



AUDIT
OFFICE



REPUBLIC
OF CYPRUS

**SUBSIDY OF THE CONSTRUCTION OF A WINERY IN THE CONTEXT OF
THE MEASURE EPCD 3α «ENCOURAGING INVESTMENT ACTIVITY AND
STRENGTHENING OF COMPETITIVENESS IN THE WINE SECTOR»**



**AUDIT OFFICE OF THE REPUBLIC
SPECIAL REPORT no. ΚΟΑΠ/01/2021**

12 April 2021



AUDIT
OFFICE



REPUBLIC
OF CYPRUS

SUBSIDY OF THE CONSTRUCTION OF A WINERY IN THE CONTEXT OF THE MEASURE EPCD 3α «ENCOURAGING INVESTMENT ACTIVITY AND STRENGTHENING OF COMPETITIVENESS IN THE WINE SECTOR»

Executive Summary

AUDITED ENTITIES

Cyprus Agriculture Payment Authority

**Ministry of Energy, Commerce and Industry –
Industry and Technology Service**

Executive Summary

Cyprus Agricultural Payments Organization (CAPO), is the competent Authority for the execution of payments of subsidies of the National Program for Support of the Wine Sector (EPCD), Measure 3a «Encouraging investment activity and strengthening of competitiveness in the wine sector». Pursuant to The Cyprus Agricultural Payments Organization Law (214(I)/2020), CAPO assigned the implementation of the Measure to the Ministry of Energy, Commerce and Industry, based on a delegation agreement. Industry and Technology Service (hereinafter the delegated body) is designated as the Implementing Authority of the Measure.

Our Office carried out a compliance audit on a sample basis on payments executed in the context of the abovementioned Measure and the findings of the audit are stated in the Special Report of our Office no. ΟΑΠ/01/2019. Considering the findings, we deemed it necessary to carry out further audit on specific applications for subsidizing the construction of a winery submitted by a company, in the context of the 6th and 7th Call of the Measure, that concerned a total subsidy amount of €1.776.011.

The most important findings emerged from the investigation of the matter and recommendations are summarized in the following points:

- a.** The financial position of the company was not assessed for the purpose of verifying that is not "Undertaking in difficulty" at the time of submission of the two applications, in order to ensure its eligibility with the established conditions for participation in the Measure. We pointed out that, based on the information submitted, the applicant company, should have been classified,

at the time of submission of the two applications, as being “in difficulty” within the meaning of the relevant European Guidelines and therefore its applications should have been rejected.

In addition, the delegated body of the Measure has not established clear procedures for assessing whether the applicant company is in difficulty within the meaning of the relevant European Guidelines (2014/C 249/01).

We expressed our reservations and concerns regarding the way in which CAPO and the delegated body interpret the assessment of a company as being in difficulty and we suggested that the Ministry of Agriculture, Rural Development and Environment, as Managing Authority and CAPO should address the European Commission for clarification and guidance to ensure that applications are appropriately managed and to avoid the possibility of resulting to unduly paid amounts.

We also suggested that the delegated body should obtain and evaluate information regarding the financial position of the company, in the context of the assessment of its eligibility, records the findings and, accordingly, forwards or rejects the application.

- b.** The delegated body accepted the application for participation submitted by the company, in the context of the 7th Call of the Measure, despite the fact that the company had not obtained the required Planning Permit for the construction of the winery, setting as a condition that it should be obtained within a specified period of time. The delegated body also accepted insufficient and incomplete supporting documents submitted by the company with the applications for participation.

We suggested that the delegated body should not accept applications, that are not accompanied by all the required supporting documents and that the extension for the submission of the these should only be granted for the purpose of submitting clarifications or documents, which had already been issued and were not submitted inadvertently by the applicant.

- c. CAPO amended the terms of the Measure, after the time it was into force and that, in our opinion, resulted to unequal treatment of applicants. We mention that, the delegated body, considering the abovementioned amendments, approved the company's application submitted in the context of the 7th Call of the Measure, despite the fact that the company had not obtained the required Building Permit within the timeframe provided for by the terms of the Measure prior to the amendment.

We suggested that any changes to the terms of application of a Call should be made before the time it comes into force and not during the period is being applied the need for amendment of the terms should be duly substantiated and arise after conducting a general evaluation of the implementation of the Measure and not due to individual requests from beneficiaries.

- d. Insufficient evaluation, by the delegated body, of the bids submitted by the company for investments in furniture of a total amount of €200.350 and €124.461, in the context of the 6th and 7th Call of the Measure, respectively. In particular, no evidence appears that the delegated body examined information indicating that the company may had submitted false/counterfeit/artificial bids for investments in furniture. Despite the fact that the Internal

Audit Service of CAPO and the Certification Body mentioned the same finding, CAPO did not make any comments about it.

We suggested that the delegated body should evaluate bids more carefully and further investigate cases of bids with characteristics, that may refer to irregular actions (e.g., fictitious bids).

- e. Delegated body and CAPO granted consecutive time extensions to the applicant for the completion of the investment in the context of the 6th Call of the Measure. In particular, they granted sixtime extensions of a total duration of 32 months for the completion of the investment, which, according to information in the application form, it should have been completed within 30 months. We mention that, a relevant amendment was made to the terms of the 6th Call of the Measure before granting four out of the six abovementioned time extensions.

We suggested that the approvals/rejections of requests by beneficiaries should be duly documented and the supporting information be filed to the corresponding application file.

- f. CAPO granted a time extension to the company, from 15.11.2017 to 30.11.2019, for the execution of payment of the amount corresponding to the one of the advance payment for reasons of force majeure, which however are not documented under article 2(2) of Regulation (EU) no. 1306/2013. This finding is also a finding of the Certification Body.

We suggested that the Organization should adequately and duly substantiate its decisions, especially those concerning the granting of an approval by exception of the terms of the Measure for reasons of force majeure.

g. **The applicant**, in order to prove its ability to pay the share of its own participation in the investment, submitted, to the delegated body, bank account statements, according to which the amount corresponding to the share of its own participation was withdrawn after the time the application was submitted. As a result to the above, we pointed out that, a submission of a bank account statement alone does not guarantee the applicant's ability to pay the amount corresponding to the share of its own participation.

We suggested that the Organization should include a provision in the terms of application of the Measure, so that the document supporting the payment of the amount corresponding to the share of the beneficiary's participation be accompanied by a solemn declaration by the applicant, according to which the applicant assumes the responsibility of paying it.

Due to the significance of the findings, which may lead to unduly paid amounts and taking into account our obligations under Articles 325(2) and 325(3) of the Treaty on the European Union, as well as Article 8 of Regulation 883/2013/EU, we have informed the European Anti-Fraud Office (OLAF), in order to make its own assessment and recommendation as to whether there are grounds for further investigation. OLAF informed us that, after examining the information presented thereto, it considered that there were grounds for an investigation and that a case file has been opened, the investigations for which were ongoing.

It is pointed out that the company to which we refer belongs to the same interests with the companies referred to in the Special Report of our Office with no. ΤΠΟ/01/2021 "**Funding Scheme to Small and Medium-sized Enterprises**".



We emphasize that the references in this Report and the notification of the matter to OLAF do not in any way mean or should be construed as a charge against any person for committing criminal or other offenses.