

IRELAND



# ERDF FINANCIAL CONTROL UNIT

## Report 2000 / 2001



A Unit established by the  
Department of Finance  
with the support of  
the European Commission

March 2002

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## ERDF Financial Control Unit

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# Contents

	Foreword	4			
	ERDF Financial Control Unit	5			
<b>1</b>	<b>INTRODUCTION</b>	<b>7</b>	<b>4</b>	<b>GOING FORWARD: 2000-2006</b>	<b>17</b>
1.1	Background	7	4.1	National Development Plan 2000-2006	17
1.2	Financial Control Unit (FCU)	7	4.2	New organisational structures	17
1.3	Key objectives	7	4.3	Paying Authority	17
1.4	Key functions	7	4.4	Managing Authorities	18
1.5	Staff	8	4.5	Implementing bodies	18
1.6	Remit of the Financial Control Unit	8	4.6	Project database and IT system	19
1.7	Sample check on operations	8	4.7	Drawdown of funds	19
			4.8	Payment to final beneficiaries	19
			4.9	Department of Finance Circular	19
			4.10	Certification process	19
			4.11	Eligible expenditure	20
			4.12	Audit of EU funded projects	20
			4.13	Minimum 5% audit of transactions	20
<b>2</b>	<b>REVIEW OF PERFORMANCE – 2000/2001</b>	<b>9</b>	4.14	Audit of Cohesion Fund projects	21
2.1	Business plan	9	4.15	Financial corrections	21
2.2	FCU Multi-annual plan	9			
2.3	Development of audit approach	9		<b>APPENDICES</b>	<b>23</b>
2.4	Training and seminars	10	A	ERDF Financial Control Unit Progress 2000/01	25
2.5	Proposed Structural Fund computer system	10	B	Funding Flowchart for the BMW Regional Operational Programme 2000/06	26
2.6	European Commission and European Court of Auditors	10	C	Control check performed and organisations visited 2000/01	28
2.7	Participation in Interdepartmental Committees	10	D	European Commission (EC) Regulation No. 438/2001	29
2.8	Review of implementation of Regulation 2064/97	11	E	Department of Finance Circular 34/2001	35
2.9	Expansion of Unit	11	F	European Commission (EC) Regulation No. 448/2001	54
2.10	Accounts – 2000/2001	11			
2.11	Control checks completed	11		<b>Glossary of Abbreviations</b>	<b>56</b>
2.12	Response to recommendations	12			
<b>3</b>	<b>CONTROL CHECK RESULTS</b>	<b>13</b>			
3.1	Introduction	13			
3.2	Irregularity reports recommended	13			
3.3	Findings and recommendations	13			

## Foreword

This is the second Report issued by the ERDF (& Cohesion Fund) Financial Control Unit covering the years 2000 and 2001 and follows our first (1999) Report, published in May 2000.

The National Development Plan (NDP), incorporating the 2000-2006 round of EU Funding, marks a change in the financial management and control environment for Structural Funding in Ireland. New European Commission regulations have imposed additional requirements and responsibilities on member states aimed at strengthening the control and audit regimes for EU co-financed projects.

The regulations empower the Commission to impose financial penalties on member states in cases where irregular expenditure arises because of breaches of regulations or deficiencies in financial control systems.

This second Report reviews the work carried out during 2000 and 2001, and outlines in broad terms the findings and recommendations that arose in confidential control check reports completed by the Unit.

The Unit visited a total of 69 organisations during the two years 2000 and 2001 in the course of examining five Operational Programmes and a Cohesion Fund project. We would like to record our appreciation of the co-operation received from staff in the organisations visited.

The primary function of the control check report is to disclose clear findings and make constructive recommendations that contribute to improved financial management and control. By the nature of the findings and the organisations involved, the contents of the reports remain confidential to the Department of Finance, the Managing Authority for the Operational Programme and the European Commission.

*Chapter 3 – Control Check Results* outlines in general terms the principle findings and recommendations contained in the confidential reports and is aimed at highlighting, for a wider audience, the findings noted in the course of our work.

*Chapter 4 – Going Forward 2000-2006*, describes the principal features of the new Commission regulations and how Ireland has planned to adapt its financial management and control structures to comply with the new requirements.

The Financial Control Unit takes on new responsibilities for the current round of funding. It is now responsible for the verification of transactions to the value of a minimum of 5% of the expenditure eligible for ERDF aid within each Operational Programme or Initiative. For Cohesion Fund projects, the proposed minimum value to be audited is increased to 15% of eligible expenditure.

An additional five staff are being recruited to perform the additional verification role. The Unit will continue its existing functions, namely, to monitor and report on the adequacy of financial management and control systems for ERDF and Cohesion Fund projects and to encourage best practice in the continued implementation and development of these systems.

It is hoped that management and staff of organisations involved in the administration of Structural Fund aid will find the Report helpful in the continued development of their financial management and control systems.



Dermot Byrne CPFA  
Head of Unit  
1 March 2002



# ERDF Financial Control Unit

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# 1 Introduction

## 1.1 Background

In May 1997, a firm of consultants was engaged by the Department of Finance to review the financial management and control systems relating to the European Regional Development Fund (ERDF) and the Cohesion Fund.

One of the aims of the review was to establish a financial control and auditing structure, which would enable the Department of Finance to comply with the requirements of Commission Regulation (EC) No. 2064/97 of 15 October 1997. The Regulation set out the detailed arrangements required as regards the financial control by Member States of operations co-financed by the Structural Funds.

Broadly speaking the consultant's report (March 1998) reflected a need to formalise procedures rather than indicating any major problems in the system of financial management and control.

## 1.2 Financial Control Unit (FCU)

The Report recommended that a separate Control Unit be established "to further strengthen the system of interlocking controls between responsibility levels, and to properly authenticate the final certification to the Commission".

The Report further proposed that, given the Department of Finance's role as the national designated authority for ERDF expenditure, it was appropriate that the FCU be functionally independent of the Department in order to ensure, and demonstrate, transparency and objectivity in its work.

The Unit was set up on 1 December 1998 under the Community Support Framework and was 75% funded by the Technical Assistance Operational Programme for the 1994/99 round of funding. Up to December 2001, the Unit continued to work on the audit of the 1994/99 operations. At present the Unit is reviewing the implementation of recommendations arising from control checks.



*FCU personnel for the 1994/99 round of funding, from left: Michael Ryan (Controller), Dermot Byrne (Head of Unit), Frank O'Byrne (Administrative Support) and Ian Drennan (Controller).*

## 1.3 Key objectives

The key objectives of the Unit for the 1994/99 round of funding were to:

- independently examine and report on the level of compliance of EU funded projects with Structural and Cohesion Fund regulatory requirements
- contribute to the promotion of best practice in the financial management and control of EU aided programmes.

The Unit is committed to carrying out audits to the highest professional standards and to providing good quality, fair and balanced reports in a timely manner.

## 1.4 Key functions

In line with the key objectives outlined at 1.3, the key functions of the Unit were as follows:

- To review adherence to best practice by the Department of Finance, Lead Departments, Implementing Bodies and Final Beneficiaries, by reviewing the systems of financial management and control at each level.
- For each form of assistance, to review the implementation of systems-based audits by internal audit units in line with Finance Circular 23/98 and to comply with EU Regulation 2064/97 (Article 3.1(a)).

- To review the implementation of the minimum 5% verification of transactions by operational units in line with Finance Circular 23/98 and to comply with EU Regulation 2064/97 (Article 3.1(b)).

The main task of the Unit was the performance of control checks (audits) of expenditure claims submitted to the European Commission in order to:

- determine the level of compliance with eligibility and other regulatory requirements of the European Commission
- establish the effectiveness of the financial management and control systems in place, i.e. to prevent, detect and correct errors and irregularities and establish compliance with Finance Circular 23/98.
- test the audit trail for selected expenditure, by tracing amounts from claims back to the original expenditure.
- advise the Lead Department and other auditees of any irregularities or system weaknesses identified in the course of audit. This was done, firstly, by way of meetings with relevant management officials and, secondly, by way of formal management letters to the bodies concerned.
- furnish a Control Check Report to the Department of Finance, Lead Department and EU Commission outlining the findings, conclusions and recommendations of the control check.

## 1.5 Staff

The Unit was engaged on the audit of the 1994/99 round of funding for the period December 1998 to November 2001. During that time, the Unit's planned staff complement was 4, comprising the Head of Unit, two Controllers and an administrative support officer.

The Unit functioned with only one Controller for a significant period due to a 6 month re-assignment of an officer to the C&AG's Office and the resignation of that officer in July 2001. This effectively reduced the Controller resources by approximately 20% over the three year period.

## 1.6 Remit of the Financial Control Unit

The following are the 1994/99 Structural Fund expenditure programmes which fell under the remit of the Unit:

### (a) ERDF Operational Programmes:

1. Transport
2. Tourism
3. Economic Infrastructure
4. Environmental Services
5. Local Urban & Rural Development
6. Human Resources Development
7. Industrial Development
8. Fisheries
9. Technical Assistance
10. Tallaght Hospital (single project)

### (b) Cohesion Fund

1. Transport Infrastructure Projects
2. Environmental Projects

### (c) Community Initiatives

1. Interreg: Ireland-Northern Ireland
2. Interreg: Ireland-Wales
3. Leader II
4. Peace & Reconciliation Special Support Programme
5. PESCA
6. SME (Small & Medium Enterprises)
7. URBAN
8. RETEX

Operational Programmes are subdivided into Sub-programmes, which in turn are subdivided into Measures and Sub-measures.

## 1.7 Sample check on operations

The selection of measures and projects for examination by the Unit was in line with the requirements of Article 3 of EU Regulation 2064/97 i.e. on the basis of risk analysis having regard to the conditions that the sample of projects to be audited shall take account of:

- the need to audit an appropriate mix of types and sizes of projects or actions.
- any risk factors which have been identified by National or Community controls.
- the requirement that the projects selected for audit include the main implementing authorities and final beneficiaries before closure of each form of assistance.

## 2 Review of Performance – 2000/2001

### 2.1 Business plan

A Business Plan for the Unit was completed and agreed with the Department of Finance in May 1999. The plan adopted a medium term (30 month) strategic approach to its work programme in line with the contract period of the professional staff in the Unit.

The Plan addressed the key issues relating to its review of the financial management and control of ERDF and Cohesion Fund projects in Ireland.

The plan outlined:

- Key objectives and functions of the Unit
- Guiding principles
- Critical success factors
- Approach to control checks (audits)
- Responsibilities and duties of members of the Unit
- Risk assessment model
- Format of control check reports
- Multi-annual and year plans

### 2.2 FCU Multi-annual plan

The Unit planned to carry out control checks in two cycles over the period February 1999 to May 2001. Slippage of these targets occurred due to the staff constraints outlined at 1.5 and the decision to extend the remit of the Unit for 2000-2006, necessitating a time consuming consultation, planning and recruitment process during the latter half of 2001.

The Unit worked to a year plan for each calendar year scheduling planned control checks and other work assignments. The control checks and assignments carried out during 2000 and 2001 are outlined at Appendix A.

### 2.3 Development of audit approach

The Unit's 1999 Report referred to the development of Unit procedures and documentation:

- funding flowcharts for each of the Operational Programmes and other funding mechanisms under its remit



*The Southern Cross Motorway*

- Internal Control Questionnaires (ICQ's) to record financial control systems
- audit programmes and checklists.
- The development of a Risk Model to fulfil the requirements for a risk based approach to the selection of projects for audit.

These documents were used extensively in our audits during 2000 and 2001. They were the prime source of audit evidence supporting the methodology and scope of our examination and the findings and recommendations arising from the control checks.

The Unit has completed new funding flowcharts for the NDP programmes. An example of a funding flowchart for the Border Midlands and Western (BMW) Regional Programme 2000-2006 is at Appendix B.

## 2.4 Training and seminars

The Unit continued to contribute to a wide range of training and advisory activities relating to audit and financial control of Structural Funds during 2000 and 2001.

### (a) Ireland

The Unit took part in five training and information seminars for operational divisions and internal audit units directly involved in Structural Fund operations. The focus of the Unit's input was on the approach taken by Ireland to implement EU Regulation 2064/97 in relation to financial controls by Member States for EU co-financed operations.

In addition, three presentations were made to the Inter-departmental Internal Audit Network under the aegis of the Department of Finance's Centre for Management and Organisational Development, as well as at five internal audit training seminars organised by the Institute of Public Administration.

### (b) Accession countries

The Unit has participated in a total of 12 seminars organised for visiting delegations from EU accession countries. These visits are mainly facilitated by the Structural Fund Information Unit of the Department of Finance and, in some cases, by the Institute of Public Administration. The Unit has also been invited to visit accession countries to take part in training seminars.

As part of Ireland's twinning arrangements with Estonia, several visits have been made to that country to take part in training and other advisory activities to support their accession process.



Dublin Area Rapid Transit (DART)

The Unit has also contributed to enlargement seminars at the invitation of the European Commission. These seminars are designed to give, inter alia, administrators in accession countries a perspective on the approach taken by existing member states to the management of EU operations.

## 2.5 Proposed Structural Fund Computer System

The Unit contributed to the development of a Structural Fund database system, a significant additional feature of the financial management and control system for projects planned under the National Development Plan 2000-2006.

The database will facilitate computerised risk analysis and sampling exercises that were not possible for the 1994/99 round of funding, given the absence of an integrated and comprehensive computerised information system.

The computer system was installed to comply with Article 18 of Commission Regulation (EC) No. 438/2001, requiring the maintenance of accounting records in computerised form which can be made available to the Commission on request.

## 2.6 European Commission and the European Court of Auditors

The Unit has regular contact with officials of European Commission (DG Regio) and the European Court of Auditors (ECA).

The Unit participated in 'Co-ordination of Controls' meetings in Brussels in February 2000 and March 2001 in line with the requirements of Article 6 of Regulation 2064/97. The purpose of these meetings was to outline the Irish audit programme relating to Structural Fund projects and to co-ordinate Ireland's audit plans with those of the various European Commission Directorates and the ECA.

## 2.7 Participation in Interdepartmental Committees

The Unit, on its establishment, became a member of ICSEM (Interdepartmental Committee on Sound and Efficient Management) a group that meets to discuss issues arising from Ireland's approach to financial management of the Structural Funds.

The Unit is also a member of the Protocols Internal Audit Units (PIAU) Committee. This Committee deals with issues relating to the protocols for financial control, audit and closure of the Operational Programmes.

In relation to the 2000-2006 round of funding, the Unit attends the meetings of the NDP/CSF Technical Assistance Monitoring Committee and keeps the Committee advised of the Unit's progress. The Unit is 50% funded from the Technical Assistance Operational Programme in the current round as compared to 75% for 1994/99.

## 2.8 Review of implementation of Regulation 2064/97

In February 2001, both the ECA and DG Regio (European Commission Audit Unit) carried out reviews of Ireland's implementation of Regulation 2064/97.

This entailed an assessment of the functions of:

- the Financial Control Unit,
- a sample of internal audit units, responsible for carrying out systems-based audits, and,
- a sample of operational units responsible for the performance of the minimum 5% verification of transactions required by the Regulation.

Their main findings and recommendations, impacting on Ireland's future audit approach, included:

- responsibility for the minimum 5% transaction testing for the 1994/99 programming period rested with operational units in Lead Departments and Implementing Agencies.
- there was a multiplicity of agencies involved in systems for checking expenditure returns with a consequent risk regarding the consistency of methodology and quality of the checking carried out.
- in future checks should be carried out by a functionally independent unit

Following the Commission's audit mission, the Department of Finance decided to assign responsibility for carrying out the minimum 5% verification checks (required by Article 10.1(b) of Commission Regulation (EC) No. 438/2001) to the Financial Control Unit for the 2000-2006 Programming period.

Responsibility for the systems audits required under Article 10.1(a) of the Regulation will remain with the internal audit units operating within the relevant departments and agencies.

Table 1

## Financial Control Unit Accounts – 2000/2001

Expenditure heading	1998/99	2000	2001
	(13 months)		
	€	€	€
Payroll	148,421	160,344	170,901
Computer equipment	25,265	3,612	22,627
Furniture and fittings	5,898	2,013	2,869
Travel and subsistence	12,426	15,271	7,829
Telecommunications services	2,769	1,615	305
Training	1,484	4,124	3,147
Subscriptions	930	249	1,260
Publications	286	9,628	402
Recruitment	0	0	10,316
Other office expenses	2,651	2,065	3,595
<b>Total</b>	<b>200,130</b>	<b>198,921</b>	<b>223,251</b>

Source: FCU records

## 2.9 Expansion of Unit

As a result of the decision to extend the remit of the FCU, it is planned to increase the staff complement from four to a total of nine officers. It is estimated that three Controllers and four auditors are required to implement the required audit plan. This may need to be supplemented by further staff or, alternately, by contracting-out audits as the need arises.

