

APPENDIX A

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

ANNEX I

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.

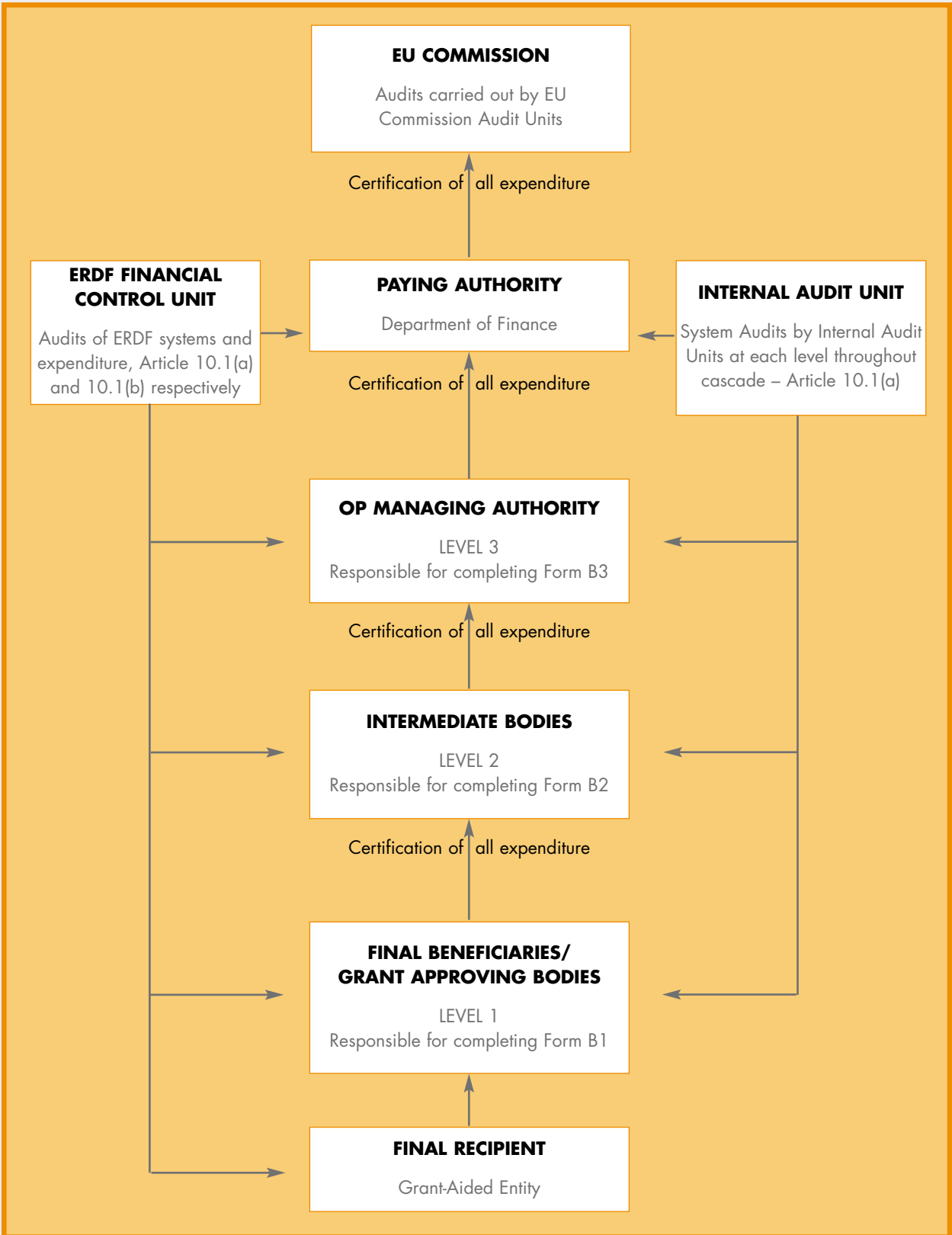
See website: www.europa.eu.int/eur-lex

APPENDIX B

DEPARTMENT OF FINANCE CIRCULAR 34/2001 (EXTRACT)

