

F.A.Q.

The Frequently Asked Questions complement the FPA ex-ante assessment Terms of Reference (ToR) by providing all the candidate NGOs with more detailed information on the FPA ex-ante assessment. The questions have been grouped under three sections to facilitate the access to information and will be updated regularly – new questions will be added at the end of each section.

I. QUESTIONS ON THE APPLICATION PROCESS

- 1. Do current FPA holders (NGOs that have signed the 2014 FPA) need to submit an application for the 2021 FPA?**

Yes, NGOs that currently holds a Framework Partnership Agreement (FPA) with DG ECHO have to follow the same application procedure with respect to the 2021 FPA.

- 2. Is there any priority given to current FPA holders for submitting and processing the ex-ante assessment? Or can non-FPA holders apply by submitting their assessment within the same timeframe?**

DG ECHO ensures equal treatment is given to all candidates. Therefore, non-FPA holders can apply by submitting their assessment within the same timeframe.

- 3. If the candidate NGO does not meet all the requirements by July 2020, does this NGO have to wait until the subsequent FPA to be able to apply? What does “Final reports received beyond that date may delay the signature of the FPA beyond 1 January 2021” exactly mean? Does DG ECHO accept applications on a rolling basis?**

The possibility for NGOs to apply for the 2021 FPA is not time-limited.

In order to be in a position to become a FPA Partner (including a Programmatic Partner) on 1 January 2021, the candidate NGO needs to submit the Independent Auditor’s Final Report to the Commission before 1 July 2020.

DG ECHO will do its utmost to assess all applications within the shortest timeframe possible, with a view to proposing, if appropriate, the signature of the FPA before 1st January 2021. However, it cannot guarantee that an application file submitted after July 2020 will be processed in time for the FPA to be signed before 1 January 2021.

- 4. Could the FPA ex-ante assessment be procured from the audit company that is the candidate NGO’s regular statutory auditor or does it need to be a different company?**

Please see the ‘General Principles’ section of the FPA ex-ante assessment ToR concerning the requirements to be met by auditors. The candidate NGO is entitled to use its usual statutory auditors, i.e. the private firm that audits their financial accounts, to perform the assessment.

However, the internal auditor of the candidate NGO is not eligible to undertake this engagement as DG ECHO considers that the auditor must be fully independent from the candidate NGO concerned.

5. Can the candidate NGO contract one of the two audit firms working under DG ECHO’s framework contract (Littlejohn PKF and Ernst & Young) to perform the assessment?

NGOs are free to contract any audit firm which would meet the conditions mentioned in the ‘General Principles’ section of the FPA ex-ante assessment ToR concerning the requirements to be met by auditors, including one of the two aforementioned audit firms.

The audit firm that will perform the ex-ante assessment for a NGO will fall however under a situation of conflict of interest to perform in the future audits of that NGO on behalf of DG ECHO.

6. Would DG ECHO perform ex-ante assessments through its own framework contract?

The ex-ante assessment is not part of DG ECHO’s framework contract and therefore, no ex-ante assessment can be done by DG ECHO under the framework contract.

7. Can DG ECHO consider to finance fully or at least partly the ex-ante assessment? Or support partners otherwise to reduce the costs?

DG ECHO cannot fund the costs of the ex-ante assessment.

8. Has DG ECHO done an estimate of the costs that this ex-ante assessment can have for an NGO applying to the 2021 FPA?

Before publishing the Terms of Reference, DG ECHO contracted a consulting engagement with an audit firm to estimate the cost of the ex-ante assessment for small, medium and large NGOs.

This estimate included the costs of planning, execution and reporting phases of the assignment totalling between 16 and 22 working days. The participation of a partner and a manager is foreseen during the planning and reporting phases. A senior auditor is foreseen to work for a total of 12 days in the case of a large NGO during the planning, fieldwork, follow-up, reporting and finalisation phases; whilst an assistant auditor is expected to work for a total of 7 days for a large NGO during the planning, the fieldwork and the reporting.

The conclusion of that estimate was that the costs of the ex-ante assessment would be between EUR 8 000 for a small NGO and EUR 15 000 for a large NGO; it also took into account differences in pricing in each region of Europe.

9. Will the Terms of Reference be translated in French?

Yes, they are already available on DG ECHO Partners Website under the 'Become a DG ECHO Partner' section.

9a. Can the auditors' report be sent to DG ECHO in French?

Yes.

10. Would DG ECHO provide a list of recommended auditors to perform the FPA ex-ante assessment?

No, DG ECHO will not provide a list of recommended auditors. Nevertheless, we have provided a detailed description of the requirements for the auditors in the FPA Terms of Reference to facilitate the selection of the audit firm by the candidate NGOs.

11. When will the new FPA be published?

The publication of the new FPA will be done early 2020 so as to enable DG ECHO to use the future corporate Model Grant Agreement, which is now being finalised by Commission Central Services.

12. Will DG ECHO take into account when preparing its Audit Plan 2020 the FPA partners' workload related to the FPA ex-ante assessment?

Yes, when designing the Audit plan 2020 DG ECHO will ensure the right balance between the assurance to be provided by the Director General in DG ECHO Annual Activity Report and the audit work related to the ex-ante assessment to be faced by current FPA partners that intend to apply for the FPA 2021.

13. Is the assessment used only to validate the partners for FPA 2021? Or will it be used to help to adjust the level of control of risks on future partners?

The assessment will certainly be taken into account when establishing DG ECHO's control, audit and anti-fraud strategies for the period 2021-2025 as well as the audit plans for 2021 and beyond.

14. Given the extensive review this ex-ante assessment represents, would it be possible to simplify the audits and to reduce the number of audits during the next FPA cycle? Could this approach be also translated into a reduced scope of the periodic assessment?