The initial recruitment process took place during the period July to October 2001 and four new staff (one Controller and three Auditors) took up positions at the end of November 2001. It is expected to fill the remaining vacancies by April 2002.

## 2.10 Accounts – 2000/2001

The total expenditure of the Unit for the years ended 31 December 2000 and 2001 was €198,921 and €223,251 respectively. (See Table 1)

## 2.11 Control checks completed

During 2000 and 2001 control checks for the following Operational Programmes were performed and/or were the subject of final reports:

- Human Resources Development  
(Performed 1999 – Report January 2000)
- LEADER II Community Initiative  
(Performed 1999 – Report February 2000)

- Economic Infrastructure  
(Performed 2000 – Report August 2000)
- Transport  
(Performed 2000 – Report September 2000)
- Local Urban and Rural Development  
(Performed 2000 – Report February 2001)
- Industrial Development – 2nd control check  
(Performed 2001 – Report May 2001)
- Cohesion Fund - Rail Project  
(Performed 2001 - Report outstanding)
- Environmental Services  
(Audit being finalised)

The Unit visited a total of 69 organisations during the two years 2000 and 2001 in the course of examining five Operational Programmes and a Cohesion Fund project. A detailed breakdown of the control checks completed and organisations visited during 2000 and 2001 is at Appendix C.

## 2.12 Response to recommendations

We have had a satisfactory and encouraging response from audited bodies to our findings. In line with our recommendations, organisations have implemented proposed improvements and corrections, in many cases prior to completion of the Control Check Report.

The Department of Finance has also communicated with Lead Departments regarding our findings to ensure that corrective measures have been, or are in the course of being, implemented.



*Footbridge over the M50*

The Unit has conducted a second control check on the Operational Programme for Industrial Development (May 2001).

At the date of this report, we have communicated with all the Lead Departments to review the implementation of recommendations arising out of the control check reports. The Unit will review the responses prior to closure of the Programmes.

## 3 Control Check Results

### 3.1 Introduction

The findings and recommendations resulting from control checks on Operational Programmes remain confidential to the European Commission, the Department of Finance and the Lead Department involved.

The purpose of this chapter is to broadly outline the issues raised by the Unit in order to increase awareness of the problem areas in relation to the financial control of Structural Funds. The summary findings therefore make no reference to the organisations involved.

### 3.2 Irregularity reports recommended

Where the Unit established that a material error or irregularity occurred, we have asked that an irregularity report be submitted to the European Commission in accordance with the requirements of Commission Regulation 1681/94 – Irregularities and the recovery of sums wrongly paid ([www.europa.eu.int/eur-lex](http://www.europa.eu.int/eur-lex)).

The Regulation requires Member States to report errors or irregularities that are over €4,000 in value and which could result in, or have the potential to result in, an overclaim of ERDF aid.

For the period 2000-01, the Unit recommended that irregularity reports should be submitted in 86 instances. The total value of the irregularities in absolute terms, i.e. the amount of overstated and understated declarations, amounted to €76,507,444. Table 2 sets out the main categories of irregularities and the amounts involved. For the two years ended 31 December 2001, understatements totalled €23,742,060, leaving an amount of €52,765,384 as the net amount of expenditure overstated in irregularity reports arising from this Unit's recommendations.

### 3.3 Findings and recommendations

#### (a) Audit trail

A key control examined during the control checks was the adequacy of the audit trail as regards the clarity and availability of supporting documentation for expenditure returns at each level of the cascade.

While the audit trail was generally satisfactory in most of the organisations visited it was noted that there were problems in this

**Table 2**

#### FCU – Irregularity Reports Recommended

Type of irregularity	No. of cases	€'000
Expenditure return errors	22	48,421
Misstatements of private matching funding	2	15,741
Ineligible expenditure	21	7,820
Advances	14	2,796
Transcription errors	11	603
Duplicate amounts	5	585
Ineligible accruals	6	448
Unsupported expenditure	3	70
Unexplained difference	1	13
Deductions from grant payments	1	10
<b>Total</b>	<b>86</b>	<b>76,507</b>

**Note:** Figures are absolute values

*Source:* Control Check Reports

area at Lead Department level for each of the control checks carried out. Audit trail difficulties were also noted in several Local Authorities visited.

#### (b) Expenditure return errors

##### *Private expenditure*

In one Operational Programme, overstatements of expenditure amounting to €34.9m and understatements of €12.6m were identified in an expenditure return submitted to the European Commission.

The overstatements arose due to the inclusion of private expenditure in 6 measures that did not allow for this type of expenditure.

The understatement resulted from the omission of private expenditure from measures where private expenditure should have been returned as eligible expenditure.

##### *Transcription errors*

In the Operational Programme for Local Urban and Rural Development 21 errors were identified, comprising overstatements totaling €246,701 and understatements totalling €109,157.

This Unit identified 7 overstatements amounting to €439,084 and 7 understatements amounting to €1,860,429 during a control check on the Operational Programme for Transport.

These errors resulted from the inaccurate assimilation of expenditure figures from aided bodies into the aggregated expenditure claims compiled by organisations at a higher level in the funding cascade. Inadequate checking procedures and non-standardised expenditure return forms contributed to these errors.

#### *Duplicate amounts*

Amounts relating to 4 projects were included in an expenditure return submitted by an implementing body to a Lead Department in respect of a single Measure under the Transport Operational Programme. The Lead Department included the expenditure figures in duplicate in its expenditure return to the paying authority by including the expenditure under an additional Measure. This resulted in an overstatement of €87,510.

In another case expenditure was incorrectly included twice under two separate measures resulting in an overstatement of €497,915.

#### *Permanent salaries*

Expenditure in excess of €2.5m, which related to payroll costs of staff involved in measures not co-financed by the EU, was included in expenditure returns to the Department of Finance. This occurred due to a breakdown in communication between two sections of the Lead Department.

#### *Totting errors*

Totting errors were identified during control checks and resulted in an understatement of eligible expenditure in the amount of €168,742.

#### *Refunds incorrectly treated*

Eligible expenditure reported by a Lead Department included an amount of €85,072 relating to a refund received from an implementing agency. While the amount in question was identified by the implementing agency as a refund, the Lead Department included the amount in its expenditure summary, thereby incorrectly overstating eligible expenditure by that amount.

### **(c) Ineligible expenditure**

#### *Loss on resale of site*

An 8 acre site was purchased by an implementing agency for €279,342 to build new premises for a final beneficiary. A more suitable site subsequently became available and the implementing agency sold the original site at a loss of €50,790 which it included in its grant claim. As the original site was not used by the body for the construction of new premises the loss of €50,790 was ineligible.

#### *Inter-company profit*

An external audit performed on behalf of a Lead Department found that an amount claimed by a final beneficiary for the purchase of equipment from a wholly owned subsidiary company contained a significant profit margin.

However, the external auditor did not consider that an irregularity report was required. On examining the transaction, this Unit considered that only the cost of the equipment to the group was eligible and that the profit element constituted ineligible expenditure in the amount of €315,025.

#### *Valued Added Tax (VAT)*

VAT recovered by a wholly owned subsidiary of a final beneficiary, was returned as eligible expenditure. Where input VAT is recoverable by a group of companies, only the net cost to the group should be returned as eligible expenditure. The Unit estimated that the VAT recovered, and incorrectly claimed, amounted to €132,093.

#### *Operating costs*

Electricity costs of €9,282 were charged to a capital project and were incorrectly returned as eligible expenditure for ERDF purposes.

In another case, bank overdraft interest in the amount of €5,051 was returned as eligible expenditure by a final beneficiary. Operating costs are generally ineligible and irregularity reports were recommended in each of these cases.

#### *Account transfers*

Four County Enterprise Boards (CEB's) were audited during a Control Check on the Local Urban and Rural Development Operational Programme. Two CEB's had returned account transfers in the amounts of €11,428 and €40,623 as eligible expenditure to the Lead Department. Account transfers do not represent actual expenditure and were therefore ineligible for co-financing.

#### (d) Development project weaknesses

A grantee received a capital grant of €63,487 from an implementing agency for the purchase of a premises and provision of a business development centre to provide premises for new enterprises at competitive rental levels.

During our control check visit we noted:

##### *Lack of progress*

Despite grant-aid approval of almost €1,066,580 and receipt of EU co-financed grants in excess of €285,691 the grantee had made virtually no progress towards its stated objective of providing a business development centre. The premises were found to be in a state of disrepair and not in use.

##### *Potential cost overruns*

Whereas the original estimate for refurbishment was €406,316 a subsequent report commissioned by the grantee estimated the total cost of refurbishments and improvements at €2m.

The grantee company, which had a substantial overdraft, accepted that if expenditure of these levels was required to complete the project, it could not be made financially viable. It further accepted that the revised estimate would require rents at a level considerably in excess of current market levels.

##### *Private funding shortfall*

The grant application included a projected amount of €152,000 required from private fundraising to successfully complete the project. The company, however, was able to raise only €28,000 from private sources and needed to borrow heavily to continue in operation and was unlikely to have the financial resources to complete the project.

##### *Breach of grant conditions*

Grants totaling €222,754 were drawn down by the grantee on the basis of a solicitor's cash account on which the date of payment was stated incorrectly. At the date of receipt of the grants, the grantee had no entitlement to these amounts, as it had not fulfilled the grant conditions with regard to expenditure having been both incurred and paid.

Similarly, the granting agencies in question paid the grants in advance of ensuring that the necessary grant conditions had been satisfied.

In light of our findings we recommended that the following action be taken:



*The Dunleer-Dundalk Motorway*

- the Lead Department, in conjunction with the Managing Authority, should initiate a joint investigation into the project and should instruct all relevant Departments and Agencies having dealings with the project to withhold all further grant aid, pending completion of the investigation
- due to the company's lack of progress towards its stated aims, grant recovery proceedings should be initiated
- amounts in respect of this project already reported to the European Commission as eligible should be deducted from the relevant expenditure returns and irregularity reports submitted in respect of the ineligible expenditure
- appropriate steps should be taken to ensure that in future, implementing Departments and Agencies do not pay grant aid before ensuring that the underlying expenditure have been incurred and paid and that, prior to payment, adequate evidence of this has been furnished
- project monitoring and appraisal procedures should be reviewed as a matter of priority.

#### (e) Advance payments

Expenditure is only deemed to be eligible expenditure if it has been incurred and paid by final beneficiaries. In one case an implementing agency returned as eligible expenditure, advance payments which it made to final beneficiaries.

These advances included payments in respect of construction type projects including new research facilities. Advances of this type were made in 6 cases and amounted to €1,540,615.

The FCU considered that such advances were unnecessary as the related expenditure was often incurred many months after the advance had been made. In any event, the advances should not have been returned as eligible until the expenditure had been incurred and paid by the final beneficiary.

In another Operational Programme the Lead Department returned, as eligible expenditure, advances to two implementing departments in the amount of €421,868 and €770,119.

#### **(f) Accruals**

In 6 cases, accrued amounts were included in expenditure returns rather than actual expenditure, which had been incurred and paid at the date of the claim. The total amount involved was €447,621. We recommended that irregularity reports should be submitted in each of these cases.

#### **(g) Income omitted**

A Lead Department compiled eligible expenditure from figures in the annual report of an implementing body final beneficiary rather than from that body's monthly drawdown claims. However, income relating to the operation in the accounts was omitted, resulting in the ERDF expenditure returned to the Department of Finance being overstated by €155,262.

#### **(h) Failure to respond to queries**

Three organisations visited, a Lead Department, an implementing body and a final beneficiary either, failed to respond or did not respond in a timely manner to queries raised by this Unit.

This Unit considers failures of this nature as serious and may be potentially costly if repeated in the new programming period. The European Commission may impose financial corrections where prompt action has not been taken to correct weaknesses discovered by member state auditors.

#### **(i) Notional pensions**

In the case of two Operational Programmes, notional pensions were returned as eligible expenditure without any pension provision having been made in the financial statements of the organisations concerned. These cases included an implementing body and several final beneficiaries.

A DG XX audit report on another Operational Programme stated that '*in the absence of any provision in the agency's accounts for future pensions, notional contributions to the cost of pensions are not eligible*'.

We requested the implementing bodies involved in the two Operational Programmes to quantify the notional pension amounts which they had incorrectly returned as eligible expenditure. We also requested that they submit irregularity reports to the EU Commission in respect of this expenditure.

At the date of this report one of these agencies had returned an irregularity report in the amount of €492,658.

#### **(j) Other ineligible expenditure**

Expenditure in the amount of €20,316 on a weather station to monitor driving conditions was returned for a particular co-financed road project. The control check found that the weather station was in fact located a number of miles away on another unconnected road project.

#### **(k) Audit certificates**

A number of implementing bodies place reliance on auditor's certificates in support of grant claims from final beneficiaries.

While this Unit welcomes the additional assurance afforded by independent audit certification, in several instances errors were noted in the amounts and types of expenditure included in the certified claims.

This Unit recommends that, in such cases, the final beneficiary should also submit a schedule of the expenditure items comprising the claim to allow spot checking by the implementing agency. The schedule should include the following information:

- Expenditure details
- Date of invoice and supplier name
- Date of payment
- Date of encashment of cheque payment
- Bank statement reference

#### **(l) Estimated amounts**

An implementing body submitted expenditure returns to the Lead Department based on estimated private matching expenditure.

Estimates of expenditure are not allowed by the Commission and only actual expenditure incurred and paid should be reported. A recalculation of the private expenditure, based on the actual expenditure incurred revealed overstatements of €4.66m and understatements of €11.1m respectively.

## 4 Going Forward 2000-2006

### 4.1 National Development Plan 2000-2006

In November 1999, Ireland submitted to the European Commission a National Development Plan for 2000-2006 setting out priorities for investment. Unlike previous Plans, which were drawn up exclusively for the purposes of securing the use of Structural Funds, the 2000-2006 NDP was designed to address the State's development needs.

The Plan is therefore much broader in scope and size. Structural Funds and exchequer resources are being used in an integrated investment plan and strategy for economic and social development for 2000-2006.

In total, the Plan involves investment of €51.5 billion and investment throughout is broken down by Regional Assembly area between the Border Midlands and Western Regional Assembly (BMW Region) and the Southern and Eastern Region (S&E Region).

Planned expenditure by region is set out in Table 3.

The Structural Funds contribution to the Operational Programmes, is approximately €3.7 billion.

Table 4 (overleaf) outlines the Structural and Cohesion Funds available to Ireland for NDP 2000 - 2006.



Staff of the Financial Control Unit, February 2002: from left, back: Noel Salmon (Auditor), Niamh O'Shaughnessy (Admin. Support), Tom Whelan (Auditor), Michael Buckley (Auditor); from left, front: Michael Ryan (Controller), Dermot Byrne (Head of Unit), Chris Donnelly (Controller).

### 4.2 New organisational structures

Council Regulation (EC) No. 1260/1999 ([www.europa.eu.int/eur-lex](http://www.europa.eu.int/eur-lex)) which lays down general provisions for implementation of the Structural Funds in member states provides for separation of duties between organisations termed as

- (i) Paying Authorities, and,
- (ii) Managing Authorities.

### 4.3 Paying Authority

The role of the Paying Authority relates to Structural Funds co-financed measures only. The Paying Authority (Department of Finance for ERDF aid) undertakes the following roles:

- submitting not later than 30 April of each year expenditure forecasts to the Commission for the current and following year (Article 32.7 of Council Regulation (EC) No. 1260/1999)
- managing the payment on account of Funds
- drawing up and submitting certified payment applications to the Commission on the basis of expenditure actually incurred by the final beneficiaries

**Table 3**

#### NDP planned expenditure (2000-2006) by Region

Programme	S&E Region (€ million)	BMW Region (€ million)	Total (€ Million)
Economic and Social Infrastructure	16,402	5,958	22,360
Employment and Human Resources	8,957	3,598	12,555
Productive Investment	3,626	2,099	5,725
S&E Regional Programme	3,791	-	3,791
BMW Regional Programme	-	2,646	2,646
CAP Accompanying Measures	1,849	2,475	4,324
PEACE	-	127	127
<b>All Programmes</b>	<b>34,625</b>	<b>16,903</b>	<b>51,528</b>

Source: National Development Plan 2000/06

Table 4

## EU Structural and Cohesion Funds available to Ireland for NDP 2000-2006

	Structural Funds Contribution (€ million)	Cohesion Funds Contribution (€ million)	Total (€ Million)
Economic and Social Infrastructure	721	576	1,297
Productive Sector	425	-	425
Employment and Human Resources	839	-	839
Regional OPs	1,074	-	1,074
PEACE OP	105	-	105
<b>Total</b>	<b>3,164</b>	<b>576</b>	<b>3,740</b>

Source: National Development Plan 2000/06

- recovering sums due to the Funds and the application of financial corrections where they arise as a result of the discovery of administrative errors, or from events arising from the management of the programme or from the discovery of irregularities.