ERDF FINANCIAL CONTROLS IN IRELAND 2000/06

Structure of financial controls to comply with Commission Regulation (EC) 438/2001 – Article 10.1 (a) and 10.1 (b) – and the Protocol on Internal Audit (IA) co-operation



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;
- (iii) 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;
- (iv) 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;
- iv adequate follow-up of all outstanding questions before acceptance of claim;
- v maintenance of an adequate and reliable accounting system;
- vi 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 of 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.Σ 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 _____

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) : _____ Ref. Number:

Total eligible cost approved for project:

Total ERDF contribution approved for project:

ERDF Amount Claimed this period: _____

Project/Sub-Measure/Measure level (delete whichever is inappropriate)

Total eligible certified expenditure returned previously to/...../.....	Adjustments in respect of prior B1 period(s) (see schedule attached)	Certified eligible expenditure for this period/...../..... to/...../.....	Amount of certified eligible expenditure, as adjusted, being claimed in this period	Cumulative certified eligible expenditure/...../..... to/...../.....
1	2	3	4 = (cols. 2+3)	5 = (cols. 1+4)
€	€	€	€	€

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) | <input type="checkbox"/> | | | | |
| 2. | The intended purpose of the measure/operation is consistent with the objectives of the above-named programme/initiative | <input type="checkbox"/> | | | | |
| 3. | The payment application for EU recoupment is based on eligible expenditure actually paid out by the final recipient and supporting documentation is available | <input type="checkbox"/> | | | | |
| 4. | The expenditure for which recoupment is sought has been paid within the eligibility period for the programme/Initiative | <input type="checkbox"/> | | | | |
| 5. | EU State Aids, public procurement, environmental protection and equality of opportunity requirements and Regional aid rates, as appropriate, have been observed | <input type="checkbox"/> | | | | |
| 6. | EU publicity requirements are being observed, including at final recipient level i.e. in conformity with Commission Regulation (EC) 1159/2000 (information & publicity) | <input type="checkbox"/> | | | | |
| 7. | Physical and financial progress is being monitored including on the spot site inspection where appropriate | <input type="checkbox"/> | | | | |
| 8. | There has been no overlapping of EU aid for the operation | <input type="checkbox"/> | | | | |
| 9. | A separate accounting system or an adequate accounting code is being maintained for all transactions relating to the operation | <input type="checkbox"/> | | | | |
| 10. | Evidence of receipt of funding by the final recipient of the grant is available | <input type="checkbox"/> | | | | |
| 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 | <input type="checkbox"/> | | | | |
| 12. | A satisfactory audit trail exists i.e. in conformity with Annex I of Commission Regulation (EC) 438/2001. | <input type="checkbox"/> | | | | |
| 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 | <input type="checkbox"/> | | | | |
| 14. | Expenditure has been reconciled between the administrative unit and the accounts/finance unit and any differences explained | <input type="checkbox"/> | | | | |
| Have any financial control weakness, risk or irregularities been identified in the execution of the project(s)? | | <table border="0"> <tr> <td style="padding-right: 10px;">Yes</td> <td><input type="checkbox"/></td> <td style="padding-left: 20px;">No</td> <td><input type="checkbox"/></td> </tr> </table> | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| Yes | <input type="checkbox"/> | No | <input type="checkbox"/> | | | |

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

Name (block capitals): _____

Position held (block capitals): _____

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

Name (block capitals): _____

Position held (block capitals): _____

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

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: _____

Total ERDF contribution approved Measure/Priority:

ERDF Amount Claimed this period: _____

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

Total eligible certified expenditure returned previously to/...../.....	Certified eligible expenditure for this period/...../..... to/...../.....	Prior B2 Adjustments (see schedule attached)	Amount of certified eligible expenditure, as adjusted, being claimed in this period	Cumulative certified eligible expenditure/...../..... to/...../.....
1	2	3	4 = (cols. 2+3)	5 = (cols. 1+4)
€	€	€	€	€

As per supporting schedule of certification reports (Forms B1).