The Audit Strategy for the period 2021 – 2025 will be developed taking into consideration the results and assurance provided by the ex-ante assessment. Nevertheless, the eligibility of the expenditures claimed and the compliance with the procedures of the organisation in the field will still require to be

audited. FPA partners will also need to continue providing annually their audited financial statements as it is currently the case.

15. Can DG ECHO confirm that regarding the selection of auditors, only the CVs of the auditors will be asked by DG ECHO (and not the selection file)?

DG ECHO reserves the right to request, review and validate the authenticity of the auditors' CVs at any point in time, up to four years after the date upon which the completed Assessment Report is submitted to it for its review. No information about the tender will be requested since this is not covered by EU funds.

16. Would DG ECHO expect the candidate NGOs to share the CVs of the persons responsible for the audit beforehand as subsection 1.1.3 of the Terms of Reference states that “DG ECHO reserves the right to also request, review and validate the authenticity of these CVs [...]”?

No, the CVs of the persons responsible for the audit should not be submitted to DG ECHO. Nevertheless, DG ECHO could request them in specific circumstances.

17. Is it necessary to complete the ex-ante assessment before signing a 2020 Programmatic Partnership pilot?

No, this ex-ante assessment will apply to the Programmatic Partners as from 2021. The selected Programmatic Partners will sign the Programmatic Partnership pilot in 2020, while committing to submit the ex-ante assessment with the required minimum score of 7/10 for Programmatic Partners by the end of July 2020 as mentioned in the Call of Expression Interest for Programmatic Partners.

18. Which qualification and experience the audit team should have to perform the assessment?

As mentioned in the ToR, the auditors should have the appropriate professional qualifications. The audit team as a whole should have suitable experience in one or more of the following areas:

- Institutional audits;
- Compliance audits;
- Systems audits, or;
- Engagements related to programmes funded by international or national donors.

19. Under the FPA 2021, will organisations applying as a sub-applicant require FPA registration?

Only organisations applying for an FPA need to provide an external auditor assessment report.

20. When the Organisation is a member of a family, network or (con-) federation of international organisations, and intends to use other member(s) of said family, network or (con-)federation as Implementing Partners, does the other member(s) Implementing Partner need to provide answers to questions on Block 1 and 2 that applies to the Implementing Partner and/or Field offices?

The external auditor's report should focus on the rules, policies and procedures of the applicant NGO. Information on members of the family, network or (con-) federation is to be provided in Annex 4A/4B.

21. Can an organization that currently operates with volunteers apply to become FPA partner?

Any NGO can apply if it meets the criteria.

22. Can DG ECHO provide reference to DG ECHO policies and standards for the HR and Ethics parts?

There are no specific HR policies developed by DG ECHO for the purpose of the ex-ante assessment.

23. What are DG ECHO's expectations in terms of compliance with International Humanitarian Law for an implementing humanitarian organisation?

Compliance with humanitarian principles of humanity, impartiality, neutrality and independence is requested in order to implement DG ECHO funded humanitarian actions. The same would be expected in the contexts where international humanitarian law (IHL) applies (armed conflicts of international or non-international character). It is stressed that acting as a principled humanitarian actor in such contexts is even more important in light of the possible adverse consequences.

24. For UK-based NGOs, will the new FPA 2021 remain valid after the transition period ends?

UK-based entities are, at this stage, not eligible for the FPA 2021 as it will enter into force on 1 January 2021, i.e. after the end of the transition period.

25. After how many years one INGO may apply for FPA once its application is rejected? When is the next FPA after 2021?

An NGO can submit as many applications as it wishes (bearing in mind however that there may be no point for an NGO to submit an application where the report on the related ex-ante assessment from the commissioned audit firm would not

meet the minimum requirements and criteria set out in the TORs). As regards the second question, it is expected that the FPA 2021 will remain valid for at least four years.

26. Can DG ECHO provide a list of pre-approved or recommended auditors familiar with the process for the purpose of ex-ante assessment? Is there any specific format or instructions for the type of agreement with the auditor other than the terms of reference? How to proceed when there is a strong disagreement between the auditors and the organisation before closing the final report?

DG ECHO does not have a list of pre-approved or recommended auditors, any certified auditor in a Member State can perform the assessment, provided they fulfil the experience required in the published TORs. DG ECHO also does not intend to issue any instructions on the type of agreement with the auditors. Disagreements shall be resolved between the NGO and the audit firm.

27. How can the ranking portion of the assessment be objective when different audit companies are evaluating different NGOs and there is no standard for cross-comparison?

DG ECHO ensures equality of treatment of all applicants by issuing TORs with detailed assessment questionnaire and assessment criteria according to which the NGOs shall be evaluated by the audit firms in line with internationally accepted auditing standards. Additionally, relevant questions from the NGOs on the process of the ex-ante assessment are regularly published by DG ECHO in form of FAQ.

28. Some audit firms decline to participate in the procurement process claiming that they need to carry out the assignment in accordance with ISAE 3000, yet the subject matter and the objective criteria were not appropriately defined. Which is DG ECHO's position on this?

DG ECHO has consulted an external chartered accountant audit firm on the TORs before publishing them. The TORs are in conformity with ISA3000.

29. Could DG ECHO describe the process they will put in place for contesting the rating given by the auditors, especially where 1 point difference can change the status of the candidates NGO?

DG ECHO will not challenge the rating given by the auditors, unless manifestly incorrect or inconsistent with other replies.

30. In case of disagreement between the assessment made by the independent audit and the final assessment by DG ECHO on the basis of the audit, we

understand that DG ECHO's will prevail, if so and this implies the exclusion of the FPA. Will there any period of allegations before the final decision?