#### 4.4 Managing Authorities

The Managing Authorities are the bodies which drafted the Operational Programmes supporting the National Development Plan. They are required to assemble the statistical and financial information required for monitoring and evaluation of operations (Regulation 438/2001, Article 34.1 – Appendix D).

The Authority must submit an annual implementation report on progress on their Operational Programme to the Commission.

The principal responsibilities of the Managing Authority in respect of financial management and control procedures are to ensure that:

- systems are in place to implement the statutory financial management and control obligations relating to ERDF expenditure and that EU co-financed expenditure is accounted for
- responsibilities for project/measure implementation are formally documented at the various levels in the cascade.
- conditions set out in formal grant approval agreements are being observed
- procedures to cover ongoing monitoring and physical implementation are being applied by way of formal spot-checking.

The Managing Authority submits payment claims to the Paying Authorities. The Managing Authority must ensure that a clear audit trail exists from individual payments by final recipients to the summary details given in expenditure declarations to the Department of Finance.

#### 4.5 Final Beneficiaries

Managing Authorities have overall responsibility for the implementation of their Operational Programme. Detailed implementation of measures and schemes is usually left to final beneficiaries (grant approving bodies), i.e. organisations (including Government Departments, state-sponsored bodies or public authorities) responsible for delivery and management of services in the particular area covered by the Measure.

It is these bodies that are usually responsible for managing individual schemes and selecting projects to receive funding.

In general the role of the final beneficiaries is:

- to review and approve project applications received from project sponsors and ensure that the expenditure in project applications is eligible, accurate and complete.
- ensuring that there is no duplication of EU funding
- to monitor projects, namely the verification of physical and financial progress, carrying out programmes of spot checks of individual projects, notification of irregularities and ensuring that projects comply with all national and EU requirements
- to review, approve and pay project payment claims and prepare drawdown claims for the Managing Authority.

#### 4.6 Project database and IT system

A new development for the 2000 – 2006 programming period is the introduction of a computerised management information system. Electronic transfer of information is a requirement of Article 18 of Council Regulation (EC) No. 1260/99. Paying and Managing Authorities will use a new NDP/ Structural Funds computer system, which will allow transfer of information into a central database in the NDP/CSF IT Unit under the aegis of the Department of Finance.

The system will track progress on all projects and measures supported under the NDP/CSF and will also be used to calculate the appropriate drawdowns from the EU.

The database, by providing regular and up-to-date information on progress, is designed to assist the relevant bodies responsible for evaluation, monitoring and financial control in the performance of their duties.

#### 4.7 Drawdown of funds

Funds are paid to member states in the form of an initial advance (payment on account) of up to 7% of the commitment when the Operational Programme is approved by the Commission (Article 32.2 of Council Regulation 1260/99). Payments on account are made in respect of each Operational Programme to the Paying Authority for each of the Funds. After this payment is made, all future claims from the EU must be based on certified expenditure incurred.

The final balance is paid once the Paying Authority submits a certified statement of expenditure and the Managing Authority has submitted the final implementation report.

An independent statement of assurance summarising the adequacy of control checks carried out is also required from the Internal Auditor of the Paying Authority at the closure of the programme (Articles 32.4 and 38.1(f) of Council Regulation 1260/99).

#### 4.8 Payment to final beneficiaries

There are a number of different methods of paying funds to final beneficiaries. These vary depending on the Fund concerned.

In the case of the ERDF and Cohesion Funds, financing is usually transferred via the normal vote accounting system – for example, via Government Departments to Local Authorities.

However, other systems are also used. For example, in the case of many R&D projects, once one third of the project has been completed, the final beneficiary will seek to draw down part of their grant from Enterprise Ireland, who claim from the Department of Enterprise, Trade and Employment, who in turn claim to the Paying Authority (in this case the Department of Finance, as Paying Authority for ERDF).

#### 4.9 Department of Finance Circular

Department of Finance Circular 34/2001 (July 2001) – Financial Management and Control Procedures for the European Regional Development Fund (ERDF) 2000-2006 sets out the mandatory procedures to be followed by Operational Programme Managing Authorities, Intermediate Bodies and Final Beneficiaries in relation to the processing and certification of claims for ERDF payments and the implementation of required financial control systems. The Circular is at Appendix E.

#### 4.10 Certification process

Department of Finance Circular 34/2001 sets out the manner in which expenditure is certified as eligible before an expenditure return is made. Certification involves having procedures in place which demonstrate explicit sign-off at different levels of responsibility to ensure that sound and efficient financial management and control procedures are in place and that an adequate audit trail exists.

The Circular identifies three levels of responsibility:

- Level 1 – Final Beneficiaries/Grant Approving Bodies which commission operations and/or implement the activity
- Level 2 – Intermediate Bodies acting on behalf of Managing and Paying Authorities
- Level 3 – Managing Authorities

Level 1 bodies will be responsible for reporting and certifying the accuracy, actuality and eligibility of the expenditure and submitting a schedule of project expenditure to Level 2.

Level 2 will be responsible for aggregating expenditure information from Level 1 and for certifying and reporting summary expenditure to Level 3, accompanied by a supporting schedule of expenditure. This level will also certify that required control procedures are in place at Level 1 and that steps (including spot-checks) have been taken to give reasonable assurance that the amount returned is correct.

Level 3 (Managing Authority) will be responsible for aggregating expenditure information coming from level 2 and submitting Programme expenditure to the Paying Authority indicating the priorities (sub-programmes), accompanied by a schedule of the Level 2 returns. In turn, the Managing Authority will certify that required control procedures are in place at Level 2 and that steps (including spot-checks) have been taken to give reasonable assurance that the amount returned is correct.

#### 4.11 Eligible expenditure

Commission Regulation (EC) No. 1685/2000 sets out rules detailing the type of expenditure that can be co-financed under the Structural Funds. The rules cover those areas which have proved the most problematic to judge in terms of their eligibility under the Structural Funds. The rules are designed to eliminate uncertainties over what is, or is not, eligible.

The Regulation, condenses the existing eligibility regulations into the following 12 headings:

1. Expenditure actually paid out
2. Accounting treatment of receipts
3. Financial and other charges and legal expenses
4. Purchase of second-hand equipment
5. Purchase of land
6. Purchase of real estate
7. VAT and other taxes and charges
8. Venture capital and loan funds
9. Guarantee funds
10. Leasing
11. Costs incurred in managing and implementing the Structural Funds
12. Eligibility of operations depending on the location

These are elaborated on in the Regulation which can be accessed at the [www.europa.eu.int/eur-lex](http://www.europa.eu.int/eur-lex) website.

#### 4.12 Audit of EU funded projects

The framework for proper financial management, control and audit is set out in Council Regulation (EC) No. 1260/99 and Commission Regulation (EC) No. 438/2001 (replacing Regulation 2064/97).

Audits and control checks are required to trace transactions and validate the declared outputs and expenditure from a project. Therefore, a clear audit trail should be established between summary expenditure returns to individual payments to the final beneficiary and should allow reconciliation of amounts certified to the Commission with individual expenditure records and supporting documents at various administrative levels.

#### Audit entities

The following bodies undertake the auditing of ERDF and Cohesion Fund expenditure:

- Court of Auditors (external auditor of the European Commission) carry out audits of any body or organisation receiving EU funds.
- The audit services in various European Commission Directorates General (DGs). These can carry out audits of financial systems or expenditure claims, and also carry out performance audits.
- The internal auditors of Government Departments or other public bodies involved in Structural Fund assistance, carry out audits on the operation of management and control systems. Internal audit units are functionally independent of Paying Authority and Managing Authority operational functions.
- The ERDF Financial Control Unit carries out Control Checks which independently test check systems and transactions in all cascade organisations. In addition, for the 2000-2006 round of funding it has the additional responsibility for the minimum 5% verifications required by Article 10(b) of Regulation 438/2001 (See section 4.13).
- Auditors of individual project managers can verify the accuracy of expenditure returned as eligible. The statement prepared at this level must verify that the expenditure meets all EU requirements. However, such audits form part of the control regime for payment rather than an ex-post audit process as carried out by the bodies above (see 3.3(k)).

#### 4.13 Minimum 5% audit of transactions

There are two types of control checks required by Article 10 of Regulation 438/2001 (See Appendix D) in relation to Structural Funds:

1. Article 10.1(a) requires the verification of the effectiveness of the management and control systems in place. These systems based audits are carried out by the Internal Audit Units at the various levels in the cascade.
2. Article 10.1(b) requires selective verification, on the basis of risk analysis, of expenditure declarations made at the various levels concerned. These verification checks are the sole responsibility of the ERDF Financial Control Unit.

Article 10.1(b) checks must cover at least 5% of the total eligible expenditure and be based on a representative sample of the operations approved, spread evenly over the period (2000-2006).

The selection must take account of

- an appropriate mix of types and sizes of operations, and,
- any risk factors identified by national or Community checks.
- The concentration of operations so that the main intermediate bodies and final beneficiaries are checked at least once before the winding-up of assistance.

The Financial Control Unit will also examine financial management and control system procedures to ensure that these are adequate.

The audit reports will be conveyed to the Managing Authority concerned, the Paying Authority and the European Commission. The Court of Auditors will also have access to these reports. Any system deficiencies or errors identified by Internal Audit Units or the Financial Control Unit will require urgent remedial action. However, the onus for the introduction, maintenance and operation of satisfactory controls for co-financed activity will be the absolute responsibility of the Managing Authority.

#### 4.14 Audit of Cohesion Fund projects

Regulation 438/2001 applies to Structural Funds. Proposed regulations for the Cohesion Fund require that a minimum of 15% of eligible expenditure should be subject to verification. The regulation will probably come into effect later in 2002. As with ERDF operations, the minimum 15% will be carried out by the ERDF FCU and systems based audits will be conducted by internal audit units.

#### 4.15 Financial corrections

Commission Regulation (EC) 448/2001 (Appendix F) provides the legal basis, and sets out the procedures, for making financial corrections to assistance granted under the structural funds.

The European Commission has established a number of principles with regard to determining financial corrections. If the applicable rules and regulations are respected, and all reasonable measures are taken to prevent and detect fraud and irregularity, no financial corrections will be required.

If the applicable rules and regulations are respected, but the management and control systems need to be improved, there should be pertinent recommendations, but no financial corrections need be envisaged. If there are deficiencies in the respect of the



The proposed M50/N3 interchange

applicable rules and regulations, financial correction should always be made.

The amount of the financial correction will be assessed wherever possible on the basis of individual files. If the irregularity appears systemic or covers a great number of similar operations or projects, the correction should be based on an extrapolation of findings from a representative sample of individual files or on an evaluation of the actual risk of loss. Where internal audit units or operational units detect deficiencies and remedial action is taken, and the irregularity reported to the Commission, the funds concerned can be re-allocated.

Flat rate corrections will be applied to all expenditure under the measure or measures concerned unless it can be demonstrated that the deficiencies were limited to certain areas of expenditure. There will be an opportunity to demonstrate to the Commission that the loss or risk to the Funds was less than the corrections proposed by the Commission.

##### *Types of corrections*

The Commission can apply the following types of the corrections:

- *Specifically quantified corrections*  
Corrections made where a quantifiable irregularity is detected for an individual operation or several individual operations. These will be applied where it is feasible to quantify the correction. This would be the case where operations or parts thereof are ineligible or do not respect EU legislation.
- *Extrapolated corrections*  
These will apply where the auditor has detected in a representative sample of transactions a quantifiable irregularity that can be assumed will have recurred in other operations of the same type, or throughout a measure, sub-programme or operational programme. The Commission can apply these where it has reason to believe that the irregularity detected is not limited to specific cases investigated, it has the right to extrapolate the corrections to be applied.



The Kilmacthomas bypass, Waterford.

#### ■ *Flat rate corrections*

These will be applied for individual breaches or systemic irregularities that are not in practice quantifiable, such as those resulting from a failure to undertake checks effectively to prevent or detect irregularity or to comply with a condition of the assistance or EU legislation (for example information and publicity rules). These will apply where it is not possible to calculate the specific loss related to an individual case or several cases of irregularities. They can also be applied when a Member State discovers such failures and fails to take corrective action.

#### *Key controls*

Key controls are the procedures put in place to provide assurance that Community rules are respected, and that the accounting system produces information on which an auditor could rely when forming an opinion on account statements. These controls include:

- Organisational controls – There should be clearly defined responsibilities, limits of authority and segregation of duties. No one person should be in a position to control all stages of processing a transaction so that errors or fraud could occur without other people becoming aware.
- Procedural controls – Operational and administrative checks to verify compliance with EU rules, ensure no duplication of claims for the same expenditure, confirm outputs and effective performance of services rendered, establish the reality of expenditure incurred and declared by final beneficiaries.
- Information systems – Information systems (computerised where possible) should produce information so that implementation can be monitored, reviewed and acted upon. It should be easy to understand, produced on a timely basis and show comparisons with budgeted and actual expenditures, and to report exceptions.

Ancillary controls are those administrative operations required to correctly process claims, such as verification of the respect of time limits for their submission and appropriate supervision of the procedures.

#### *Scales of flat rate corrections*

Scales of flat rate corrections can vary from 2% to 100% of the assistance.

A 100% rate will apply when the deficiencies in management and control system are so serious as to constitute a complete failure to comply with Community rules, so rendering all the payments irregular.

A 25% rate will apply when the management and/or control system is gravely deficient, and there is evidence of widespread irregularity, and negligence in countering irregular or fraudulent practices.

A 10% rate will apply when one or more key controls are not applied or applied so poorly or so infrequently that they are completely ineffective in determining the eligibility of the claim or preventing irregularity.

A 5% rate will apply when all key controls are applied but not in the number, frequency, or depth required by the regulations.

A 2% rate will apply when the key controls are adequately performed but ancillary controls are not operated or there is a failure to conform with the Structural Fund Regulations.

The Commission can decide to suspend an interim payment on the basis of the expenditure being linked to a “serious” irregularity which has not been corrected (Article 39 of Council Regulation no. 1260/1999). If there is no change to this situation within 5 months and the Commission and Irish authorities cannot agree on the action to be taken, the Commission can reduce the payment on account or cancel all or part of the Structural Fund contribution to the action.

There is a reporting requirement that each Member State will report what irregularities have been detected, the amounts involved, and the amounts recovered. In order to record this information, a debtors’ ledger (a list of debtors owing money for repayment) to record money owed to accounts will have to be kept by Operational Programme.

