EU funds? 2011<sup>46</sup>;
  - M. Smit et al., Deterrence of fraud with EU funds through investigative journalism in EU-27, 2012<sup>47</sup>;
  - GHK/Milieu, Study on the legal framework for the protection of EU financial interests by criminal law RS 2011/07, 2012<sup>48</sup>;
  - K. Ligeti (Ed.), Toward a prosecutor for the European Union (Vol. 1), 2013;
  - M. Beke Et Al., Political and other forms of corruption in the attribution of public procurement contracts and allocation of EU funds, 2013<sup>49</sup>;
  - Pwc, Public procurement: costs we pay for corruption, 2013<sup>50</sup>;
  - Conference at Birmingham Law School, The challenges of transnational investigation, March 2013<sup>51</sup>;

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<sup>43</sup> P8\_TA-PROV(2015)0226.

<sup>44</sup> <http://bookshop.europa.eu/en/examining-the-links-between-organised-crime-and-corruption-pbDR0113046/>

<sup>45</sup> <http://bookshop.europa.eu/en/corruption-and-conflict-of-interest-in-the-european-institutions-pbBA3011134/> .

<sup>46</sup> <http://bookshop.europa.eu/en/how-does-organised-crime-misuse-eu-funds--pbQA3011178/> .

<sup>47</sup> <http://bookshop.europa.eu/en/deterrence-of-fraud-with-eu-funds-through-investigative-journalism-in-eu-27-pbBA3112887/>

<sup>48</sup> [http://ec.europa.eu/justice/criminal/files/study-protection-of-eu-financial-interests\\_en.pdf](http://ec.europa.eu/justice/criminal/files/study-protection-of-eu-financial-interests_en.pdf)

<sup>49</sup> <http://bookshop.europa.eu/en/political-and-other-forms-of-corruption-in-the-attribution-of-public-procurement-contracts-and-allocation-of-eu-funds-pbBA0313573/>

<sup>50</sup> [http://ec.europa.eu/anti\\_fraud/documents/anti-fraud-policy/research-and-studies/pwc\\_olaf\\_study\\_en.pdf](http://ec.europa.eu/anti_fraud/documents/anti-fraud-policy/research-and-studies/pwc_olaf_study_en.pdf)



- Conference at St. Julians (Malta), Making the fight against corruption in the EU more effective, May 2013<sup>52</sup>;
- Anne Weyemberg et al., The inter-agency cooperation and future architecture of the EU criminal justice and law enforcement area, 2014<sup>53</sup>;
- V. Bazzocchi (Ed.), Protecting fundamental and procedural rights. from the investigations of OLAF to the future EPPO, 2014<sup>54</sup>;
- Ramboll Management Consulting, Evaluation of the Hercule II Programme, 2015<sup>55</sup>;
- A. Moraru/E. Tudose, Building an effective control system for preventing fraud with funds in new member states during 2014-2020, 2015<sup>56</sup>;
- J. Tornos/M. Férez, A. Arroyo, T. Ysa, Avoiding fraud in Cohesion Policy 2014 – 2020, 2015<sup>57</sup>;
- V. Bazzocchi (Ed.), EPPO and OLAF investigations. The judicial review and procedural guarantees, 2016<sup>58</sup>.

## 6.2 Documents and information to be provided after contract signature (not exhaustive)

- During the inception meeting, the contractor will discuss with the Steering Group about other relevant information needs, including available monitoring information. Monitoring information will be provided in an aggregated and anonymous way and will be subject to confidentiality and data protection rules.

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<sup>51</sup> <http://www.birmingham.ac.uk/research/activity/ija/news/2013/challenges-transnational-investigations-report.aspx>

<sup>52</sup> [https://www.um.edu.mt/\\_data/assets/pdf\\_file/0007/186181/Making\\_the\\_fight\\_against\\_corruption\\_in\\_the\\_EU\\_more\\_effective\\_-\\_Conference\\_Report\\_May\\_2013.pdf](https://www.um.edu.mt/_data/assets/pdf_file/0007/186181/Making_the_fight_against_corruption_in_the_EU_more_effective_-_Conference_Report_May_2013.pdf)

<sup>53</sup> <http://bookshop.europa.eu/en/the-inter-agency-cooperation-and-future-architecture-of-the-eu-criminal-justice-and-law-enforcement-area-pbQA0514142/>

<sup>54</sup> [http://www.europeanrights.eu/public/eventi/eppo\\_eng.pdf](http://www.europeanrights.eu/public/eventi/eppo_eng.pdf)

<sup>55</sup> <http://bookshop.europa.eu/en/evaluation-of-the-hercule-ii-programme-pbOB0215373/>

<sup>56</sup> [http://www.ipp.ro/wp-content/uploads/2015/06/IPP\\_Comparative-Study\\_ENG.pdf](http://www.ipp.ro/wp-content/uploads/2015/06/IPP_Comparative-Study_ENG.pdf)

<sup>57</sup> [http://ec.europa.eu/anti\\_fraud/media-corner/press-releases/press-releases/2015/20151015\\_01\\_en.htm](http://ec.europa.eu/anti_fraud/media-corner/press-releases/press-releases/2015/20151015_01_en.htm)

<sup>58</sup> <http://free-group.eu/2016/02/04/eppo-and-olaf-investigationthe-judicial-review-and-procedural-guarantees/> .