The European Commission (as represented by DG ECHO) is the body deciding on the award or rejection of any FPA. In case, the Commission intends to reject an application for an FPA, the final decision on the rejection will be preceded by a contradictory procedure through which the applicant NGO will be given the opportunity to present its comments. The timeline for the applicant NGO to submit comments is still to be determined although it should likely be around 30 calendar days.

31. Can DG ECHO clarify on the independence criteria set out in the instructions to carry out the ex-ante evaluation, e.g. can the evaluation be carried out by

i. an independent audit company that has already carried out several auditing processes for the organisation in the past;

ii. an independent audit company that has already signed a framework agreement with the organisation so as to auditing future projects.

The audit firm shall be registered as such in one of the MSs and fulfil the criteria set in the TORs. DG ECHO will not challenge a selection of an audit firm that has already carried out several auditing processes for the organisation in the past or that has been contracted to carry out audits for the organisation in the future. The amount of funds audited/to be audited is irrelevant in this respect. However, be aware, that the audit firm should have acted in the capacity of an external auditor, not in an outsourced internal audit function. DG ECHO might also challenge the selection of an audit firm if it has intervened in the design of the internal controls and policies of the applicant.

32. DG ECHO TORs (section 1.1.1) refer to the staff assigned to the project having “appropriate professional qualifications and suitable experience with IFAC standards, in particular ISAE 3000”. We have no experience in this regard, however, we regularly do various engagements under other very similar assurance standards in the spirit of ISAE 3000. If we are not appropriately qualified as per section 1.1.1 of the TORs, will DG ECHO reject our report entirely?

The audit firm is expected to comply with the requirements of the TORs.

33. Will DG ECHO require additional documents from the prospective partners after the positive conclusion of the assessment by the auditors?

DG ECHO reserves the right to require additional documents during the process of approval of the ex-ante assessment. For example, DG ECHO can request

documents on a sample basis to verify that the audit firm that carried out the ex-ante assessment fulfils the prescribed conditions.

34. If an organisation at this stage does not apply for programmatic partnership but at later stage decides to do it, does that mean that the organisation shall be audited anew? Or what kind of process has DG ECHO planned for such situations?

Yes, the organisation will have to be audited anew for the areas where it did not receive the necessary number of points to become a programmatic partner.

II. QUESTIONS ON THE FPA TERMS OF REFERENCE (ToR)

1. What kind of assurance is DG ECHO looking for with the FPA ex-ante assessment?

The **objective** of the ex-ante assessment is to provide DG ECHO with independent reasonable assurance on the ability of the Organisation to fulfil the criteria and conditions necessary for being awarded a FPA.

DG ECHO is looking for reasonable assurance as defined in ISAE 3000. Reasonable assurance under ISAE 3000 is a conclusion “expressed in a form that conveys the practitioner’s opinion on the outcome of the measurement or evaluation of the underlying subject matter against criteria” (ISAE 3000 paragraph 12 9a) (i)).

2. How can cross-reliance be implemented in the FPA ex-ante assessment?

DG ECHO encourages the audit firms in charge of the ex-ante assessment to cross-rely on previous assurance reports done by other providers, other than internal audit, if the work is adequate for the purpose of the assessment.

Two different approaches can be acceptable:

- A unique audit report: The audit firm will determine to what extent the specific work of the provider can be used and whether that work is adequate for the purposes of the assessment in line with ISA 610. This approach can also be extended to certifications, should the audit firm decide to rely on them to reply to relevant questions.

- More than one report: Different audit firms provide assurance. The candidate can request auditors having recently performed an audit covering one or more of the questions required by the TORs, (e.g. a Core Humanitarian Standards on Quality and Accountability verification) to report their conclusion following DG ECHO’s template report. In this case, the minimum level of assurance provided by an auditor should be at the level of a complete question, i.e. an audit firm could provide reasonable assurance, and the related score, for example on question 18 "Ethics" whilst the other auditor will provide assurance in Block 1 and Block 2 except question 18 "Ethics".

3. **HQAI has identified in an overlap mapping exercise that their audit fully covers 35 indicators of the DG ECHO TOR. Can you confirm that DG ECHO agrees with auditors relying on HQAI work? How should they translate the HQAI CHS scoring into the DG ECHO scoring framework?**

It is for the audit firm in charge of the ex-ante assessment to decide whether it can rely on the previous assurance reports, including HQAI audits. If they decide that they will, the scoring has to be applied proportionally.

4. Can recent ECHO HQ audits be used in order to limit the extent of the ex-ante assessment?

Yes, the audit firm in charge of performing the ex-ante assessment may decide to use the specific work of the DG ECHO HQ audits for the purpose of the assessment. In this case, the audit firm will determine to what extent the specific work of DG ECHO contracted auditors can be used and whether that work is adequate for the purposes of the assessment in line with ISA 610.

5. Could the period to be covered by the assessment be the last financial year instead of the year ending on the day of the start of the fieldwork of the assessment?

The audit firm will need to use the information of the last two financial years completed to reply to the questions on the financial status of Block 1. The rest of the ex-ante assessment questionnaire must cover the year (12 months period) ending on the day of the start of the fieldwork of the assessment, i.e. the day on which the auditor effectively starts the on-site assessment procedures and test at the location decided between the candidate NGO and the auditor.

6. Could DG ECHO clarify the time period to be taken into account for the assessment? For the assessment of the financial ratios, DG ECHO refers to the last 2 financial years. In the case of many partners, the financial statements will not be approved by the organisation before May/June 2020 for the year 2019. How should we then proceed? Take 2017 and 2018 instead? Still include 2019 but in the version not approved?