# Appendices

A	ERDF Financial Control Unit Progress 2000/01	25
B	Funding Flowchart for the BMW Regional Operational Programme 2000/06	26
C	Control checks performed and organisations visited 2000/01	28
D	European Commission (EC) Regulation No. 438/2001	29
	Annex 1 – Indicative Description of Information Requirements for a Sufficient Audit Trail (Article 7)	34
E	Department of Finance Circular 34/2001	35
	Appendix 1 – Indicative Description of Information Requirements for a Sufficient Audit Trail	41
	Appendix 2 – Proposed ERDF Financial Controls in Ireland	42
	Appendix 3 – Management and Control Systems	43
F	European Commission (EC) Regulation No. 448/2001	54



Appendix A

ERDF Financial Control Unit Progress 2000/01

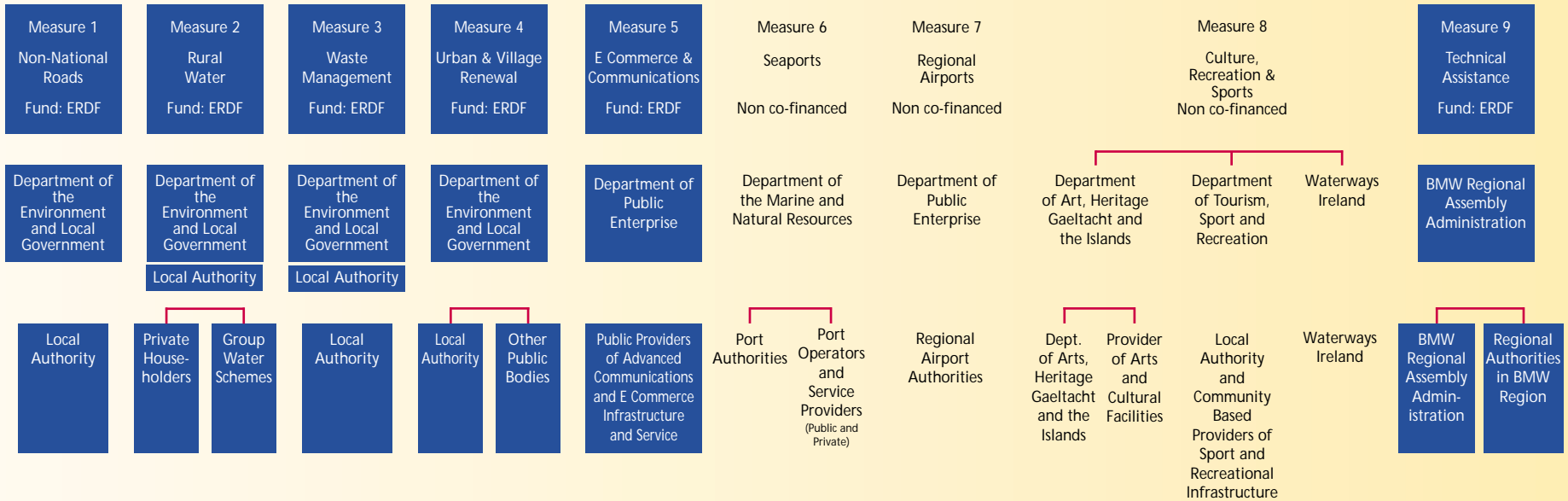
Key Task	Progress / Planned Completion
Human Resources Development Operational Programme control check	Completed 1999 - Report issued January 2000
LEADER II control check	Completed 1999 - Report issued February 2000
Economic Infrastructure Operational Programme control check	Completed 2000 - Report issued August 2000
Transport control check	Completed 2000 - Report issued September 2000
Local, Urban and Rural Development control check	Completed 2000 - Report issued February 2001
Industrial Development , second control check	Completed 2001 - Report issued May 2001
Cohesion Fund Project - Dublin Area Rapid Transit (DART) Extension control check	Control Check in progress. Final report expected March 2002.
Environmental Services Operational Programme control check	Control Check in progress.
Liaison with Court of Auditors and European Commission Directorates	Accompanied audit visits by Court of Auditors.  Attended Audit Programme Co-ordination Meetings, Brussels, February 2000 / March 2001
Flowcharting of all Operational Programmes for audit trail in the funding cascade (NDP 2000-2006)	April / May 2001
Recruitment and training of new staff	July 2001 to date
Development of Audit Risk Register database	November / December 2001
Pilot audit visits for minimum 5% verification audits	Border, Midlands and Western Assembly and Southern and Eastern Regional Assembly visited December 2001
Verification checks of expenditure returns submitted by Department of Finance to European Commission in 2001 under the 2000 – 2006 Round of Funding	Verification check completed February 2002.
Checks on controls operating within the Paying Authority (Department of Finance) over expenditure returns submitted by Regional Assemblies	Completed February 2002. Report at drafting stage
Verification audits of expenditure returns submitted to Department of Finance in 2001 by two Regional Assemblies under the 2000 – 2006 Round of Funding	Completed February 2002. Report at drafting stage.
Participation in training seminars.	13 training seminars for Irish personnel 22 seminars for accession country representatives.

Appendix B

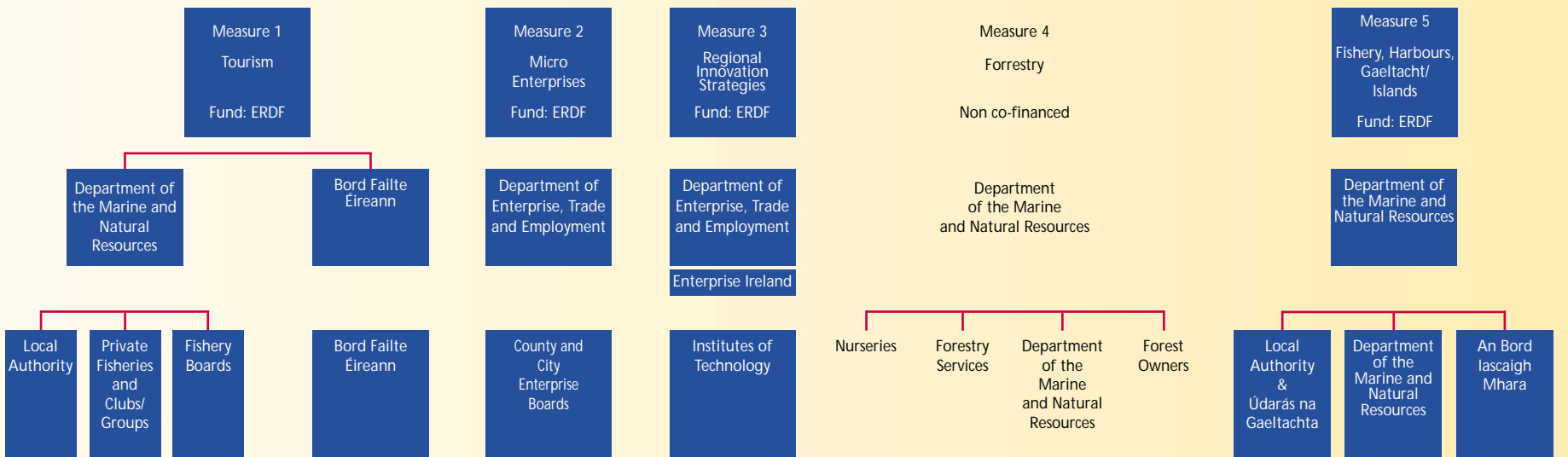
Funding Flowchart – Operational Programme for the BMW Region 2000-2006

Managing Authority: BMW Regional Assembly

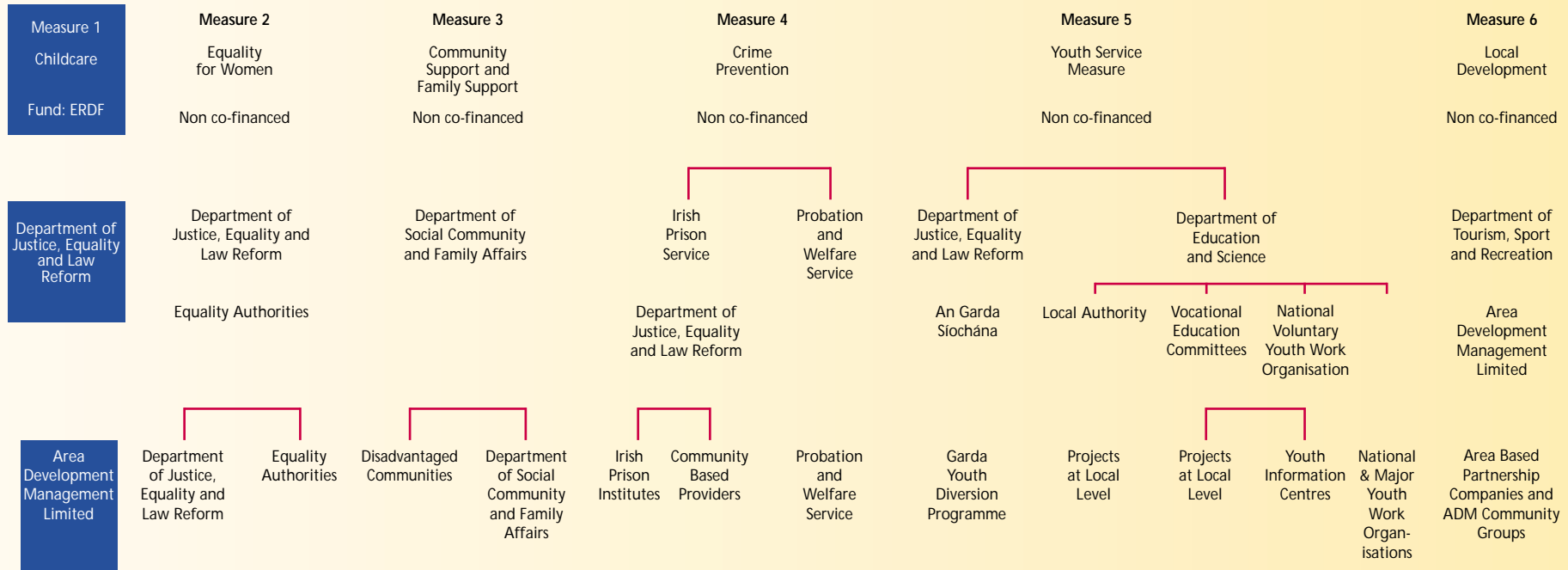
Sub-Programme 1 – Local Infrastructure



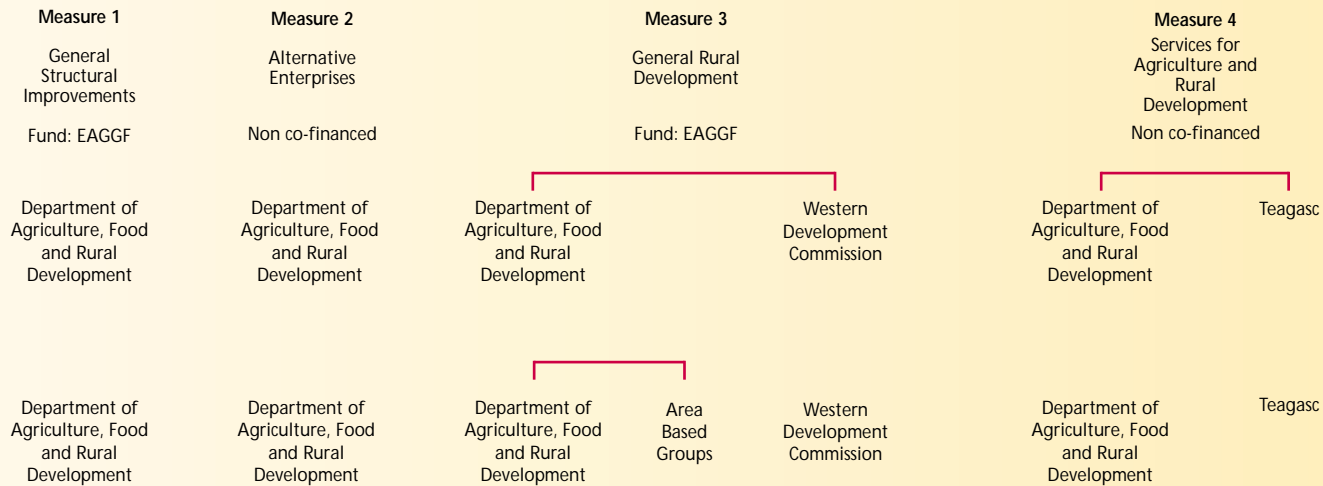
Sub-Programme 2 – Local Enterprise Development



## Sub-Programme 3 – Social Inclusion and Childcare



## Sub-Programme 4 – Agriculture and Rural Development



## Appendix C

## Control Checks Performed and Organisations Visited 2000/2001

Operational Programme Control Check	Lead Department	Implementing Bodies visited	Final Beneficiary (Number Visited)	Date of Report
Economic Infrastructure	Department of Public Enterprise	Irish Energy Centre  An Post	4 Cork  1 Sligo 9 Galway 12 Offaly	August 2000
Transport	Department of the Environment and Local Government	National Roads Authority	1 Cavan Co. Co. 1 Galway Co. Co. 1 Louth Co. Co. 1 Kerry Co. Co. 1 Westmeath Co. Co.	September 2000
Local, Urban and Rural Development	Department of Tourism, Sport and Recreation	Department of Enterprise, Trade and Employment  Monaghan CEB Cavan CEB Louth CEB Dublin CEB	2 Monaghan 2 Cavan 3 Louth 1 Dublin	February 2001
Industrial Development (2nd control check)	Department of Enterprise, Trade and Employment	Department of Agriculture, Food and Rural Development  Enterprise Ireland  Shannon Development  Udaras Na Gaeltachta	3 Cork  3 Cork 1 Wexford 1 Louth 2 Dublin  1 Galway	May 2001
Environmental Services	Department of the Environment and Local Government			Control check in progress
Cohesion Fund – DART Extension Project	Department of Public Enterprise	Coras Iompar Eireann / Irish Rail		Control check report due March 2002

## Appendix D

## European Commission Regulation (EC) No. 438/2001

**Commission Regulation (EC) No 438/2001 of 2 March 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the management and control systems for assistance granted under the Structural Funds**

*Official Journal L 063 , 03/03/2001 P. 0021 - 0043*

## Text:

Commission Regulation (EC) No 438/2001 of 2 March 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the management and control systems for assistance granted under the Structural Funds

THE COMMISSION OF THE EUROPEAN COMMUNITIES,  
Having regard to the Treaty establishing the European Community,  
Having regard to Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds (1),  
and in particular Article 53(2) thereof,

After consulting the Committee set up pursuant to Article 147 of the Treaty,

After consulting the Committee on Agricultural Structures and Rural Development,

After consulting the Committee on Structures for Fisheries and Aquaculture,

## Whereas:

(1) Article 38 of Regulation (EC) No 1260/1999 requires Member States to take a number of measures to ensure that Community funds are used efficiently and correctly and in accordance with the principles of sound financial management.

(2) For this purpose, it is necessary for Member States to provide adequate guidance regarding the organisation of the relevant functions of managing and paying authorities laid down by Articles 32 and 34 of Regulation (EC) No 1260/1999.

(3) Article 38 of Regulation (EC) No 1260/1999 requires the Member States to cooperate with the Commission in ensuring that they have smoothly running management and control systems and to give it all necessary assistance to undertake checks, including sample checks.

(4) In order to harmonise standards for the certification of expenditure for which payments from the Funds under Article 32(3) and (4) of Regulation (EC) No 1260/1999 are claimed, the

content of such certificates should be laid down and the nature and quality of the information on which they rely specified.

(5) To enable the Commission to carry out the checks referred to in Article 38(2) of Regulation (EC) No 1260/1999, Member States should supply it on request with data which managing authorities require in order to fulfil the management, monitoring and evaluation requirements of that Regulation. It is necessary to lay down the content of such data and the format and means of transmission of computer files when data is supplied in electronic form in accordance with Article 18(3)(e) of the Regulation. The Commission should ensure that computerised and other data is kept confidential and secure.

(6) Commission Regulation (EC) No 2064/97 of 15 October 1997 establishing detailed arrangements for the implementation of Council Regulation (EEC) No 4253/88 as regards the financial control by Member States of operations co-financed by the Structural Funds(2), as amended by Regulation (EC) No 2406/98(3), should be replaced. However, the provisions of Regulation (EC) No 2064/97 should continue to apply to assistance granted for the programme period 1994 to 1999 under Council Regulation (EEC) No 2052/88(4), as last amended by Regulation (EC) No 3193/94(5).

(7) This Regulation should apply without prejudice to the provisions regarding on-site monitoring in the field of State aid laid down by Article 22 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty(6).

(8) This Regulation should apply without prejudice to the provisions of 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(7).

(9) The provisions of Commission Regulation (EC) No 1681/94 of 11 July 1994 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the structural policies and the organisation of an information system in this field(8) apply to assistance granted under Regulation (EC) No 1260/1999 by virtue of the second paragraph of Article 54 and Article 38(1)(e) of that Regulation.

(10) This Regulation should apply in accordance with the principle of subsidiarity, as referred to in Article 8(3) of Regulation (EC) No

1260/1999, and without prejudice to the institutional, legal and financial systems of the Member State concerned, as referred to in the last paragraph of Article 34(1) of that Regulation.

(11) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Development and Conversion of Regions,  
HAS ADOPTED THIS REGULATION:

## **CHAPTER I**

### **Scope**

#### **Article 1**

This Regulation lays down detailed rules for the implementation of Regulation (EC) No 1260/1999 as regards the management and control systems for assistance granted under the Structural Funds that is administered by the Member States.

## **CHAPTER II**

### **Management and control systems**

#### **Article 2**

1. Each Member State shall ensure that managing and paying authorities and intermediate bodies receive adequate guidance on the provision of management and control systems necessary to ensure the sound financial management of the Structural Funds in accordance with generally accepted principles and standards, and in particular to provide adequate assurance of the correctness, regularity and eligibility of claims on Community assistance.

2. For the purposes of this Regulation, "intermediate bodies" shall mean all public or private bodies or services acting under the responsibility of managing or paying authorities or performing tasks on their behalf in relation to final beneficiaries or the bodies or firms carrying out operations.

#### **Article 3**

The management and control systems of managing and paying authorities and intermediate bodies shall, subject to proportionality in relation to the volume of assistance administered, provide for:

- (a) a clear definition, a clear allocation and, as necessary to ensure sound financial practice, an adequate separation of functions within the organisation concerned;
- (b) effective systems for ensuring that the functions are performed in a satisfactory manner;
- (c) in the case of intermediate bodies, reporting to the authority responsible on the performance of their tasks and the means employed.