* 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)

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.
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
<input type="checkbox"/>	<input type="checkbox"/>

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 the eligible expenditure is correct.

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

Name (block capitals): _____

Position held (block capitals): _____

Countersigned by: _____ (validated)	Final Beneficiary/ _____ Grant Approving Body	Date: _____
--	--	-------------

Name (block capitals): _____

Position held (block capitals): _____

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

FORM B3

CERTIFICATION REPORT

OPERATIONAL PROGRAMME / COMMUNITY INITIATIVE

FUND: ERDF

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

Programme/Community Initiative Title: _____

Managing Authority: _____

Total ERDF contribution approved :

ERDF Amount being Claimed: _____

Programme Level

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

Total eligible certified expenditure returned previously to/...../.....	Certified eligible expenditure for this period/...../..... to/...../.....	Prior B3 Adjustments (see schedule attached)	Amount of certified eligible expenditure, as adjusted, being claimed in this period	Cumulative certified eligible expenditure/...../..... to/...../.....
1	2	3	4 = (cols. 2+3)	5 = (cols. 1+4)
€	€	€	€	€

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
<input type="checkbox"/>	<input type="checkbox"/>

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 to 6 have been complied with and on that basis are satisfied that the eligible expenditure is correct.

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

Name (block capitals): _____

Position held (block capitals): _____

Countersigned by: _____ Managing Authority: _____ Date: _____
(validated)

Name (block capitals): _____

Position held (block capitals): _____

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

SCHEDULES TO ACCOMPANY FORM B'S

PROJECT/MEASURE/PRIORITY SCHEDULE

Project Title	Project** Form B reference	Total eligible cost approved for project/ measure/priority as approved*	Total ERDF contribution approved for project/ measure/priority as approved*	ERDF amount claimed this period	Total eligible certified expenditure returned previously	Adjustments in respect of prior B periods (See schedule attached)	Certified eligible expenditure for this period	Amount of Certified eligible expenditure, as adjusted, being claimed in this period	Cumulative certified eligible expenditure (at end of this period)
Measure		€	€	€	1	2	3	4 (2+3)	5 (1 + 4)
Priority*									
Total									

* Delete Project, Measure or Priority as appropriate

** Insert Project or Form B reference as appropriate

This schedule should accompany Form B1, B2, or, Form B3, as appropriate.

If the Form B1 is completed at Measure or Sub-Measure level this schedule should be completed to accompany Form B1's (to provide the information that would be returned if a separate B1 form had been used for each project listed). On the other hand if Form B1 is completed at project level and Form B2 is completed at Measure or Sub-Measure level, this schedule should accompany the completed Form B2.

Information should be aggregated upwards as appropriate when reported to the next level in the cascade. The completed Schedule should accompany the appropriate Form B i.e. if information is reported at project level then the next level reports information at measure level and so on.

ADJUSTMENTS SCHEDULE

Project title Measure Priority*	Project ** Form B Reference	Amount of adjustment €	Prior B period subject to adjustment	Reason for adjustment	Irregularity Report required (yes/no)
TOTAL					

* Delete Project, Measure or Priority as appropriate

** Insert Project or Form B reference as appropriate

Adjustments in respect of prior Form B periods

The Adjustments column (Column 2 on Forms B1, B2 and B3) and the above accompanying schedule should be used where adjustments are required to amend information returned in a previous Form B's.

Such adjustments would include:

- Overclaims (ineligible expenditure or arithmetic error)
- Underclaim (eligible expenditure which was not previously claimed)

Only certified eligible expenditure for the current claim period should be inserted in Column 3 of the Form B.

Expenditure or adjustments relating to prior periods should always be entered in Column 2 and the accompanying Adjustments Schedule (above) completed to give full details of the adjustment(s).