According to Art. 196, paragraph 1, d) of Financial Regulation in the case of framework partnership agreements, the audit report needs to cover the last two financial years available before the FPA is signed. The ex-ante assessment is not an audit of the Financial Statements. The figures in the Financial Statements are used to determine a few questions. The results of the financial years 2018 and 2019 should be used when calculating the ratios for Block 1 provided that the applicant's financial year closes on 31 December 2019. Applicants which close the financial year end of March or end of June the last financial year to assess will be March 2019 or June 2019. We stress that 1 July 2020 is not a deadline and that the NGOs can apply anytime when their application is completed.

The rest of the ex-ante assessment questionnaire must cover:

i. The design of the systems, controls, rules and procedures: the relevant systems, controls, rules and procedures in place on the day of the start of the fieldwork of the assessment, i.e. the day on which the auditor effectively starts the on-site assessment procedures;

ii. **The efficiency** of the systems, controls, rules and procedures: a year before (12 months period) the day of the start of the fieldwork of the assessment. Testing shall be carried out at the location decided between the candidate NGO and the auditor.

7. What are the ‘specific conditions determined by DG ECHO’ to become a FPA Partner, stated under the scope of the assessment in the Terms of Reference for the ex-ante assessment?

The specific conditions determined by DG ECHO make reference to several requirements that are further described in the 17 questions of Block 1 ‘Minimum Requirements’ included in Annex 2. These 17 questions allow DG ECHO to determine if an EU NGO is entitled to receive EU funding, in accordance with Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid as well as with the specific conditions to be reflected in the Framework Partnership Agreement (FPA).

8. Will the audit have to entail visits to country offices or will it only have to be a visit to our headquarters?

Visits to country offices are not requested by the Terms of Reference. The nature and scope of all the questions, including those in which the effectiveness should be tested, are not related to specific actions and they have been designed to allow the auditor to build his/her opinion on the systems in place on the basis of a unique visit to the headquarters of the candidate organisation. The audit strategy of DG ECHO for the period 2021-2025 will verify the effectiveness of the systems in country offices. While such subsequent testing in the field may not necessarily challenge the ex-ante assessment conclusion, any material weaknesses so identified may call into question the award of the FPA.

9. Can DG ECHO help its partners reduce the sampling method or at a minimum suggest a sampling method to reduce the investment in terms of time and resources into the exercise?

The ISAE 3000 standard for Assurance Engagements Other than Audits or Reviews of Historical Financial Information issued by the IAASB, does not provide any guidelines on sampling. This implies that the auditors should use their professional judgement to determine the amount of controls to be tested, the testing methods and the sampling.

When determining the extent of the sampling, the auditor will in principle consider matters such as the characteristics of the population to be tested and the expected rate of deviation. DG ECHO expects that the audit firm requests the minimum sample size needed to obtain a reasonable assurance to answer the specific question(s).

10. How can DG ECHO ensure the professional judgment of the auditors is the same throughout the different audit firms?

Professional judgment is a skill that an auditor gains through experience and training. DG ECHO has described in subsection 1.1.1 – ‘Qualifications and

Experience’, under the section ‘Requirement for the auditors’, which experience the audit team is required to have in order to undertake the assignment and to ensure the requisite level of professional judgement in the assessment of the questionnaire. In addition, the questions in the ToR have been drafted and reviewed by professional auditors.

The terminology used in some questions of the ex-ante assessment questionnaire is kept relatively broad in order to allow auditors to adjust the specific requirements to the size and complexity of the candidate NGO based on their professional judgement and on their experience in performing institutional or compliance audits and/or performing systems audits or equivalent engagements.

11. Where DG ECHO wants a score out of 10, should auditors apply equal weighting to all questions? For example, if there are five questions and one is a ‘No’, should auditors apply a score of 80% (8/10) or does DG ECHO want auditors to apply judgement with detailed rationale?

All questions have an equal weighting, except when the answer is ‘Not applicable’ (specific rules have been detailed on when ‘N/A’ is to be used). For each question, the auditors must apply their professional judgment to attribute a score on a scale from ‘0’ to ‘10’ to the related question in the assessment questionnaire based on the information and evidence they have obtained and in light of the replies they intend to give to the related criteria.

The scores are attributed in accordance with the following:

- A majority of ‘no’ answers, over the ‘yes’ and ‘partially’ answers, to the criteria gives a score below 4/10, meaning that the candidate NGO does not comply with the requirements of the question concerned.
- A majority of ‘yes’ and ‘partially’ answers, over the ‘no’ answers to the criteria, gives a score equal to or greater than 4/10 and below 6/10, meaning that the candidate NGO complies overall with the requirements of the question concerned, except for some aspects which, taken together, do not lead to non-compliance.
- A majority of ‘yes’ answers, over the ‘partially’ and ‘no’ answers, to the criteria gives a score between 6/10 and 10/10, meaning that the Organisation complies with the requirements of the question concerned.
- For the Programmatic Partnership, the score should be 7/10, based on the answers provided to both the criteria and the additional requirements for PPs, in line with the guidance provided above.

12. Which reply to provide when the organisation has NOT procured medical supplies in the last couple years?

The appropriate reply shall be N/A.

13. Could the auditor deliver a report which deviates from the template report defined in the TORs?

No, the auditor should deliver a report fully in line with the template defined in the TORs, in order to ensure consistency and equal treatment amongst all the candidates.

14. Under the Non exclusion question (Block 1 – Question 4), should the declaration on honour be only provided by the chairperson or by each board member?

It is for the auditor to judge whether a declaration of the president or of each board member is needed to ensure sufficient evidence of non-exclusion, based on the information to be collected from the president as to how the latter has verified the situation of each board member (when the president is the only one to sign). More information on the non-exclusion requirements of the Commission for providing funding is available in Articles 136, 137 and 141 of the Financial Regulation (Regulation (EU, Euratom) 2018/1046).