#### **Article 4**

Management and control systems shall include procedures to verify the delivery of the products and services co-financed and the reality of expenditure claimed and to ensure compliance with the

terms of the relevant Commission decision under Article 28 of Regulation (EC) No 1260/1999 and with applicable national and Community rules on, in particular, the eligibility of expenditure for support from the Structural Funds under the assistance concerned, public procurement, State aid (including the rules on the cumulations of aid), protection of the environment and equality of opportunity. The procedures shall require the recording of verifications of individual operations on the spot. The records shall state the work done, the results of the verification and the measures taken in respect of discrepancies. Where any physical or administrative verifications are not exhaustive, but performed on a sample of operations, the records shall identify the operations selected and describe the sampling method.

#### **Article 5**

1. Member States shall, for each assistance, inform the Commission, within three months of the approval of the assistance or the entry into force of this Regulation, whichever is the later, of the organisation of the managing and paying authorities and intermediate bodies, of the management and control systems in place in these authorities and bodies and of improvements planned pursuant to the guidance referred to in Article 2(1).

2. The communication shall contain the following information in respect of each managing and paying authority and intermediate body:

- (a) the functions vested in them;
- (b) the allocation of functions between or within their departments, including between the managing and paying authority where they are the same body;
- (c) the procedures by which claims for reimbursement of expenditure are received, verified, and validated, and by which payments to beneficiaries are authorised, executed and accounted for; and
- (d) the provisions for the audit of management and control systems.

3. Where a common system applies in more than one assistance, a description of the common system may be communicated.

#### **Article 6**

The Commission shall, in cooperation with the Member State, satisfy itself that the management and control systems presented under Article 5 meet the standards required by Regulation (EC) No 1260/1999 and by this Regulation, and shall make known any obstacles which they present to the transparency of checks on the operation of the Funds and to the Commission's discharge of its responsibilities under Article 274 of the Treaty. Reviews of the operation of the systems shall be undertaken on a regular basis.

**Article 7**

1. Member States' management and control systems shall provide a sufficient audit trail.

2. An audit trail shall be considered sufficient where it permits:

- (a) reconciliation of the summary amounts certified to the Commission with the individual expenditure records and supporting documents held at the various administrative levels and by final beneficiaries including, where the latter are not the final recipients of funding, the bodies or firms carrying out operations; and
- (b) verification of the allocation and the transfers of the available Community and national funds.

An indicative description of the information requirements for a sufficient audit trail is given in Annex I.

3. The managing authority shall satisfy itself on the following points:

- (a) that there are procedures to ensure that documents that are relevant to specific expenditure incurred and payments made under the assistance and required for a sufficient audit trail are held in accordance with the requirements of Article 38(6) of Regulation (EC) No 1260/1999 and with Annex I to this Regulation;
- (b) that a record is maintained of the body holding them and its location; and
- (c) that the documents are made available for inspection by the persons and bodies who would normally have the right to inspect such documents.

These persons and bodies shall be:

- (i) the staff of the managing and paying authority and intermediate bodies who process payment claims;
- (ii) the services undertaking audits of management and control systems;
- (iii) the person or department of the paying authority responsible for certifying interim and final payment requests under Article 32(3) and (4) of Regulation (EC) No 1260/1999 and the person or department which issues the declaration under Article 38(1)(f); and
- (iv) mandated officials of national audit institutions and the European Community.

They may require that extracts or copies of the documents or accounting records referred to in this paragraph be supplied to them.

**Article 8**

The managing or paying authority shall keep an account of amounts recoverable from payments of Community assistance already made, and ensure that the amounts are recovered without unjustified delay. After recovery, the paying authority shall repay the irregular payments recovered, together with interest received on account of late payment, by deducting the amounts concerned from its next statement of expenditure and request for payment to the Commission, or, if this is insufficient, by effecting a refund to

the Community. The paying authority shall send the Commission once a year, in annex to the fourth quarterly report on recoveries supplied under Regulation (EC) No 1681/94, a statement of the amounts awaiting recovery at that date, classified by the year of initiation of the recovery proceedings.

**CHAPTER III****Certification of expenditure****Article 9**

1. The certificates of statements of interim and final expenditure referred to in Article 32(3) and (4) of Regulation (EC) No 1260/1999 shall be drawn up in the form prescribed in Annex II by a person or department within the paying authority that is functionally independent of any services that approve claims.

2. Before certifying a given statement of expenditure, the paying authority shall satisfy itself that the following conditions are fulfilled:

- (a) the managing authority and intermediate bodies have fulfilled the requirements of Regulation (EC) No 1260/1999, in particular Article 38(1)(c) and (e) and Article 32(3) and (4), and observed the terms of the Commission's decision under Article 28 of the Regulation;
- (b) the statement of expenditure includes only expenditure:
  - (i) that has been actually effected within the eligibility period laid down in the decision in the form of expenditure by final beneficiaries, within the meaning of paragraphs 1.2, 1.3 and 2 of Rule No 1 of the Annex to Commission Regulation (EC) No 1685/2000(9), which can be supported by receipted invoices or accounting documents of equivalent probative value;
  - (ii) that has been incurred in operations that were selected for funding under the particular assistance concerned in accordance with its selection criteria and procedures and have been subject to Community rules throughout the period during which the expenditure was incurred; and
  - (iii) from measures for which all State aid has been formally approved by the Commission, where relevant.

3. So that the sufficiency of the control systems and the audit trail can always be taken into account before a statement of expenditure is presented to the Commission, the managing authority shall ensure that the paying authority is kept informed of the procedures operated by the managing authority and by intermediate bodies to:

- (a) verify the delivery of the products and services cofinanced and the reality of expenditure claimed;
- (b) ensure compliance with the applicable rules; and
- (c) maintain the audit trail.

4. In cases where the managing authority and the paying authority are or belong to the same body, this body shall ensure that procedures offering equivalent standards of control to those stipulated in paragraphs 2 and 3 are applied.

**CHAPTER IV****Sample checks on operations****Article 10**

1. Member States shall organise checks on operations on an appropriate sampling basis, designed in particular to:

- (a) verify the effectiveness of the management and control systems in place;
- (b) verify selectively, on the basis of risk analysis, expenditure declarations made at the various levels concerned.

2. The checks carried out before the winding-up of each assistance shall cover at least 5 % of the total eligible expenditure and be based on a representative sample of the operations approved, taking account of the requirements of paragraph 3. Member States shall seek to spread the implementation of the checks evenly over the period concerned. They shall ensure an appropriate separation of tasks as between such checks and implementation or payment procedures concerning operations.

3. The selection of the sample of operations to be checked shall take into account:

- (a) the need to check an appropriate mix of types and sizes of operations;
- (b) any risk factors which have been identified by national or Community checks;
- (c) the concentration of operations under certain intermediate bodies or certain final beneficiaries, so that the main intermediate bodies and final beneficiaries are checked at least once before the winding-up of each assistance.

**Article 11**

Through the checks, the Member States shall endeavour to verify the following:

- (a) the practical application and effectiveness of the management and control systems;
- (b) for an adequate number of accounting records, the correspondence of those records with supporting documents held by intermediate bodies, final beneficiaries, and the bodies or firms carrying out the operations;
- (c) the presence of a sufficient audit trail;
- (d) for an adequate number of expenditure items, that the nature and timing of the relevant expenditure comply with Community provisions and correspond to the approved specifications of the operation and the works actually executed;
- (e) that the use or intended use of the operation is consistent with the use described in the application for Community co-financing;
- (f) that the Community financial contributions are within the limits provided for in Article 29 of Regulation (EC) No 1260/1999 and any other applicable Community provisions and are paid to final beneficiaries without any reductions or unjustified delay;
- (g) that the appropriate national co-financing has in fact been made available; and

(h) that the co-financed operations have been implemented in accordance with Community rules and policies as required by Article 12 of Regulation (EC) No 1260/1999.

**Article 12**

The checks shall establish whether any problems encountered are of a systemic character, entailing a risk for other operations carried out by the same final beneficiary or administered by the same intermediate body. They shall also identify the causes of such situations, any further examination which may be required and the necessary corrective and preventive action.

**Article 13**

Member States shall inform the Commission by 30 June each year, and for the first time by 30 June 2001, of their application of Articles 10 to 12 in the previous calendar year and in addition provide any necessary completion or updating of the description of their management and control systems communicated under Article 5.

**Article 14**

The provisions of this chapter shall apply, mutatis mutandis, to amounts recoverable referred to in Article 8.

**CHAPTER V****Declaration at winding-up of the assistance****Article 15**

The person or department designated to issue declarations on winding-up of the assistance under Article 38(1)(f) of Regulation (EC) No 1260/1999 shall have a function independent of:

- (a) the designated managing authority;
- (b) the person or department within the paying authority responsible for drawing up the certificates referred to in Article 9(1)
- (c) intermediate bodies.

It shall conduct its examination according to internationally accepted auditing standards. It shall be supplied by the managing and paying authorities and intermediate bodies with all information required and be given access to the records and supporting evidence necessary for drawing up the declaration.

**Article 16**

Declarations shall be based on an examination of the management and control systems, of the findings of checks already carried out and, when necessary, of a further sample check of transactions. The person or department issuing the declaration shall make all necessary enquiries to obtain reasonable assurance that the certified statement of expenditure is correct and that the underlying transactions are legal and regular.

Declarations shall be drawn up on the basis of the indicative model in Annex III and shall be accompanied by a report which shall include all relevant information to justify the declaration,

including a summary of the findings of all checks carried out by national and Community bodies to which the declarant has had access.

#### **Article 17**

If the presence of important management or control weaknesses or the high frequency of irregularities encountered does not allow the provision of a positive overall assurance as to the validity of the request for payment of the final balance and the final certificate of expenditure, the declaration shall refer to these circumstances and shall estimate the extent of the problem and its financial impact. In such a case the Commission may ask that a further check be carried out with a view to the identification and rectification of irregularities within a specified period of time.

### **CHAPTER VI**

#### **Form and content of accounting information to be held and communicated to the Commission on request**

##### **Article 18**

1. The accounting records on operations referred to in Annex I shall as far as possible be held in computerised form. Such records shall be made available to the Commission on specific request for the purpose of carrying out documentary and on-the-spot checks, without prejudice to the requirements to communicate updatings of financial plans under Article 18(3)(c) of Regulation (EC) No 1260/1999 and financial information under Article 32 thereof.

2. The Commission shall agree with each Member State the content of computer records to be made available under paragraph 1, the means by which they are communicated, and the length of the period required to develop any necessary computer systems taking account of the agreement referred to in Article 18(3)(e) of Regulation (EC) No 1260/1999. The scope of the information that may be requested, and the preferred technical specifications for the transfer of computer files to the Commission, are indicated in Annexes IV and V.

3. At the written request of the Commission, the Member States shall deliver to the Commission the records referred to in paragraph 1 within 10 working days of receipt of the request. A different period may be agreed between the Commission and the Member State, particularly where the records are not available in computerised form.

4. The Commission shall ensure that the information forwarded by the Member States or collected by it in the course of on-the-spot inspections is kept confidential and secure in accordance with Article 287 of the Treaty and the Commission's rules on the use of and access to information.

5. Subject to the relevant national laws, Commission officials shall have access to all documents prepared either with a view to or

following controls carried out under this Regulation and to the data held, including those stored in computer systems.

### **CHAPTER VII**

#### **General and final provisions**

##### **Article 19**

In the case of forms of assistance where there are beneficiaries in more than one Member State, the Member States concerned shall agree with one another the necessary common arrangements to ensure sound financial management, taking account of national law, and shall inform the Commission of the arrangements agreed. The Commission and the Member States concerned shall provide one another with any necessary administrative assistance.

##### **Article 20**

The provisions of this Regulation are without prejudice to the obligation of Member States under Regulation (EC) No 1260/1999 to give the Commission sufficient information to appraise plans, including information on the measures taken to implement Article 34(1) of the Regulation, and to the Commission's right to require further information before adopting its decisions under Article 28 of the Regulation.

##### **Article 21**

Nothing in this Regulation shall prevent Member States applying rules more rigorous than those prescribed herein.

##### **Article 22**

Regulation (EC) No 2064/97 is hereby repealed.

Its provisions shall, however, continue to apply to assistance granted for the programme period 1994 to 1999 under Regulation (EEC) No 2052/88.

##### **Article 23**

This Regulation shall enter into force on the seventh day following its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 2 March 2001.

For the Commission

Michel Barnier

Member of the Commission

- |                                  |                                 |
|----------------------------------|---------------------------------|
| (1) OJ L 161, 26.6.1999, p. 1.   | (6) OJ L 83, 27.3.1999, p. 1.   |
| (2) OJ L 290, 23.10.1997, p. 1.  | (7) OJ L 292, 15.11.1996, p. 2. |
| (3) OJ L 298, 7.11.1998, p. 15.  | (8) OJ L 178, 12.7.1994, p. 43. |
| (4) OJ L 185, 15.7.1988, p. 9.   | (9) OJ L 193, 29.7.2000, p. 39. |
| (5) OJ L 337, 24.12.1994, p. 11. |                                 |

## Appendix D (continued)

## Annex 1

**INDICATIVE DESCRIPTION OF INFORMATION REQUIREMENTS FOR A SUFFICIENT AUDIT TRAIL (Article 7)**

A sufficient audit trail, as referred to in Article 7(2), is present when, for a given assistance:

1. Accounting records kept at the appropriate management level provide detailed information about expenditure actually incurred in each co-financed operation by final beneficiaries including, where the latter are not the final recipients of funding, the bodies and firms carrying out the operations. The accounting records show the date they were created, the amount of each item of expenditure, the nature of the supporting documents and the date and method of payment. The necessary documentary evidence (e.g. invoices) is attached.

2. For items of expenditure relating only partly to the co-financed operation, the accuracy of the allocation of the expenditure between the operation co-financed and other operations is demonstrated. The same applies to types of expenditure that are considered eligible only within certain limits or in proportion to other costs.

3. The technical specifications and financial plan of the operation, progress reports, the documents concerning the grant approval and tendering and contracting procedures, and reports on inspections of the products and services co-financed in the operation are also kept at the appropriate management level.

4. For declaring expenditure actually incurred in co-financed operations to an intermediate body lying between the final beneficiary or the body or firm carrying out the operation and the paying authority, the information referred to in paragraph 1 is aggregated into a detailed statement of expenditure for each operation covering all individual items of expenditure for the purpose of calculating the total certified amount. The detailed statements of expenditure constitute supporting documents for the accounting records of the intermediate body.

5. Intermediate bodies keep accounting records for each operation and for the total amounts of expenditure certified by final beneficiaries. Intermediate bodies reporting to the paying authority designated under Article 9(o) of Regulation (EC) No 1260/1999 present to it a list of the operations approved under each assistance, identifying each operation in detail and indicating the final beneficiary, the date of approval of the grant, the amounts committed and paid and the period of the expenditure, and the

total expenditure by measure and subprogramme or priority. This information constitutes supporting documentation for the accounting records of the paying authority and is the basis for the preparation of the declarations of expenditure to be presented to the Commission.

6. In cases of final beneficiaries reporting directly to the paying authority, the detailed statements of expenditure referred to in paragraph 4 constitute supporting documentation for the accounting records of the paying authority, which is responsible for drawing up the list of co-financed operations referred to in paragraph 5.

7. Where there is more than one intermediate body between the final beneficiary or the body or firm carrying out the operation and the paying authority, each intermediate body for its area of responsibility requires detailed statements of expenditure from the body below it as supporting documentation for its own accounting records, from which it provides at least a summary of the expenditure on each individual operation to the body above it.

8. In the case of computerised transfer of accounting data, all the authorities and bodies concerned obtain sufficient information from the lower level to justify their accounting records and the sums reported upwards, so as to ensure a sufficient audit trail from the total summary amounts certified to the Commission down to the individual expenditure items and the supporting documents at the level of the final beneficiaries and the bodies and firms carrying out the operations.

**ANNEX II, III, IV and V not reproduced here.**

**See website: [www.europa.eu.int/eur-lex](http://www.europa.eu.int/eur-lex)**

## Appendix E

## Department of Finance Circular 34/2001

**CIRCULAR 34/2001: FINANCIAL MANAGEMENT AND CONTROL PROCEDURES FOR THE EUROPEAN REGIONAL DEVELOPMENT FUND (ERDF) 2000-2006**

27 July 2001

Secretary General

**1 Background**

I am directed by the Minister for Finance to advise NDP/CSF Managing Authorities and implementing Departments of their financial management and control requirements relating to the implementation of ERDF co-funded assistance over the period 2000-2006. In particular, this Circular sets out the mandatory procedures to be followed by the Operational Programme Managing Authorities and by Implementing Bodies in relation to (i) processing and certification of claims for ERDF payments and (ii) institution of required financial control systems.