APPENDIX C

EUROPEAN COMMISSION GUIDANCE – MANAGEMENT VERIFICATIONS

Working document concerning good practice in relation to management verifications to be carried out by Member States on projects co-financed by the Structural Funds and the Cohesion Fund (03/04/2006)

INTRODUCTION

The objective of this document is to provide examples of good practice on certain practical aspects of the application of Article 4 of Commission Regulation (EC) No 438/2001 and Article 4 of Commission Regulation (EC) No 1386/2002. It presents the main issues raised by the requirement to carry out management verifications on expenditure declared by final beneficiaries.

Commission audit missions carried out since the introduction of the abovementioned regulations and also in the context of the accession of the 10 new Member States have highlighted the diversity of methods and procedures for carrying out management verifications. Weaknesses identified in some Member States have shown the potential benefits of such a document. However, the document also draws upon examples of good practice noted in Member States, and is intended to be of relevance during both the current and future programming periods.

It covers the regulatory requirements, general principles and purpose of verifications, the bodies responsible for carrying them out, the timing, scope and intensity of the verifications, the organisation of on-the-spot visits, the requirement to document the work and outsourcing. More detailed examples of good practice are given in respect of two specific areas, namely public procurement and aid schemes, which have sometimes been problematic in Member States.

Due to the wide variations in terms of organisational structures between Member States, it is not possible to cover every situation in this document. As Article 4 verifications are essentially a responsibility of the managing authority, which has the possibility of delegating tasks to intermediate bodies. Where reference is made to intermediate bodies in the note, this implies that some or all of the Article 4 tasks have been so delegated by the managing authority.

1. REGULATORY REQUIREMENTS

(a) Structural Funds

Article 4 of Regulation (EC) No 438/2001 requires Member States' management and control systems to 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, public procurement, State aid, protection of the environment and equality of opportunity.

(b) Cohesion Fund

Articles 4 of Regulation (EC) No 1386/2002 contains similar provisions for the Cohesion Fund and requires Member States' management and control systems to include procedures to verify the authenticity of the expenditure claimed and execution of the project from its preparatory stage through to the entry into service of the financed investment in accordance with the terms of the relevant granting Decision, with the objectives assigned to the project and with applicable national and Community rules on, in particular, the eligibility of expenditure for support from the Fund, protection of the environment, transport, trans-European networks, competition and public procurement.

Verifications shall cover all aspects, whether of a financial, technical or administrative nature, that determine the effective utilisation of the funds committed.

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

The comments made in the note apply both to the Structural Funds and the Cohesion Fund unless otherwise stated.

2. MAIN ISSUES IN MANAGEMENT VERIFICATIONS FOR THE STRUCTURAL AND COHESION FUNDS

The note provides examples of good practice on particular aspects of Article 4 verifications. Where practices that are

considered to represent particularly good elements of control systems as regards verifications are mentioned in the note, *they are highlighted as representing examples of 'best practice'*.

2.1 Article 4 verifications – general principles and purpose

Management verifications are part of the internal control¹ system of any well managed organisation. They are the normal day to day controls made by management within an organisation to ensure that the processes for which it is responsible are being properly carried out.

A simple example of one such verification in a typical organisation would be to compare goods actually delivered to the related purchase order in terms of quantity of goods, price and condition. This verification ensures that the actual quantity of goods ordered have been received at the agreed price and are of the desired quality.

With more complex processes, the scope of the verifications will obviously increase and might include verifying compliance with relevant rules and regulations. However, the principle remains the same, namely that verifications made by management within an organisation should ensure that the processes for which it is responsible are being properly carried out and are in compliance with the relevant rules and regulations. Article 4 verifications are no different in that they are also the day to day management verifications of processes for which the organisation is responsible, carried out in order to verify the delivery of the co-financed products and services, the reality of expenditure claimed and the compliance with the terms of the relevant Commission Decision and applicable national and Community rules. However, while Member States' internal control systems may be adequate for national programmes they may sometimes need to be adapted to certain specific requirements of the Structural Funds and the Cohesion Fund.