## **7. REQUIREMENTS**

### **7.1 Confidentiality**

The contractor undertakes to observe strict confidentiality in relation to its work on this evaluation, in accordance with the Special Conditions of the tender.

### **7.2 Absence of conflict of interests**

The contractor shall ensure that both their organization and the individual experts proposed for this evaluation are not in a situation of conflict of interest regarding this specific assignment, and shall include a Declaration of absence of conflict of interest as part of their offer.

### **7.3 Resources**

The contract requires the following personnel: Project Director and evaluation team. The Project Director will have the ultimate responsibility for the whole evaluation, including timely delivery of the outputs of the evaluation and quality control of all the reports prior to the submission to the Steering Group. The evaluation team should include a Team Leader and a combination of senior and junior experts. The contractor shall ensure that the core evaluation tasks are conducted by senior experts with appropriate knowledge and experience, including the planning, organisation and supervision of field work. Junior experts must be available to enable senior experts to concentrate on their core evaluation tasks. The experts should be adequately supported and equipped; in particular, sufficient administrative, secretarial and interpreting resources. CVs must be attached to the tender bid for the Project Director and all team members.

The minimum qualifications of the Project Director are:

- A graduate/post-graduate degree;
- Excellent oral and writing skills in English;
- Minimum of 15 years post-degree relevant professional experience;
- Minimum of 7 years experience with management responsibilities in complex projects (evaluations, policy initiatives, academic research, or consultancy assignments), including at least two projects with a multinational dimension and at least two projects in one or more areas covered by this evaluation.

The minimum qualifications of the Team Leader are:

- A graduate/post-graduate degree;
- Excellent oral and writing skills in English;
- Minimum of 10 years post-degree relevant professional experience;
- Minimum of 5 years team leadership experience in complex projects (evaluations, policy initiatives, academic research, or consultancy assignments) , including at least two projects with a multinational dimension and at least two projects in one or more areas covered by this evaluation.
- Minimum of 5 years professional experience in one or more of the areas covered by this evaluation, gained in judicial or law enforcement authorities, international organizations, academic research, or consulting organisations.

The evaluation team (including the Team Leader and senior and junior experts) as a whole should have:

Graduate/post-graduate degree (all members of the team). At least two of the senior experts (or a senior expert and the team leader) should have a law degree;  
Senior experts: minimum of 7 years post-degree relevant professional experience.  
Experts that do not meet this criterion will be considered junior;  
Excellent oral and writing skills in English (all members of the team). Knowledge of other languages would be an asset;  
The evaluation team should include experts with minimum 3 years of relevant professional experience gained in judicial or law enforcement authorities, public administration, international organizations, academic research, or consultancy, in all of the following areas:

The protection of the Union's financial interests, including the EU's institutional setting and the fight against fraud at EU level;  
Anti-fraud policies and tools at international, EU or national level in the Member States;  
Public, administrative and criminal law;  
The evaluation and/or research studies of the application of EU legislation and the policy cycle in the EU institutions. At least one of the senior experts (or the team leader) should have participated as a senior expert in at least two evaluations and/or research studies.

In their technical proposal, the tenderers will provide an estimation of staff resources to be dedicated to this evaluation, separating desk and field work, and indicating the man/days for the Project Director, the Team Leader and the each member of the evaluation team. The tenderers should also explain how the staff allocations and the team as a whole ensure the necessary qualifications, skills and professional experience to successfully achieve the objectives of this evaluation.

#### **7.4 Quality control**

The contractor should ensure an internal quality control, under the responsibility of the Project Director, covering all the evaluation phases. The quality control should ensure that all reports submitted to the Steering Group comply with the methodology requirements and are submitted in time. In particular, the quality control should ensure consistency and coherence between findings, conclusions and recommendations. It should also ensure that findings reported are duly substantiated and supported by relevant judgement criteria. The Steering Group may reject a deliverable in case it does not comply with the minimum quality requirements.