The regulatory framework for Member States management and control systems is laid down in Council Regulation (EC) 1260/99 (Articles 38 and 39 in particular). Article 38.1 states, inter-alia, that "...Member States shall take responsibility in the first instance for the financial control of assistance". This Article goes on to detail the types of steps which Member States must take in this regard. Article 39 confers on Member States the initial responsibility for investigating irregularities and making any appropriate financial corrections. The provisions of Council Regulation (EC) 1260/99 are supplemented by Commission implementing Regulations (EC) 438/2001 and 448/2001. The purpose of this circular is to set out how the requirements of the above-mentioned Regulations are to be implemented in Ireland.

**2 General Responsibilities**

Under Article 34 of Council Regulation (EC) 1260/99, Managing Authorities have primary responsibility for the proper implementation, financial management and control of co-funded operations. In this regard, they are responsible for ensuring that the Regulations governing the Funds' operations are circulated to all Intermediate Bodies, final beneficiaries/grant approving bodies implementing co-funded measures under their Programme. Regulations are available on the CSF Website "[www.eustructuralfunds.ie](http://www.eustructuralfunds.ie)". Furthermore, Managing Authorities shall ensure that

adequate guidance is provided to Intermediate Bodies, final beneficiaries and where appropriate, grant approving bodies in order to ensure the proper application of these regulations.

**Formal confirmation of this guidance will be required on an annual basis in the format specified in Form A attached to this Circular.** The initial Form A report shall be supplied by the Managing Authority to the ERDF Paying Authority by 30 September 2001. Subsequent reports shall be provided each year by 31 December. Copies of this circular and of the reporting forms are available on the CSF Website (address as above).

Questions regarding the interpretation of EU regulations should at all times be addressed, through the Managing Authorities, to the Paying Authority.

Managing Authorities are required to ensure that systems are in place to implement the statutory financial management and control obligations relating to ERDF expenditure. Specifically in relation to systems Managing Authorities must certify through completion of Forms B1, B2 and B3 (attached to this Circular) that:

- responsibilities in the context of project/measure<sup>1</sup> implementation are formally documented at the various levels i.e. Paying Authority, Managing Authority, Intermediate Bodies and Final Beneficiaries<sup>2</sup>/Grant Approving Bodies;
- the conditions set out in the formal grant approval agreement between the Intermediate Body, the Final Beneficiary/Grant Approving Body and/or the Final Recipient, concerning the implementation of the co-financed operation are being observed;
- procedures covering on-going monitoring and physical implementation are being applied by way of formalised spot-checking;
- the operation is being implemented in accordance with the eligibility rules specified in Commission Regulation (EC) 1685/2000;

<sup>1</sup> Hereafter referred to as "operations", meaning any project, measure or action carried out by the final beneficiary

<sup>2</sup> As defined in the Programme Complement for the Measure concerned

- the requirements of Commission Regulation (EC) No 1159/2000 of 30 May 2000 on information and publicity measures to be carried out by the Member States concerning assistance from the Structural Funds are being observed;
- the operation is being implemented in accordance with the principles of sound financial management as specified in Commission Regulation 438/ 2001;
- expenditure reported can be shown to have been incurred by the final recipient, within the eligibility dates specified in the most recent Commission Decision for the Programme;
- the intended purpose of the Operation is consistent with the objectives of the relevant EU Programme;
- EU Requirements with regard to State Aids, Public Procurement, Environmental Protection and Equality of Opportunity are being observed;
- there has been no overlapping of EU aid for the operation;
- separate documentation and bank accounting systems (or an adequate accounting code) are being maintained for the project;
- evidence of receipt of funding by the final recipient of the grant is available;
- all supporting documentation has been retained in accordance with Article 38.6 of Council Regulation (EC) 1260/99 (i.e. for three years after the closure of the Programme);
- a clear audit trail exists from individual payments by final recipients (including invoices and application forms) back to the summary details given in the expenditure declarations made by the designated Paying Authority<sup>3</sup> to the Commission.

The financial records of implementing agencies at all levels should, therefore, be sufficiently detailed to provide the type of audit trail required. An indicative description of audit trail information is provided in Annex 1 to Commission Regulation (EC) 438/2001 (attached at Appendix 1).

<sup>3</sup>

The Department of Finance

### 3 Procedures for the drawdown of ERDF

#### 3.1 Certification

In order to draw down funding, all expenditure being reported must be certified (via Form B1, B2, B3 and C attached) as eligible before making an expenditure declaration to the Commission, i.e. ex-ante.

The Bodies involved in the day to day management of Operations will be responsible, in the first instance, for the certification process. A reporting format has been introduced to certify that sound and efficient financial management and control procedures are in place and that an adequate audit trail exists. There are three function levels involved in this process:

- Final Beneficiaries/Grant Approving Bodies - the bodies commissioning operations and/or implementing the activity (Level 1);
- Intermediate Bodies (all public or private bodies or services acting under the responsibility of Managing or Paying Authorities or performing tasks on their behalf in relation to final beneficiaries or the bodies or firms carrying out operations (Level 2) and
- Managing Authorities (Level 3).

The administrative unit responsible for the relevant areas of operations should, where possible, reconcile their expenditure records with those of the accounts/finance unit before reporting to the next level.

Level 1 (Final Beneficiary/Grant Approving Body) will be responsible for reporting and certifying the accuracy, actuality and eligibility of the expenditure to Level 2 and for completing Form B1. This form can be completed in respect of expenditure at project or aggregated to measure/sub measure level. It is a matter for each Managing Authority, in consultation with the Paying Authority, to decide the format to be used. Where the latter option is chosen the Form B1 must be accompanied by a schedule indicating the project title and reference, the total eligible expenditure being reported and the associated ERDF grant amount. Each expenditure report forwarded from Level 1 must be accompanied by a completed Form B1 and project schedule, as appropriate.

Level 2 (Intermediate Body) will be responsible for aggregating expenditure information coming from Level 1, reporting and certifying expenditure to Level 3 and completing Form B2. This form can be completed at measure or priority (sub-programme)

level and should be accompanied by a schedule indicating the projects/measures (as appropriate) and Form B1 references, the total eligible expenditure being reported and the associated ERDF grant amount. This level will certify that the management and control procedures described in the reporting body's Procedural Manual, are in place at level 1 and that steps (including sample checking of information at level 1) have been taken to give reasonable assurance that the amount returned is correct, before certifying and reporting the expenditure to Level 3. Each expenditure report forwarded from Level 2 must be accompanied by a completed Form B2 and appropriate schedule.

Level 3 (Managing Authority) will be responsible for aggregating expenditure information coming from Level 2 up to Programme level and completing Form B3. This form should be accompanied by a schedule indicating the priorities (sub programmes) and Form B2 references, the total eligible expenditure being reported and the associated ERDF grant amount. This level will certify that the management and control procedures described in the reporting body's Procedural Manual, are in place at level 2 and that steps (including sample checking of information at level 2) have been taken to give reasonable assurance that the amount returned is correct, before certifying and reporting the expenditure to the Paying Authority. When declaring expenditure to the Paying Authority, the Managing Authority will be required to draw up and submit a statement of expenditure in the form prescribed at Annex 2 of Commission Regulation (EC) 438/201- as per Form C attached. This should also accompany the Form B3.

In the event of an arithmetical error being discovered following an expenditure declaration to the Commission a note, clearly identifying the error and the adjustment made, should be attached to the subsequent expenditure declaration.

Certification reports should be accessible to the ERDF & Cohesion Fund Financial Control Unit, Internal Audit Units at each level, the European Court of Auditors and the relevant National Authorities.

### 3.2 Applications for Interim Payments

Notwithstanding the 7% payment on account automatically advanced by the Commission, following the approval of Programmes, interim payments will be made by the Commission based on certified expenditure incurred at final recipient level. Interim payment claims will be made to the Commission, in batches, up to three times a year, the last application being presented no later than 31 October of each year.

**Payment applications to the EU for interim payments of Structural Fund expenditure will be based on the statement**

**of expenditure reports (Form C) and the Form B certification reports. Form C statements of expenditure should relate to expenditure incurred (paid) in the period since the previous application for an installment of Structural Fund expenditure was forwarded to the Paying Authority.**

**Requests from Managing Authorities for the drawdown of Structural Funds commitments which are not supported by Forms B and C will not be processed.**

Failure to comply with the above procedures may lead to the suspension of Structural Funds assistance.

### 3.3 N + 2 rule

Article 31 of Council Regulation (EC) 1260/1999 provides that *"The Commission shall automatically decommit any part of a commitment which has not been settled by the payment on account, or for which it has not received an acceptable payment application by the end of the second year following the year of the commitment ...; the contribution from the Funds to that assistance shall be reduced by that amount"*. This is commonly known as the N+2 Rule.

In practice this means that the Commission's 2000 Structural Funds budget commitment<sup>4</sup> (allocation) must be claimed in full by the end of 2002. Any portion of this commitment, remaining unclaimed at the end of 2002, will be automatically decommitted by the Commission and lost to Ireland. The N+2 rule is a rolling process and applies equally to the 2001 commitment, which will have a 2003 deadline for payment application, and for each successive year's commitment.

Managing Authorities will have overall responsibility for identifying underspends in their Programmes and notifying the Paying Authority in sufficient time to enable appropriate action to be taken in order to prevent the loss of funding under the N+2 Rule. However, the Intermediate Bodies and Implementing Bodies will have in practice the primary function of identifying underspends in the measures from which they are drawing funding and immediately notifying the relevant Managing Authority.

<sup>4</sup> less any advance paid by the Commission

### 3.4 Verification

#### 3.4.1 Internal Audit Function

The system-based audits required under Article 10.1(a) of Commission Regulation (EC) 438/2001 will be performed by the Internal Auditor at each level within the cascades of bodies implementing co-financed measures. If not already in place, an Internal Audit Unit, functionally independent of the Structural Fund operational areas, should be established within the various Bodies. Alternatively, external auditors may be appointed to perform this task. As well as complying with EU regulatory requirements audit work will be carried out in line with national/international standards.

#### 3.4.2 ERDF (& Cohesion Fund) Financial Control Unit

The ERDF & Cohesion Fund Financial Control Unit has responsibility for the audit of ERDF expenditure to comply with the provisions of Articles 10, 11, 12 and 14 of Commission Regulation (EC) 438/2001. The Unit has sole responsibility for the conduct of the minimum 5% audit of ERDF expenditure required under Article 10. These audits will be undertaken from Paying Authority level down through the cascade to Final Recipient level. The Financial Control Unit will also examine financial management, control and system procedures to ensure that these are adequate. Any systems deficiencies identified by the Internal Audit Units or the Financial Control Unit will require urgent remedial action. The onus for the introduction, maintenance and operation of satisfactory control procedures for co-financed activity under each Programme is, however, the absolute responsibility of the Managing Authority and there can be no derogation from this responsibility.

The audit reports will be conveyed to the Managing Authority for the Programme concerned, the Paying Authority and the European Commission. The Court of Auditors will also have access to these results.

**Appendix 2 outlines the certification and verification structures to be put in place and specifies where responsibility for these lies.**

### 4 State Aids

Managing Authorities should ensure that the State Aid procedures laid down in relation to the Operational Programme are carried through in full. Managing Authorities should also ensure that measures are in conformity with the relevant State Aids table in the Operational Programme. This table should be updated as necessary and the Commission and the Paying Authority notified accordingly.

### 5 Public Procurement

Managing Authorities should ensure that operations are in compliance with all public procurement requirements. Public procurement guidelines are available on the public sector procurement website: "[www.e-tenders.gov.ie](http://www.e-tenders.gov.ie)".

EU Procurement Directives can be accessed under the Rules and Guidelines on the EU procurement website "[www.simap.eu.int](http://www.simap.eu.int)" [linked to the public sector website].

### 6 Information and publicity

It will be the responsibility of each Managing Authority to ensure that the information and publicity requirements of Commission Regulation (EC) 1159/2000 are met. The Programme Complement for each of the Operational Programmes comprises a set of Measure Sheets. Each Measure Sheet makes specific provision for publicising the EU's contribution to the measure. The EU and National Development Plan logos must be displayed in all publicity material, application forms, letters of offer or grant approval as well as on signs for projects as required under the Commission Regulation on Information and Publicity. In addition publicity material should include the required text references acknowledging the role of the EU structural funds and the agreed textual acknowledgement for the NDP in the funding of the operation. Information and publicity costs are eligible for ERDF co-funding and can be charged to the relevant operation allocation. Each Operational Programme includes in its Technical Assistance Measure a budget to cover costs of information and publicity at OP level. Measure level publicity is the responsibility of the relevant Intermediate Bodies. Advice in implementation can be obtained from the NDP/CSF Information Office (telephone 6396280 or e-mail address [csfinfo@csffunds.irlgov.ie](mailto:csfinfo@csffunds.irlgov.ie)).

It should be noted that compliance with Commission Regulation (EC) 1159/2000 will be examined during all audits of co-funded expenditure and that failure to comply with the provisions of this Regulation may lead to financial corrections under Commission Regulation (EC) 448/2001.

### 7 Financial Corrections

#### 7.1 General

Article 39 of Council Regulation (EC) 1260/99 and Commission Regulation (EC) 448/2001 provide the legal basis and set out the procedures for making financial corrections to assistance granted under the Structural Funds. The amount of the financial correction will be assessed, wherever possible, on the basis of individual cases and will be equal to the amount of expenditure wrongly charged to the Funds in the cases concerned. However, it may not

always be possible to quantify the precise amount of Structural Funds incorrectly paid out. In such cases, it may be disproportionate to cancel the entire expenditure in question and the Commission may have to determine corrections on the basis of extrapolation or by way of flat rates (Article 4 of Commission Regulation (EC) 448/2001) as follows:

- (a) in the case of extrapolation, the Commission may use a representative sample of transactions with like characteristics;
- (b) in the case of a flat rate, the Commission will assess the importance of the infringement of rules and the extent and financial implications of the irregularity established.

## 7.2 Systemic Irregularities

Deficiencies identified in Member States' financial management and control systems (systemic irregularities) may be subject to financial corrections (Article 39.1 of Council Regulation (EC) 1260/1999 and Article 2 of Commission Regulation (EC) 448/2001). A systemic irregularity is a recurrent error due to serious failings in management and control systems which could lead to irregular expenditure of the Funds.

Financial corrections are determined in accordance with the seriousness of the deficiency in the management and control system or the individual breach and the financial implications of the irregularity. **A list of what the Commission considers to be key and ancillary elements of systems for the purpose of assessing the seriousness of deficiencies is outlined at Appendix 3.**

## 7.3 Net reduction of EU funding

When irregularities, leading to financial corrections, are discovered by the Commission under Article 39(3) of Council Regulation (EC) 1260/99, this may lead to a net reduction of the EU funding involved - i.e. the amount of the funding involved may be lost to Ireland. In cases where irregularities are detected by the Member State under Article 39(1), the funding involved may be taken from the Operation in question but may be re-allocated to another Operation - i.e. there is no net loss to Ireland.

## 8 Irregularity Reporting

The Department of Finance will be responsible for reporting any irregularities to the European Commission and, in carrying out this function will require reporting of such irregularities on a quarterly basis from the Paying Authorities, based on information provided

through the Managing Authorities. The basis for reporting irregularities is as set out in Article 3 of Commission Regulation (EC) 1681/94. The Paying Authorities will have overall responsibility for financial corrections and recoupment of amounts incorrectly paid. However, this function may be delegated to the Managing Authorities.

## 9 Debtors ledger

The Managing Authority will be responsible for the amounts recoverable from payments of Structural Funds already made and for ensuring prompt recovery. The Managing Authority shall provide to the Paying Authority an up-to-date statement of amounts awaiting recovery on a regular basis<sup>5</sup> and at least by 31 December each year, classified by the year of initiation of the recovery proceedings. To this end, the Managing Authority shall maintain a detailed and regularly reconcile the record of amounts (debtors ledger).

## 10 Annual Reports

Under Article 37 of Council Regulation (EC) 1260/99, it is the responsibility of the Managing Authority to submit the annual report to the Commission within six months of the end of each full calendar year of implementation. Article 37 of Council Regulation (EC) 1260/99 describes the information required in the report.

**The latest annual report is also required by the Commission before interim payments can be made (Article 32.3(a) of Council Regulation (EC) 1260/1999 refers)**

## 11 Procedures Manual

To overcome any weakness in the area of financial management and control of the Funds, detailed Procedures Manuals should be prepared - and reviewed regularly - by the Managing Authorities. The Procedures Manual shall give details of responsibilities, tasks and procedures for personnel involved in the implementation of EU co-financed activity. The Procedures Manuals should comply with the systems guidance set out in Appendix 3. These should be available for inspection by the Paying Authority, the ERDF & Cohesion Fund Financial Control Unit, the Internal Audit Units, the European Commission and the European Court of Auditors.