15. Under the Non exclusion question (Block 1 – Question 4), management should not be in one of the exclusion situations mentioned. What is your guidance in this requirement? Does this apply to the main decision making body within the organisation as defined by its articles, or does it entail a lower level of management as well (Block 1 – Question 4)?

Article 137(1) second subparagraph point (a) of the Financial Regulation, refers to the 'administrative, management or supervisory body'. There is, therefore, no need to extend this verification to lower management levels.

16. Do the Humanitarian Organisation statutes need to specifically include a reference to humanitarian aid to cover question 5 in Block 1?

Referring to 'international aid' should suffice, in particular in a context where other rules and policies of the applicant NGO should refer to humanitarian aid and to humanitarian aid principles.

17. What is the difference between questions 15-16-17 (Block 1) and questions 22-23 (Block 2)?

Question 15 is part of block 1 (minimum requirements): the auditor should assess the accountability of the applicant and whether the applicant itself actually carries out these tasks: the reply expected is Y/N. Question 23 is part of block 2 (additional suitability requirements): the auditor should look at the implementation of the rules and procedures in place and will give a mark.

18. The ex-ante assessment shall focus only on emergency projects/programme performed during the last year before starting the assessment and relating documentation and procedures, or also development projects/ programmes can be included in the assessment sample?

From an organisational point of view, i.e. to assess the internal control systems of an NGO, both types of projects and related documentation and procedures can be included in the sample.

III. QUESTIONS ON THE FPA EX-ANTE ASSESSMENT QUESTIONNAIRE

A. BLOCK 1 – MINIMUM REQUIREMENTS

1. Can DG ECHO clarify the notion of ‘autonomy’ in the question ‘Is the Organisation autonomous in its decision-making’? (Block 1 – Question 3)

Under Article 7(1)(a) of the Humanitarian Aid Regulation, NGOs must be autonomous organisations to be eligible to receive EU humanitarian funding. This implies that the candidate NGO has sufficient in-house capacity to make informed decisions in respect of all relevant areas of the project life cycle. This does not mean that each candidate NGO needs to develop its own version of policies, rules and procedures for each area. The candidate NGO may endorse and make its own policies, rules and procedures developed and used by other organisations. In such a case, however, the candidate NGO must ascertain first that said policies, rules and procedures are and will remain fully compliant with ECHO’s own policies, terms and conditions; the candidate NGO must also be able to ascertain and verify such compliance by its Implementing Partners when the latter implement project-related decisions made by the FPA-holding NGO.

Being an autonomous organisation also implies that the candidate NGO is not controlled by one or several other organisations. This does not mean that the candidate NGO may not coordinate its activities with other organisations but any such coordination must be arranged in such a way as precluding that the candidate NGO would in effect be subordinated to one or several other organisations. Such a subordinated position would be assessed chiefly against the following benchmark: to which extent may the candidate NGO make decisions on its own without such decisions being in effect imposed on it by other entities.

2. Does the organisation need to prove that the natural or legal persons who are members of the administrative, management or supervisory body of the organisation are not in one of the exclusion situation? And if yes, how? (Block 1 – Question 4)

Yes, under Article 137(1) of the 2018 Financial Regulation, there is the need to confirm that the natural or legal persons who are members of the administrative, management or supervisory body of the candidate organisation are not in one of the exclusion situations referred to in points (c) to (h) of Article 136(1) of this Regulation. This can be done through the signing by the persons concerned (or their authorised representative in case of legal persons) of a document whereby the signatory declares solemnly that they are not in one of the exclusion situations.

3. Does the statement ‘one new contract entered into in each of the last three years’ of the question under Humanitarian Aid experience implies that contracted activities need not be completed but simply contracted? This

would mean that humanitarian activities totalling EUR 200 000 need to be contracted each year but not necessarily implemented fully in the same year. (Block 1 – Question 7)

Yes, DG ECHO expects that the candidate NGO have contracted at least one humanitarian project of a minimum amount of EUR 200 000 during each of the past three years but, acknowledging that projects may last longer than 12 months, these projects do not necessarily have to be fully implemented in the contracting year.

4. Can DG ECHO provide additional parameters to help the auditors define ‘quality’? (Block 1 – Question 15)

As specified in the guidance column, the candidate NGO needs to be directly in charge of the preparation of the proposal or to have in-house expertise and resources to review critically the proposal to ensure the same quality level of all its proposals in light of the needs assessment, the humanitarian objectives pursued and the relevant legal and policy requirements and operational priorities, as defined by the Commission in the humanitarian aid field.

5. How does DG ECHO define ‘regular’ in the sentence “Effective monitoring and oversight implies regular interactions”? (Block 1 – Question 16)

DG ECHO does not have a standard definition of ‘regular’. The OECD/DAC provides a definition of monitoring as “*a continuing function that uses the systematic (at regular intervals) collection of data on specified indicators to inform management and the main stakeholders of an ongoing operation of the extent of progress and achievement of results in the use of allocated funds and aid.*” As per this definition, the frequency of the monitoring will depend on the size, nature of the project, and the local context and it should ensure the candidate NGO is informed of the extent of progress and achievements of results of an ongoing operation.

6. How does DG ECHO define ‘guarantee’ in the question “Can the Organisation guarantee the reliability of interim and final reports?”? (Block 1 – Question 17)

DG ECHO has included some criteria under each question to help the audit firms when scoring the question.

In this case, ‘guarantee’ is equivalent to ‘ensure’ meaning that there are systems in place designed to deliver a quality product.

7. If operating income of an organisation of each of the last 2 years is less than 2 Mio EUR, does it automatically mean that Partners would be rejected as FPA partners? So, smaller organizations have no chance of getting a FPA? How is Niche NGO being defined?

Organisations with operating income less than EUR 2 million over each of the last two years do not comply with the requirements to be FPA partners. The same requirement applied already for the 2014.