## Quality Assessment for Draft and Final Evaluation Reports

### Quality Assessment for Evaluation of the application of Regulation (EC, Euratom) No 883/2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) *[Draft] Final Report*

**DG/Unit** [DG/Unit]

Official(s) managing the evaluation: [Name(s)]

**Evaluator:** [Company/name]

**Assessment carried out by<sup>(\*)</sup>:**

Steering group [ ]

Evaluation Function [ ]

Other (please specify) [ ]

(\*) Multiple crosses possible

**Date of assessment** [DD/MM/YYYY]

Objective of the assessment	Aspects to be assessed	Fulfilled? Y, N, N/A	Comments
1. Scope of evaluation	Confirm with the Terms of Reference and the work plan that the contractor :		
	a. Has addressed the evaluation issues and specific questions	[ ]	
	b. Has undertaken the tasks described in the work plan	[ ]	
	c. Has covered the requested scope for time period, geographical areas, target groups, aspects of the intervention, etc.	[ ]	
2. Overall contents of report	Check that the report includes:		
	a. Executive Summary according to an agreed format, in the three required languages	[ ]	
	b. Main report with required components	[ ]	

Objective of the assessment	Aspects to be assessed	Fulfilled? Y, N, N/A	Comments
	<ul style="list-style-type: none"> <li>▪ Title and Content Page</li> <li>▪ A description of the policy being evaluated, its context, the purpose of the evaluation, contextual limitations, methodology, etc.</li> <li>▪ Findings, conclusions, and judgments for all evaluation issues and specific questions</li> <li>▪ The required outputs and deliverables</li> <li>▪ Recommendations as appropriate</li> </ul>		
	c. All required annexes	[ ]	
3. Data collection	Check that data is accurate and complete		
	a. Data is accurate	[ ]	
	<ul style="list-style-type: none"> <li>▪ Data is free from factual and logical errors</li> <li>▪ The report is consistent, i.e. no contradictions</li> <li>▪ Calculations are correct</li> </ul>		
	b. Data is complete	[ ]	
	<ul style="list-style-type: none"> <li>▪ Relevant literature and previous studies have been sufficiently reviewed</li> <li>▪ Existing monitoring data has been appropriately used</li> <li>▪ Limitations to the data retrieved are pointed out and explained.</li> <li>▪ Correcting measures have been taken to address any problems encountered in the process of data gathering</li> </ul>		
4. Analysis and judgments	Check that analysis is sound and relevant		
	a. Analytical framework is sound	[ ]	
	<ul style="list-style-type: none"> <li>▪ The methodology used for each area of analysis is clearly explained, and has been applied consistently and as planned</li> <li>▪ Judgements are based on transparent criteria</li> <li>▪ The analysis relies on two or more independent lines of evidence</li> <li>▪ Inputs from different stakeholders are used in a balanced way</li> <li>▪ Findings are reliable enough to be replicable</li> </ul>		
	b. Conclusions are sound	[ ]	
	<ul style="list-style-type: none"> <li>▪ Conclusions are properly addressing the evaluation questions and are coherently and logically substantiated</li> <li>▪ There are no relevant conclusions missing according to the evidence presented</li> <li>▪ Findings corroborate existing knowledge; differences or contradictions with existing knowledge are explained</li> <li>▪ Critical issues are presented in a fair and balanced manner</li> <li>▪ Limitations on validity of the conclusions are pointed out</li> </ul>		
5. Usefulness of recommendations	a. Recommendations are useful	[ ]	
	<ul style="list-style-type: none"> <li>▪ Recommendations flow logically from the conclusions, are practical, realistic, and addressed to the relevant Commission Service(s) or other</li> </ul>		

Objective of the assessment	Aspects to be assessed	Fulfilled? Y, N, N/A	Comments
	stakeholders		
	b. Recommendations are complete ▪ Recommendations cover all relevant main conclusions	[ ]	
6. Clarity of the report	a. Report is easy to read ▪ Written style and presentation is adapted for the various relevant target readers ▪ The quality of language is sufficient for publishing ▪ Specific terminology is clearly defined ▪ Tables, graphs, and similar presentation tools are used to facilitate understanding; they are well commented with narrative text	[ ]	
	b. Report is logical and focused ▪ The structure of the report is logical and consistent, information is not unjustifiably duplicated, and it is easy to get an overview of the report and its key results. ▪ The report provides a proper focus on main issues and key messages are summarised and highlighted ▪ The length of the report (excluded appendices) is proportionate (good balance of descriptive and analytical information) ▪ Detailed information and technical analysis are left for the appendix; thus information overload is avoided in the main report	[ ]	

Overall conclusion		
The report could be approved in its current state, as it overall complies with the contractual conditions and relevant professional evaluation standards	[ ]	