<sup>5</sup> to be determined by the Paying Authority

### 13 Programme of Structural Funds Audits under Bilateral Administrative arrangements

An annual audit programme of ERDF expenditure will be agreed with the Commission by

- the Head of the Internal Audit Unit, Department of Finance and other Heads of Internal Audit Units in relation to systems audits, and
- the Head of the ERDF & Cohesion Fund Financial Control Unit, in consultation with Paying Authorities, Managing Authorities and the relevant Internal Audit Units in relation to systems and expenditure transactions.

### 14 14. Annual Financial Management and Control Statements

In compliance with Article 13 of Commission Regulation (EC) 438/2001, Member States are required to report to the Commission, by the 30th June each year, on the application of Articles 10-12 of that Regulation for the previous calendar year. In addition, they must provide any necessary completion or updating of the description of their management and control systems as communicated under Article 5. This will be the responsibility of the Paying Authority, based on information supplied by the Financial Control Unit, the Internal Audit Units and the Managing Authorities.

### 14 Declaration at Winding-up of Assistance

Under Article 38.1(f) of Council Regulation (EC) 1260/99, a declaration must be drawn up by a person or Department independent of the designated Managing Authority, at the time of Programme closure. In accordance with the above mentioned requirement and in accordance with Article 15 of Commission Regulation (EC) 438/2001 this declaration will be completed, for ERDF expenditure, by the Head of the Internal Audit Unit of the Department of Finance. The declaration shall summarise the conclusions of the checks carried out during previous years. The declaration will also assess the validity of the application for payment of the final balance and the legality and regularity of the transactions covered by the final certificate of expenditure.

### 15 Conclusion

Conformity with this Circular and with the relevant EU Regulations is obligatory. Failure to abide by the financial management and control procedures outlined above may lead to the deferment or cancellation of Structural Funds assistance.

Departments should ensure, therefore, that the introduction of procedures necessary to conform with the terms of this Circular and the relevant EU Regulations is urgently addressed.

**Managing Authorities are required to ensure that all Intermediate Bodies and final beneficiaries/grant approving bodies, which are responsible for implementing ERDF co-funded activity in their Operational Programmes, comply with the requirements of this Circular. Managing Authorities will be requested to demonstrate to the Paying Authority the steps they have taken to this end.**

Any queries on the terms of the Circular should be addressed in the first instance to Brian Humphreys (telephone 6045721, e-mail address [Brian\\_Humphreys@finance.irigov.ie](mailto:Brian_Humphreys@finance.irigov.ie)) or Simon McGrath (telephone 6045723, e-mail address [Simon\\_McGrath@finance.irigov.ie](mailto:Simon_McGrath@finance.irigov.ie)).

Aidan Dunning  
Assistant Secretary

## Appendix E (continued)

## Appendix 1 – Indicative Description of Information Requirements for A Sufficient Audit Trail

(Article 7 and Annex 1 of Commission Regulation (EC) 438/2001)

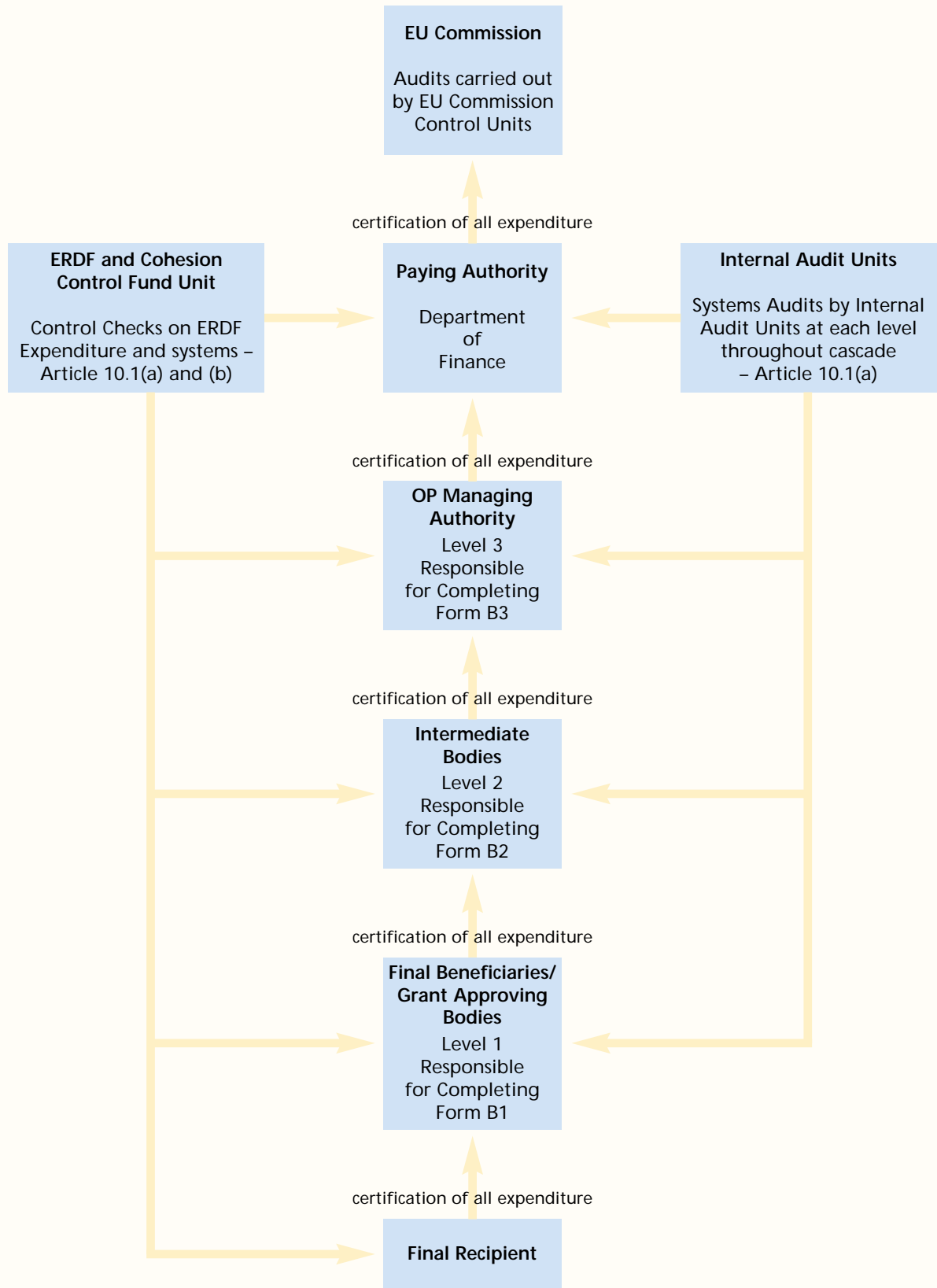
A sufficient audit trail, as referred to in Article 7(2), is present when, for a given assistance:

1. Accounting records kept at the appropriate management level provide detailed information about expenditure actually incurred in each cofinanced operation by final beneficiaries including, where the latter are not the final recipients of funding, the bodies and firms carrying out the operations. The accounting records show the date they were created, the amount of each item of expenditure, the nature of the supporting documents and the date and method of payment. The necessary documentary evidence (e.g., invoices) is attached.
2. For items of expenditure relating only partly to the co-financed operation, the accuracy of the allocation of the expenditure between the operation co-financed and other operations is demonstrated. The same applies to types of expenditure that are considered eligible only within certain limits or in proportion to other costs.
3. The technical specifications and financial plan of the operation, progress reports, the documents concerning the grant approval and tendering and contracting procedures, and reports on inspections of the products and services co-financed in the operation are also kept at the appropriate management level.
4. For declaring expenditure actually incurred in co-financed operations to an intermediate body lying between the final beneficiary or the body or firm carrying out the operation and the paying authority, the information referred to in paragraph 1 is aggregated into a detailed statement of expenditure for each operation covering all individual items of expenditure for the purpose of calculating the total certified amount. The detailed statements of expenditure constitute supporting documents for the accounting records of the intermediate body.
5. Intermediate bodies keep accounting records for each operation and for the total amounts of expenditure certified by final beneficiaries. Intermediate bodies reporting to the paying authority designated under Article 9(o) of Regulation (EC) No 1260/1999 present to it a list of the operations approved under each assistance, identifying each operation in detail and indicating the final beneficiary, the date of approval of the grant, the amounts committed and paid and the period of the expenditure, and the total expenditure by measure and sub-programme or priority. This information constitutes supporting documentation for the accounting records of the paying authority and is the basis for the preparation of the declarations of expenditure to be presented to the Commission.
6. In cases of final beneficiaries reporting directly to the paying authority, the detailed statements of expenditure referred to in paragraph 4 constitute supporting documentation for the accounting records of the paying authority, which is responsible for drawing up the list of co-financed operations referred to in paragraph 5.
7. Where there is more than one intermediate body between the final beneficiary or the body or firm carrying out the operation and the paying authority, each intermediate body for its area of responsibility requires detailed statements of expenditure from the body below it as supporting documentation for its own accounting records, from which it provides at least a summary of the expenditure on each individual operation to the body above it.
8. In the case of computerised transfer of accounting data, all the authorities and bodies concerned obtain sufficient information from the lower level to justify their accounting records and the sums reported upwards, so as to ensure a sufficient audit trail from the totals summary amounts certified to the Commission down to the individual expenditure items and the supporting documents at the level of the final beneficiaries and the bodies and firms carrying out the operations.



Appendix E (continued)

Appendix 2 – Proposed ERDF Financial Controls in Ireland



## Appendix E (continued)

## Appendix 3 – Management and Control Systems

**A Commission Regulation (EC) 438/2001**

Article 3 of the above Regulation states that:

“The Management and control systems of managing and paying authorities and intermediate bodies shall, subject to proportionality in relation to the volume of assistance administered, provide for:

- (a) clear definition, a clear allocation and, as necessary to ensure sound financial practice, an adequate separation of functions within the organisation concerned;
- (b) effective systems for ensuring that the functions are performed in a satisfactory manner;
- (c) in the case of intermediate bodies, reporting to the authority responsible on the performance of their tasks and the means employed.”

Article 4 continues:

“Management and control systems shall include procedures to verify the delivery of the products and services co-financed and the reality of expenditure claimed and to ensure compliance with the terms of the relevant Commission decision under Article 28 of Regulation (EC) No. 1260/99 and with applicable national and Community rules on, in particular, the eligibility of expenditure for support from the Structural Funds under the assistance concerned, public procurement, State aid (including the rules on the cumulation of aid), protection of the environment and equality of opportunity.

The procedures shall require the recording of verifications of individual operations on the spot. The records shall state the work done, the results of the verification and the measures taken in respect of discrepancies. Where any physical or administrative verifications are not exhaustive, but performed on a sample of operations, the records shall identify the operations selected and describe the sampling method.”

**B Key and Ancillary elements of proper Management and Control Systems**

Management and control systems for the Structural Funds consist of various elements or functions of greater or lesser importance for

ensuring the legality, regularity and eligibility of expenditure declared for co-financing. For the purpose of assessing flat rate corrections for deficiencies in such systems or individual cases of irregularity, the Commission has classified the functions of management and control systems into key and ancillary elements.

**Key elements** (see below) are those designed and essential to ensure the legality and regularity and indeed the substance of operations supported by the Funds.

**Ancillary elements** (see below) those that contribute to the quality of a management and control system and help ensure that the system keeps performing well in relation to its key functions.

**1 Key elements for ensuring eligibility for co-financing****1.1 Provision and application of procedures or grant applications, appraisal of applications, selection for funding and selection of contractors/supplies.**

- (i) proper advertisement of calls for applications in accordance with programme procedures;
  - compliance, where applicable, with rules on publicity, equality of opportunity and public procurement, and with Treaty rules and principles of transparency, equality of treatment and non-discrimination where EC public procurement directives are not applicable;
- (ii) appraisal of project applications in accordance with programme criteria and procedures, including compliance with rules on environmental impact assessment, equality of opportunity legislation and policies;
- (ii) selection for funding:
  - applications selected correspond to objectives and published criteria of programme;
  - reasons for acceptance or rejection of applications are clearly set out; observance of state aid rules;
  - observance of eligibility rules;
  - inclusion of terms and conditions of funding in approval decision;

- (iii) selection of contractors/suppliers in according with public procurement rules;

### **1.2 Adequate verification of actual delivery of products and services and of the eligibility of expenditure charged to programme**

This will entail, at Managing Authority and Intermediate Body levels:

- (i) verifying the reality of “deliverables” (services, works, supplies, etc.) against plans, invoices, acceptance documents, experts’ reports, etc., and, where appropriate, on the spot;
- (ii) verification of observance of conditions of grant approval;
- (iii) verification of eligibility of amounts claimed;
- (iii) adequate follow-up of all outstanding questions before acceptance of claim;
- (iv) maintenance of an adequate and reliable accounting system;
- (v) maintenance of the audit trail at all levels from final beneficiary or body or firm carrying out operation up through the system.

## **2 Ancillary elements**

- (i) satisfactory administrative controls in the form of standard checklists or equivalent means and proper documentation of results, to ensure for instance:
  - that claims have not been paid before and transactions (contracts, receipts, invoices, payments) are separately identifiable;
  - reconciliation within the accounting system of declarations and expenditure recorded;
- (ii) proper supervision of payment processing and authorisation procedures;
- (iii) satisfactory procedures to ensure proper dissemination of information about EU rules;
- (iv) ensuring timely payment of Community funding to beneficiaries.

Data provided in this context should, in particular, show:

1. The procedures/systems involved and the unit responsible for their implementation;
2. The documents which have been created, the data systems used and the unit responsible for these;
3. The management and control systems in existence for financial data flows; who audits them and how the findings are reported;
4. Who audits co-funded expenditure and how are the results reported.

All possible weaknesses, risks or irregularities identified in the implementation process should also be reported and proposals to address these should be provided.



## Form A

### Compliance with Structural Funds Regulations and Associated Commission Decisions

I confirm that my Department and all Agencies/Bodies involved in the implementation of co-funded operations have received copies of and are bound by Finance Circular 34/2001 and the terms of the following Regulations, Decisions etc., governing the administration of the European Regional Development Fund (ERDF).

- General Regulation:  
Council (EC) No. 1260/99 or 21 June 1999, laying down General Provisions on the Structural Funds.
- ERDF Regulation:  
Regulation (EC) No. 1783/99 of the European Parliament and of the Council of 12 July 1999 on the European Regional Development Fund.
- Council Regulation (EC Euratom No.) 2988/95 on the protection of the European Communities Financial Interests.
- Council Regulation (Euratom, EC) No. 2185/96 concerning on-the-spot checks and inspections carried out by the Commission to protect the European Communities financial interests against fraud and other irregularities.
- Commission Regulation (EC) No. 1681/94 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the structural policies and the organisation of an information system in this field.
- Commission Regulation (EC) No. 438/2001 of 2 March, 2001 laying detailed rules for the implementation of Council Regulation (EC) No. 1260/99 as regards the management and control systems for assistance granted under the Structural Funds.
- Commission Regulation (EC) No. 1685/2000 of 28 July 2000 laying down detailed rules for the implementation of Council Regulation (EC) No. 1260/99 as regards eligibility of expenditure of operations co-financed by the Structural Funds.
- Commission Regulation (EC) No. 448/2001 of 2 March, 2001 laying down detailed rules for the implementation of Council Regulation (EC) No. 1260/99 as regards the procedure for making financial corrections to assistance granted under the Structural Funds.
- Commission Regulation (EC) No 1159/2000 of 30 May 2000 on information and publicity measures to be carried out by the Member States concerning assistance from the Structural Funds.
- 2000-2006 Community Support Framework for Ireland.
- Commission Decision(s) in respect of the Operational Programme(s) for which your Department has responsibility.

Secretary General .....

Department of .....

Date .....

\* INTERMEDIATE BODY  
REF. NO

**Form B 1**

**CERTIFICATION REPORT**

**OPERATIONAL PROGRAMME / COMMUNITY INITIATIVE**

**FUND: ERDF**

Reporting period from ..... / ..... /200 .... to ..... /..... /200 ....

Programme/Community Initiative Title: .....

Final Beneficiary/Grant Approving Body (L1)\*\*: .....

Intermediate Body (L2)\*\*\*: .....

Managing Authority (L3): .....

Measure/Sub measure Title: .....

Name of Project (if applicable) : .....

EU Payment Amount being Claimed: .....

**Project/Sub-Measure/Measure level (delete which ever is inappropriate)**

Total eligible certified expenditure returned previously to ...../...../200...