2.2 Bodies responsible for Article 4 verifications

Managing authorities² are responsible for the efficiency and correctness of management and implementation, and in particular for:

- ensuring the correctness of operations financed under the assistance, particularly by implementing internal controls in keeping with the principles of sound financial management;
- ensuring compliance with Community policies in the context of the application of Community rules on, *inter alia*, the award of public contracts; and
- ensuring compliance with the obligations concerning information and publicity.

The managing authority therefore has overall responsibility for these tasks. It can choose to entrust some or all of these tasks to intermediate bodies³. However, it cannot delegate the overall responsibility for ensuring that they are properly carried out. Therefore, where certain tasks have been entrusted to other bodies, the managing authority should, in its supervisory capacity, obtain assurance that the tasks have been properly carried out. It can do this in a number of ways including,

- obtaining and reviewing relevant reports prepared by intermediate bodies,
- receiving audit reports prepared in the context of Article 10 of Commission Regulation (EC) No 438/2001, which should incorporate reviews of the Article 4 checks done at intermediate body level, and
- performing quality reviews on verifications carried out by intermediate bodies

In particular, it should also reserve the right to carry out some controls at intermediate body level so that, where it has concerns that the verifications that it has delegated are not being properly carried out, it can assess how the verifications have been performed

¹ Internal control is broadly defined as a process, effected by an entity's board of directors, management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- Effectiveness and efficiency of operations.
- Reliability of financial reporting.
- Compliance with applicable laws and regulations.

Source: COSO definition of internal control

² Article 34(1) (f), (g) and (h) of Council Regulation (EC) No 1260/1999

³ Intermediate bodies are 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. They are responsible for establishing a system of internal control to guarantee the regularity and legality of the operations, their conformity with the terms of the Commission Decision and compliance with the relevant Community rules. Where the managing authority has delegated Article 4 tasks, the system of internal control should include verification checks by the intermediate body on the expenditure declarations submitted by the final beneficiary.

through an examination of a limited sample of the verifications carried out by the intermediate body. The determination of the size of the sample is a matter of professional judgement.

In the case of the Structural Funds, it is common for an intermediate body to be responsible for compiling expenditure declarations received from a number of final beneficiaries into one overall expenditure declaration which it submits to the managing authority. In such cases, the managing authority should carry out verifications to ensure the accuracy of the compilation of the expenditure by the intermediate body. These verifications can be carried out on a sample basis based on risk analysis. In cases where the intermediate body submits expenditure declarations directly to the paying authority, then the managing authority should be informed of this in order to allow it to carry out verifications on the accuracy of the expenditure compilation.

Final beneficiaries⁴ are the bodies and public or private firms responsible for commissioning operations. They may be public or private bodies. Where they are public bodies they may be the same body as that which has been designated as managing authority or intermediate body. Final beneficiaries are responsible for ensuring that expenditure which they declare for co-financing is legal and regular and complies with all applicable Community and national rules. They should therefore have their own internal control procedures, proportionate to the size of the body and the nature of the operation, for providing assurance on this.

2.3 Guidance on Article 4 verifications

Article 2(1) of Commission Regulation (EC) No 438/2001 requires each Member State to 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 and in particular to provide adequate assurance of the correctness, regularity and eligibility of claims on Community assistance.

Best practice in this area would involve guidance being prepared for all levels (i.e. managing authority and intermediate body level) in order to ensure that a consistent methodology is applied across all bodies as regards carrying out Article 4 verifications. Overall guidance could be prepared at managing authority level and, where necessary, tailored at intermediate body level to meet specific requirements of particular programmes or projects. Such guidance should be incorporated in the procedures manuals of these bodies.

2.4 Timing of Article 4 verifications

Most elements of Article 4 verifications should be carried out before the related expenditure is declared to the next level above. For example, before an intermediate body forwards an expenditure declaration to the managing authority (or paying authority), its Article 4 desk based (see section 2.5) verifications should already have been carried out. In any event, all Article 4 desk based verifications in respect of the expenditure in a particular statement of expenditure should be completed before the paying authority⁵ submits the statement to the Commission.