A definition of a Niche organisation is given in the TORs on page 3.

8. Please provide the definition of Non-restricted funds (Block 1 – Question 10).

Unrestricted funds are the reserves that a non-profit organization is free to use without restrictions from donors.

9. What is the accepted by DG ECHO level (in %) of Financial Independence ratio?

The financial independency ratio must be above zero.

10. For Block 2 questions, auditors have been given guidance as to whether to test the design or the design and operating effectiveness of the relevant systems, controls, rules and procedures. This guidance is not given for block 1 questions. Can you elaborate as to what kind of testing is expected for block 1 questions?

DG ECHO has developed and included criteria / guidance for both Blocks. For Block 1 the latter can be found under the second column “Criteria / guidance”.

11. Requirement 7 of block 1 mentions: “Humanitarian Aid Experience: has the organization implemented at least one humanitarian project of a minimum of EUR 200.000 during each of the past three years? What is understood by ‘humanitarian project’? Is this defined by the nature of the previous projects (what is humanitarian and what is development)? Or defined by previous funding? The HAR and Financial Regulation are not univocally clear on this.

A humanitarian project is an action fitting the description of activities set out in Articles 1 to 4 of the 1996 Humanitarian Aid Regulation (Council Regulation (EC) No 1257/96 of 20 June 1996 concerning humanitarian aid - <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:31996R1257>).

B. BLOCK 2 – ADDITIONAL SUITABILITY REQUIREMENTS

- 1. Could DG ECHO clarify the use of some neutral criteria or specific language such as ‘sound procedures’, and ‘reliable information’ in Block 2?**

DG ECHO has included some criteria under each question to help the audit firms when scoring the question. The auditor should be able to form a judgement that there is reasonable assurance that the candidate NGO meet the conditions, having regard to the criteria given in the second column against each question.

- 2. Could DG ECHO clarify the intended meaning of ‘reliable’ in the context of consolidated financial reporting? (Block 2 – Question 19E – last criteria)**

Reliable consolidated reporting makes references to a report that represents the reality of the action implemented and is free of material errors.

- 3. Will DG ECHO accept that “the organisation has a policy that states that its activities respect the environment of the local community it works with” rather than “ensure”, which is more difficult to prove? (Block 2 – Question 20D – third criteria)**

DG ECHO considers that the organisation must have put in place the necessary controls to ensure its policies are respected when implementing its actions, such controls should also ensure the respect of their environmental policies in the field.

- 4. Could DG ECHO clarify the criterion ‘The Organisation’s obligations and individual responsibilities in relation to possible risks are clearly communicated to its staff’? What is expected from the organisation? Which obligations and responsibilities? (Block 2 – Question 21 E– sixth criteria)**

The organisation must ensure that their staff is aware of potential security issues by providing security assessment and protocols, mandatory training, specific medical services, clarifying the organisation’s responsibility to its staff in terms of evacuation, kidnapping, and similar situations where the activities of the organisation in the field may be disrupted due to unsafe or insecure conditions.

- 5. Can DG ECHO provide additional parameters to help the auditors define what ‘adequate mechanisms’ are? (Block 2 – Question 24)**

DG ECHO has included some criteria under each question to help the audit firms score the question.

In this specific case, ‘adequate’ refers to the necessary mechanisms such as procedures, systems and controls that ensure compliance with the humanitarian principles throughout the range of activities of the organisation.

6. Can DG ECHO provide additional parameters to help the auditors define ‘well known’? (Block 2 – Question 24)

DG ECHO has included some criteria under each question to help the audit firms score the question.

In this case, ‘well known’ means that the specific rules and conditions are effectively known and understood by the organisation’s staff as well as by the organisation’s contractors and implementing partners.

7. Are domestic programmes included in the scope of the ECHO assessment?

Domestic programmes are as a matter of principle not part of the assessment.

8. Which are the best practices as regards Anti-fraud and anti-corruption policy (Block 2 – Question 19.1)?

The criteria listed in the TORs under this question can be considered as best practice.

9. What evidence is required to assess that the Organisation identifies key staff involved in recruitment or in sensitive posts with risk of collusion? How critical is it that only certain staff are identified if all staff are trained and treated equally when it comes to ethics and compliance investigations and risk mitigation? (Block 2 – Question 19.3)

The organisation shall adhere to an anti-fraud and anti-corruption policy with a chapter devoted to key staff involved in recruitment or in sensitive posts with risk of collusion (e.g. bank/cash management, procurement and purchase functions). Please note that criterion 19.4 shall be understood in relation to criterion 19.3.

Additionally, it is the task of the organisation and the auditor to identify different levels of risk. While it is necessary that all the staff follow the trainings, it is key, however, that for certain critical activities additional measures are taken – such as their identification, the 4 eyes principle, periodical rotation, etc.

10. According to Question 19.5 - Block 2, an organisation has to have a complete and reliable list of all irregularities, fraud and corruption allegations and cases, What does it mean a “complete list” and what is the auditor expected to do to verify completeness? What do you mean by reporting line (Block 2 - Question 19.6)

Completeness means that all known allegations are included in the list. Checking completeness is part of standard audit work.

As regards the reporting line, the question shall be read and understood in its entirety. A reporting line is the channel used to report allegations, i.e. either through a mailbox, a phone number, a complaint box, or through a dedicated team/staff etc.

11. Can DG ECHO specify what is meant by “timely”?

This has to be assessed by the auditors. Benchmarks can be set in the Anti-fraud and anti-corruption policy. Follow-up of conclusions shall be done within the best deadline possible, particularly for disciplinary measures. Actions to improve internal controls may need more time.

12. Question 25.1 on compliance with rules provides a list of suggested rules and conditions. What is meant with 'inter alia' - should the auditor expand further, or is the suggested scope sufficient for the question (Block 2 – Question 25.1)?