<b>Total eligible certified expenditure returned previously to .... /... / 200 ....</b> €	<b>Certified eligible expenditure for this period to .... /... / 200 .... to .... /... / 200 ....</b> €	<b>Cumulative certified eligible expenditure to .... /... / 200 .... to .... /... / 200 ....</b> €

As per supporting project schedule attached (when completed at Sub-Measure/Measure level)

\* The Intermediate Body will insert reference when it receives a copy of Form B1.

\*\* The body which first receives, approves and processes a grant claim.

\*\*\* An Intermediate Body means all public or private bodies or services acting under the responsibility of managing or paying authorities or performing tasks on their behalf in relation to final beneficiaries or the bodies or firms carrying out operations (this can include implementing bodies).



Please confirm that:

**Level 1**

Tick box for confirmation

- 1. Expenditure on the measure/operation is consistent with the provisions of Commission Regulation (EC) 1685/2000 (eligibility criteria)
- 2. The intended purpose of the measure/operation is consistent with the objectives of the above-named programme/initiative
- 3. The payment application for EU recoupment is based on eligible expenditure actually paid out by the final recipient and supporting documentation is available
- 4. The expenditure for which recoupment is sought has been paid within the eligibility period for the programme/ Initiative
- 5. EU State Aids, public procurement, environmental protection and equality of opportunity requirements and Regional aid rates, as appropriate, have been observed
- 6. EU publicity requirements are being observed, including at final recipient level i.e. in conformity with Commission Regulation (EC) 1159 /2000 (information & publicity)
- 7. Physical and financial progress is being monitored including on the spot site inspection where appropriate
- 8. There has been no overlapping of EU aid for the operation
- 9. A separate accounting system or an adequate accounting code is being maintained for all transactions relating to the operation
- 10. Evidence of receipt of funding by the final recipient of the grant is available
- 11. Details of the underlying transactions are recorded, where possible, on computer files and are available on request to the Commission Services responsible and national authorities
- 12. A satisfactory audit trail exists i.e. in conformity with Annex I of Commission Regulation (EC) 438/2001.
- 13 All original supporting documentation will be retained in accordance with Article 38(6) of Council Regulation (EC) 1260/99 i.e. for three years after the closure of the programme
- 14. Expenditure has been reconciled between the administrative unit and the accounts/finance unit and any differences explained

Have any financial control weakness, risk or irregularities Been identified in the execution of the project(s)? Yes / No

If yes, please specify:

.....

.....



What corrective action has/will be taken

.....  
.....  
.....

Specify the controls applied to guarantee valid certification

.....  
.....  
.....

**LEVEL 1**

I certify that the controls listed from 1 to 14 above have been performed and on that basis the eligible expenditure returned is correct.

Report Prepared by: ..... Final Beneficiary/ ..... Date: .....  
(Certified) Grant Approving Body

Countersigned by: ..... Final Beneficiary/ ..... Date: .....  
(Validated) Grant Approving Body

When completed, this report and project schedule (as appropriate) should be returned to the Intermediate Body and a copy retained.

\* MANAGING AUTHORITY  
REF. NO

**Form B 2**

**CERTIFICATION REPORT**

**OPERATIONAL PROGRAMME / COMMUNITY INITIATIVE**

**FUND: ERDF**

Reporting period from ..... / ..... /200 .... to ..... /..... /200 ....

Programme/Community Initiative Title: .....

Intermediate Body (L2)\*\*: .....

Managing Authority (L3): .....

Priority (Sub-programme) Title: .....

Measure Title : .....

EU Payment Amount Claimed: .....

**Measure/Priority (Sub-programme) level (delete which ever is inappropriate)**

<b>Total eligible certified expenditure returned previously to .... /.... / 200 ....</b> €	<b>Certified eligible expenditure for this period to .... /.... / 200 .... to .... /.... / 200 ....</b> €	<b>Cumulative certified eligible expenditure to .... /.... / 200 .... to .... /.... / 200 ....</b> €

Please confirm that:

**LEVEL 2 - INTERMEDIATE BODY**

Tick box for Confirmation

1. Management and control procedures in accordance with the reporting body's Procedural Manual are in place at level 1.

\* The Managing Authority will insert reference when it receives a copy of Form B2.

\*\* An Intermediate Body means all public or private bodies or services acting under the responsibility of managing or paying authorities or performing tasks on their behalf in relation to final beneficiaries or the bodies or firms carrying out operations (this can include implementing bodies)



2. Steps, including sample checking of information at level 1, have been taken to give reasonable assurance that the amount returned is correct and the working papers are available for inspection.

Have any financial control weakness, risk or irregularities Been identified in the execution of the project(s)? Yes / No

If yes, please specify:

.....  
.....

What corrective action has/will be taken

.....  
.....  
.....

Specify the controls applied to guarantee valid certification

.....  
.....  
.....

**LEVEL 2**

We certify that requirements 1 and 2 have been complied with and on that basis are satisfied that eligible expenditure is correct.

Report Prepared by: ..... Intermediate Body ..... Date: .....  
(Certified)

Countersigned by: ..... Intermediate Body ..... Date: .....  
(Validated)

When completed, this report and appropriate schedule should be returned to the Managing Authority for the Programme and a copy retained.

### Form B 3

#### CERTIFICATION REPORT

#### OPERATIONAL PROGRAMME / COMMUNITY INITIATIVE

**FUND: ERDF**

Reporting period from ..... / ..... /200 .... to ..... /..... /200 ....

Programme/Community Initiative Title: .....

Managing Authority : .....

EU Payment Amount being Claimed: .....

**Programme Level**

As per supporting schedule of certification reports (Forms B2).

Total eligible certified expenditure returned previously to .... /.... / 200 .... €	Certified eligible expenditure for this period to .... /.... / 200 .... to .... /.... / 200 .... €	Cumulative certified eligible expenditure to .... /.... / 200 .... to .... /.... / 200 .... €

Please confirm that:

**LEVEL 3 - MANAGING AUTHORITY**

Tick box for Confirmation

- 1. Management and control procedures in accordance with the reporting body's Procedural Manual are in place at level 2.
- 2. The amount being claimed is in accordance with the latest financial tables.
- 3. Steps, including sample checking of information at level 2, have been taken to give reasonable assurance that the amount returned is correct and the working papers are available for inspection
- 4. The up-to-date Programme Complement has been presented to the Commission
- 5. The latest annual implementation report has been forwarded to the Commission
- 6. A debtor's ledger is being maintained, in accordance with paragraph 9 of Finance Circular 34/2001.

Have any financial control weakness, risk or irregularities Been identified in the execution of the project(s)? Yes / No



If yes, please specify:

.....  
.....

What corrective action has/will be taken

.....  
.....  
.....

Specify the controls applied to guarantee valid certification

.....  
.....  
.....

**LEVEL 3**

We certify that requirements 1 and 6 have been complied with and on that basis are satisfied that eligible expenditure is correct.

Report Prepared by: ..... Managing Authority ..... Date: .....  
(Certified)

Countersigned by: ..... Managing Authority ..... Date: .....  
(Validated)

When completed, this report and sub programme should be returned to the Structural Funds Division, Department of Finance, 73-79 Lower Mount Street, Dublin 2 and a copy retained.

**FORM C**

**Statement of expenditure by priority and measure**

Commission reference no.

Name: Operational Programme for

Date :

Total actually paid and certified eligible expenditure (euro)												
	2000				2001			Total				
	Public		Private	Total	Public		Private	Total	Public		Private	Total
	Community (ERDF)	Other Public			Community (ERDF)	Other Public			Community (ERDF)	Other Public		
Priority: 1												
Measure 1.1												
Measure 1.2												
Priority 2												
Measure 2.1												
Measure 2.2												
Priority 3												
Technical assistance												
Total ERDF related												
Total ESF related												
Total												
Priority : 1												
Regions not receiving transitional support												
Regions receiving transitional support												
Priority 2												
Regions not receiving transitional support												
Regions receiving transitional support												
Priority 3												
Technical Assistance												
Regions not receiving transitional support												
Regions receiving transitional support												

## Appendix F

## European Commission Regulation (EC) No. 448/2001

**Commission Regulation (EC) No 448/2001 of 2 March 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the procedure for making financial corrections to assistance granted under the Structural Funds**

*Official Journal L 064 , 06/03/2001 P. 0013 - 0015*

**Text:**

Commission Regulation (EC) No 448/2001 of 2 March 2001 laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the procedure for making financial corrections to assistance granted under the Structural Funds

THE COMMISSION OF THE EUROPEAN COMMUNITIES,  
Having regard to the Treaty establishing the European Community,  
Having regard to Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds(1), and in particular Article 53(2) thereof,

After consulting the Committee set up pursuant to Article 147 of the Treaty,

After consulting the Committee on Agricultural Structures and Rural Development,

After consulting the Committee on Structures for Fisheries and Aquaculture,

Whereas:

(1) Article 39(1) of Regulation (EC) No 1260/1999 requires the Member States to make financial corrections in connection with individual or systemic irregularities, by cancelling all or part of the Community contribution.

(2) In order to ensure a uniform application of this provision throughout the Community, provisions should be laid down for determining such corrections and for reporting to the Commission.

(3) Provisions should be laid down concerning the amount of the financial corrections the Commission may make under Article 39(3) of Regulation (EC) No 1260/1999 in cases where a Member State has failed to comply with its obligations under Article 39(1) or Article 38.

(4) Detailed provisions concerning the procedure under Article 39(2) of Regulation (EC) No 1260/1999 should be laid down and the same procedure should be applied in the cases referred to in Article 38(5) of the Regulation.

(5) Commission Regulation (EEC) No 1865/90 of 2 July 1990 concerning interest on account of late payment to be charged in the event of late repayment of assistance from the Structural Funds(2) should be replaced. However, the provisions of Regulation (EEC) No 1865/90 should continue to apply to assistance granted for the programme period 1994-99 under

Council Regulation (EEC) No 2052/88(3), as last amended by Regulation (EC) No 3193/94(4).

(6) This Regulation should be without prejudice to the provisions regarding the recovery of State aid laid down in Article 14 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty(5).

(7) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Development and Conversion of Regions,

HAS ADOPTED THIS REGULATION:

**CHAPTER I**

**Scope**

**Article 1**

This Regulation lays down detailed rules for the implementation of Regulation (EC) No 1260/1999 as regards the procedure for making financial corrections to assistance granted under the Structural Funds that is administered by the Member States.

**CHAPTER II**

**Financial corrections by Member States**

**Article 2**

1. In the case of systemic irregularities, enquiries under Article 39(1) of Regulation (EC) No 1260/1999 shall cover all the operations liable to be affected.
2. When cancelling all or part of the Community contribution, Member States shall take into account the nature and gravity of the irregularities and the financial loss to the Funds.
3. Member States shall send to the Commission, as an annex to the last quarterly report of each year supplied under Commission Regulation (EC) No 1681/94(6), a list of cancellation proceedings initiated in the past year, together with information on the steps already taken or still required, where appropriate, to adjust the management and control systems.

**Article 3**

1. When amounts are to be recovered following a cancellation under Article 39(1) of Regulation (EC) No 1260/1999, the competent service or body shall initiate recovery proceedings and notify the paying and managing authorities thereof. Recoveries shall be reported and accounted for in accordance with Article 8 of Commission Regulation (EC) No 438/2001(7).
2. The contribution of the Funds cancelled in accordance with paragraph 1 may not be re-used for the operation or operations that were the subject of the correction, nor, where a financial correction is made for a systemic error, for operations where this systemic error occurred. Member States shall inform the Commission in the report referred to in Article 2(3) of how they

have decided or propose to re-use the funds cancelled and, if appropriate, to amend the financial plan for the assistance.

### **CHAPTER III**

#### **Financial corrections by the Commission**

##### **Article 4**

1. The amount of financial corrections made by the Commission under Article 39(3) of Regulation (EC) No 1260/1999 for individual or systemic irregularities shall be assessed wherever possible and practicable on the basis of individual files and be equal to the amount of expenditure wrongly charged to the Funds, having regard to the principle of proportionality.
2. When it is not possible or practicable to quantify the amount of irregular expenditure precisely, or when it would be disproportionate to cancel the expenditure in question entirely, and the Commission therefore bases its financial corrections on extrapolation or a flat rate, it shall proceed as follows:
  - (a) in the case of extrapolation, it shall use a representative sample of transactions with like characteristics;
  - (b) in the case of a flat rate, it shall assess the importance of the infringement of rules and the extent and financial implications of the irregularity established.
3. Where the Commission bases its position on the facts established by auditors other than those of its own services, it shall draw its own conclusions regarding their financial consequences, after examining the measures taken by the Member State concerned under Article 39(1) of Regulation (EC) No 1260/1999, the reports supplied under Regulation (EC) No 1681/94, and any replies from the Member State.

##### **Article 5**

1. The period of time within which the Member State concerned may respond to a request under the first subparagraph of Article 39(2) of Regulation (EC) No 1260/1999 to submit its comments and, where appropriate, make corrections, shall be two months, except in duly justified cases where a longer period may be agreed by the Commission.
2. Where the Commission proposes financial corrections on the basis of extrapolation or at a flat rate, the Member State shall be given the opportunity to demonstrate, through an examination of the files concerned, that the actual extent of irregularity was less than the Commission's assessment. In agreement with the Commission, the Member State may limit the scope of this examination to an appropriate proportion or sample of the files concerned. Except in duly justified cases, the time allowed for this examination shall not exceed a further period of two months after the two-month period referred to in paragraph 1. The results of such examination shall be examined in the manner specified in the second subparagraph of Article 39(2) of Regulation (EC) No 1260/1999. The Commission shall take account of any evidence supplied by the Member State within the time limits.
3. Whenever the Member State objects to the observations made by the Commission and a hearing takes place under the second subparagraph of Article 39(2) of Regulation (EC) No 1260/1999, the

three-month period within which the Commission may take a decision under Article 39(3) of that Regulation shall begin to run from the date of the hearing.

##### **Article 6**

In cases in which the Commission has suspended payments under Article 38(5) of Regulation (EC) No 1260/1999, the Commission and the Member State concerned shall endeavour to reach agreement within the five-month period referred to in Article 38(5) of Regulation (EC) No 1260/1999 in accordance with the procedure and time limits set out in Article 5(1) and (2). If no agreement is reached, Article 5(3) shall apply.

##### **Article 7**

1. Any repayment due to be made to the Commission pursuant to Article 39(4) of Regulation (EC) No 1260/1999 shall be effected before the due date indicated in the order for recovery drawn up in accordance with Article 28 of the Financial Regulation applicable to the general budget of the European Communities. This due date shall be the last day of the second month following the issuing of the order.
2. Any delay in effecting repayment shall give rise to interest on account of late payment, starting on the due date referred to in paragraph 1 and ending on the date of actual payment. The rate of such interest shall be one and a half percentage points above the rate applied by the European Central Bank in its main refinancing operations on the first working day of the month in which the due date falls.
3. A financial correction under Article 39(3) of Regulation (EC) No 1260/1999 shall not prejudice the Member State's obligation to pursue recoveries under Article 38(1)(h) of Regulation (EC) No 1260/1999 and Article 3(1) of this Regulation and to recover state aid under Article 14 of Regulation (EC) No 659/1999.

### **CHAPTER IV**

#### **Final provisions**

##### **Article 8**

Regulation (EEC) No 1865/90 is hereby repealed.

Its provisions shall however continue to apply to assistance granted for the programme period 1994-99 under Regulation (EEC) No 2052/88.

##### **Article 9**

This Regulation shall enter into force on the seventh day following its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 2 March 2001.

For the Commission

Michel Barnier

Member of the Commission

## Glossary of Abbreviations

BMW Region	Border, Midlands and Western Region – a NUTS II region
C & AG	Comptroller and Auditor General
CAP	Common Agricultural Policy
CEB	Community Enterprise Board
CMOD	Centre for Management and Organisation Development
CSF	Community Support Framework
DART	Dublin Area Rapid Transit
DG	Directorate-General of the European Commission
EAGGF / FEOGA	European Agricultural Guidance and Guarantee Fund
ECA	European Court of Auditors
EEC	European Economic Community
ERDF	European Regional Development Fund
ESF	European Social Fund
EU	European Union
FCU	Financial Control Unit
FIFG	Financial Instrument for Fisheries Guidance
IA	Internal Audit
ICQ	Internal Control Questionnaires
ICSEM	Interdepartmental Committee on Sound and Efficient Management
LEADER	Liason Entres Actions de Developpement de l'Economie Rurale
NDP	National Development Plan
NRA	National Roads Authority
NUTS	Nomenclature Units Territorial Statistics
OP	Operational Programme
PIAU	Protocols Internal Audit Unit
PPP	Public Private Partnership
R & D	Research and Development
S & E Region	Southern & Eastern Region - a NUTS II region
SME	Small & Medium Sized Enterprise
VAT	Value Added Tax

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