The suggested scope is sufficient but the auditor based on his/her professional judgement can decide to enlarge the scope.

13. What evidence is required to demonstrate that the Organisation applies the rules referred under Block 2 - Question 25.7?

Questions 25.6 and 25.7 have to be read and understood in connection with question 25.5. It is related to overriding of established procedures and requires that there is a procedure that provides for such an approach and that a register of exception is validated at an appropriate level.

14. Could an internal procedure be considered as strong and acceptable even if it is not a formal written policy? Should we, as auditors, have written version before submitting our report?

The auditors should obtain sufficient evidence that an oral procedure/process exists, is applied consistently and effectively and is monitored. They should be in a position to provide DG ECHO with the same level of assurance.

15. As NGOs are not supposed to be engaged in warfare, how shall NGOs ensure compliance with IHL? NGOs are not the subject of IHL. What NGOs can do is to observe IHL compliance of state actors and combatants and to take into account IHL violations in their Response (Block 2 – Question 24).

This question is part of additional suitability requirements: here, the auditor is expected to look at the implementation of the rules and procedures ensuring that, when implementing humanitarian actions and in the case of actions implemented

in armed conflict situation, the applicant does not only comply itself with the humanitarian principles but that all its implementing partners comply as well.

16. Section 25: Does the questions regarding food and medical supplies apply solely to items purchased with ECHO funding or to all such items (Block 2 – Question 25)?

Any criterion is to be understood in the light of the question to which it relates. In this case, the focus is on the existence within the applicant NGO of adequate mechanisms based on which applicable rules and conditions are effectively used and complied with. Regarding more specifically procurement rules, auditors will examine how the procurement rules are effectively applied. In such a context, the focus is less on the specific contents of the rules than on the systems in place to have them effectively applied.

17. The procurement rules for medical supplies are based on some principles; is the reference to respect of international humanitarian law sufficient to ensure compliance of the procurement rules of the applicant NGO?

A difference needs to be made between the systems in place within the applicant NGO, which need to be conducive to ensuring effective compliance with any applicable procurement rules and the specific contents of those procurement rules (which may change from time to time, for instance where adjustments are needed to comply with specific requirements from a given donor). In any event, referring to IHL is of no use as the latter does not include detailed procurement rules.

18. Section 26 Protection of personal data "The Organisation has clear rules on protection of personal data": How to deal with contradictory regulations from the EU (GDPR vs ECHO/DEVCO)?

The Commission is not aware of any discrepancies between the GDPR and specific ECHO rules.

19. Question 28.3 refers to volunteers, could you provide a definition who to consider volunteers?

Definitions of volunteers are provided in the Financial Regulation ('volunteer' means a person working on a non-compulsory basis for an organisation without being paid) and in the EU Aid Volunteer Regulation ('volunteer' means a person who chooses freely and without pecuniary motivation to engage in activities that benefit a community and society at large).

C. ANNEXES 4A AND 4B

1. What do the Terms of Reference mean by ‘families’, ‘networks’ and ‘(con)federations’ of NGOs?

The ToR refer on several occasions to ‘families’, ‘networks’ and ‘(con-)federations’ of NGOs. The ToR use those various expressions together so as to ensure a wide coverage of the situation they intend to refer to, i.e. any situation where several NGOs have established structured coordination and cooperation patterns which are neither limited to the implementation of a given action nor established for the sole purpose of the implementation of a given action.

Structured coordination and cooperation patterns among NGOs that are members of said ‘families’, ‘networks’ or ‘(con)federations’ would in principle be based on, or result from, legally or non-legally binding arrangements (irrespective of their title - ‘contract’, ‘agreement’, ‘compact’, ‘partnership’, ‘gentlemen’s agreement’, ‘memorandum of understanding’, ‘common understanding’, ‘partnership’, etc.) concluded among the member NGOs whereby they all endorse, or subscribe to, a shared vision or mission or strategic approach(es) towards certain (common) goals.

The above covers both the situation where founding members conclude the arrangements and the situation where an NGO accedes or joins an already existing ‘family’, ‘network’ or ‘(con)federation’ (irrespective as to whether this acceding/joining NGO was already in existence or has been newly set-up by other members of the ‘family’, ‘network’ or ‘(con)federation’).

The sharing of common branding elements (as reflected e.g. in the name of the NGO or in addition thereto) would usually be a sign of the existence of arrangements of the sort referred to above.

The above-mentioned arrangements may include structured procedures (and possibly fora) whereby the members may or must coordinate their strategies, policies and activities and/or engage into cooperative arrangements whereby:

- the implementation of part or of the whole of humanitarian actions will systematically be entrusted on a privileged and non-competitive basis by the member(s) to which a grant has been awarded by a donor to one or several other member(s);
- in cases other than those covered, recourse will be had on a privileged and non-competitive basis to specific services to be provided by other members when the need for such services arises in the context of the implementation of an action for which the leading implementing member is not able to provide the services concerned by itself.

The above is not intended to be exhaustive and may be reviewed in light of the experience gained.

2. Which candidate NGOs should fill in Annex 4A?

Any NGO that is in one of the situations mentioned in the answer to the question “**What do the Terms of Reference mean by ‘families’, ‘networks’ and ‘(con)federations’ of NGOs?**” under this same section.

3. Given the complexity of the exercise and the specific demand DG ECHO formulates via its Annex 4A, how would DG ECHO recommend a family of FPA holders to take forward the exercise? One ex-ante for all partners using the same audit company, one per partner with the same annex 4A for each, other?

Each candidate organisation must present a filled-in Annex 4A. The contents of the various Annexes 4A so presented must by definition truthfully reflect the set-up of the family to which the candidate NGOs belong, in a consistent manner. This would imply in principle that the contents of the Annexes 4A concerned should be similar except to the extent necessary to reflect any particular role or expertise of a given candidate NGO in the overall family set-up. The auditors are expected to check, to the extent possible, that the content of the Annexes duly reflects the reality of the NGO.

4. Which candidate NGOs should fill in Annex 4B?

Annex 4B should be filled in those cases where there is no pre-existing cooperation agreement of the type mentioned in the answer to the question “**What do the Terms of Reference mean by ‘families’, ‘networks’ and ‘(con)federations’ of NGOs?**” under this same section, but there is a policy related to the use of Implementing Partners (IPs) and a methodology to be used for identifying the IPs with which the candidate NGO will work (using e.g. template MoUs).

5. If a candidate NGO falls under both situations, does the NGO need to fill in both annexes?

Yes, candidate NGOs falling under both situations need to fill in both annexes.

6. How should the candidate NGO clarify the implementation of EU-funded grants through a group of FPA holders?

Multi-partners agreements will be included in the upcoming FPA to facilitate the implementation of grants through a consortium of FPA members. Annexes 4A and B will not be applicable for Actions granted under this consortium approach with respect to FPA holding consortium members; these Annexes remain however relevant where the consortium operating under a multi-partners grant agreement intends to have recourse to non-FPA holding Implementing Partners.

7. How should Annexes 4A and 4B be filled in by the audit firm engaged by the candidate NGO to ensure adequate information is transmitted to DG ECHO?

This is a key exercise. Insufficient, vague or unsubstantiated information may result in situations which EU oversight bodies (such as the European Court of Auditors) may not find persuasive, with the possible calling into question of their compatibility with the applicable regulatory framework (the Humanitarian Aid Regulation and/or the Financial Regulation).

In this sense what DG ECHO would expect to find in these Annexes 4A and 4B is:

a) Clear replies about the activities performed by the candidate to ensure that it retains full responsibility for the actions implemented by another organisation of the network or federation.

This should be presented in the form of the list of activities performed by the candidate itself:

i) when reviewing the quality of the proposals;

ii) when monitoring the implementation of the activities and the results being achieved; and

iii) when reporting to DG ECHO, to ensure that in each step of the project cycle the specific and the general conditions of the agreement are complied with.

An explanation on how these activities will be documented and funded (they should ideally be charged to the action's budget as direct or indirect costs) should also be included, in case auditors want to confirm they have been actually performed;

b) Information showing that treasury management is ensured by the candidate and financial flows between the candidate and the IPs respond to a 'need-to-pay' principle. In other words, it will not be acceptable that as a matter of principle pre-financing be transferred in full to the international HQ of the Implementing Partner, and;

c) A detailed rationale for the set-up as intended to be used, accompanied by sufficiently detailed explanations on the functioning of said set-up. The candidate should detail the set-up including the names and the legal status of the IPs in each country of intervention. The rationale should focus on three issues:

▪ Efficiency: The information and explanations to be provided should demonstrate, with figures if possible, that the set-up intended to be used allows globally for an increase in the proportion of funds that are used to the direct

benefit of final beneficiaries all over the world (i.e. either in the form of cash transfer or the provision of supplies and services);

- Effectiveness: The information and explanations to be provided should demonstrate that the intended set-up allows to be present in more and/or remote locations, and;
- Technical expertise: The NGO may justify applying for funds implemented in a specific region/country or location based on its technical expertise or experience on a specific activity.

Arguments on efficiency and effectiveness can be reinforced by using counter-examples, i.e. without the intended set-up beneficiaries in some areas i) could not be assisted and/or ii) will receive less funds, since more funds will be devoted to cover fixed costs of the different offices of the same network.

8. In the context of family NGOs some of the policies are common for all the family members. Would DG ECHO consider acceptable these common policies and procedures?

DG ECHO expects that each NGO has its own procedures and policies. In those cases where the NGO belongs to a family of NGOs, any common policies and/or should be officially endorsed and adopted by the candidate NGO as being its own.

9. In the context of family NGOs most of the answers to questions under Block 2 would involve several members of the family and not just the candidate NGO. Where should we describe this articulation? Under each specific answer to each question or more broadly in Annex 4A?

Each ex-ante assessment report must refer to the specific candidate NGO. This articulation should be described under Annex 4A, since the questions refer to the existence of the policy, controls and/or systems at the organisation level.

10. While for other criteria in Blocks 1 and 2, the auditor is required to make a judgement, Annex 4A only asks for a fair description. Who will be making the judgement, if there is one, and based on which criteria?

DG ECHO will assess the description provided by the auditors using as benchmark the criteria described in the answer to the question “**How should Annexes 4A and 4B be filled in by the audit firm engaged by the candidate NGO to ensure adequate information is transmitted to DG ECHO?**” under this same section.

11. How would compliance with Article 204 of the 2018 Financial Regulation be assessed at an organisational level, when in practice the justification would often be action specific?

Article 204 of the 2018 Financial Regulation requires in effect that it be shown that, in the absence of financial transfers exceeding EUR 60 000 per Implementing Partner, it would be impossible or overly difficult to achieve the objectives of the humanitarian aid Action concerned.

DG ECHO has expressed in the answer to the question “**How should Annexes 4A and 4B be filled in by the audit firm engaged by the candidate NGO to ensure adequate information is transmitted to DG ECHO?**” under this same section and, in particular under point c) thereof, the need to provide a detailed rationale for the family organisational set-up, as well as the main criteria against which compliance with Article 204 of the 2018 Financial Regulation is to be assessed.

N.B. DG ECHO is currently intensively working on a more complex guidance related to Annexes 4A and 4B, therefore, we decided not to publish the replies to the questions from the webinar at this stage.