On-the-spot visits should usually be undertaken when the project is well under way, both in terms of physical and financial progress. In some Member States, on-the-spot visits are carried out when the project has been completed. For projects where only one on-the-spot visit is planned, this gives assurance that all expenditure declared for the project is correct. On the other hand, the disadvantage of this approach is that it may be too late to effect any necessary corrective action where problems are identified.

However, for European Social Fund (ESF) type of actions, where projects (e.g. training courses, employment schemes) are often intangible in nature and where little or no physical evidence of the project remains after its completion, on-the-spot visits during project implementation (i.e. before completion) are crucial in order to check the reality of such projects.

2.5 Methodology and scope of Article 4 verifications

Article 4 verifications comprise two key elements namely, desk based checks and on-the-spot checks.

All expenditure claims submitted by final beneficiaries should be subject to desk based checks based on an examination of the claim itself and relevant supporting documentation such as invoices, delivery notes, bank statements, progress reports and timesheets. The nature of the documents to be submitted should be determined by the managing authority/intermediate body taking account of the overall control system and in particular the level of on-the-spot checks. It is recommended to include at least a list and description of the invoices which support the claim, and details of contracts awarded. Depending upon the documentation supplied, the desk based checks should at least check:

- That expenditure relates to the eligible period;
- That the expenditure relates to an approved project;
- Compliance with programme conditions;
- Compliance with eligibility rules;

⁴ Article 9(l) of Council Regulation (EC) N°1260/1999

⁵ Article 9(2)(b) of Commission Regulation (EC) No 438/2001

- Delivery of products/services co-financed;
- Adequacy of supporting documents;
- Compliance with state aid rules, environmental rules and equal opportunity requirements;
- Compliance with public procurement rules (See section 2.12).

Desk based checks are not sufficient on their own to give assurance on all elements concerning the legality and regularity of expenditure and it is therefore essential that on-the-spot visits are carried out in order to check in particular the reality of the project, delivery of the product/service in full compliance with the terms and conditions of the grant agreement, physical progress, respect for Community rules on publicity, and fully compliant public procurement procedures. On-the-spot visits can also be used to check that the final beneficiary is providing accurate information regarding the physical and financial implementation of the project. When on-the-spot visits and desk checks are carried out by different persons, the procedures should ensure that both receive relevant information on the results of the checks carried out by each of them on a timely basis. Project progress reports prepared by final beneficiaries, or engineers' reports in the case of larger infrastructure projects, can be used as the basis for both desk checks and on-the-spot verifications.

The managing authority or intermediate body, when determining the extent of Article 4 verifications to carry out, may take account of the control procedures of the final beneficiary where this is justified. For example, where the final beneficiary is a government ministry and controls on the expenditure have been carried out by a separate part of the ministry (i.e. with appropriate segregation of functions), the managing authority may treat them as contributing to the verification under Article 4, whilst still being responsible for carrying out any further verifications necessary to ensure their reliability.

Where the final beneficiary presents an accountant's certificate in support of expenditure declared this may also be taken into account (see section 2.10). Where the managing authority or intermediate body is also a final beneficiary, an appropriate segregation of functions for the verifications under Article 4 should be ensured.

The methodology used by Member States for carrying out Article 4 verifications should be set out in the procedures manuals of each body identifying which points are checked in the desk based checks and on the on-the-spot visits respectively and referring to the checklists to be used for the different checks executed.

2.6 Organisation of Article 4 on-the-spot verifications

On-the-spot verifications should be planned in advance to ensure that they are effective. Generally, notification of the on-the-spot visit should be given in order to ensure that the relevant staff (e.g. project manager, engineer, accounting staff) and documentation (financial records including bank statements and invoices) are made available by the final beneficiary during the visit. However, in some cases, where the reality of the project may be impossible to determine after the project has been completed, it may be appropriate to carry out visits on-the-spot without prior notice (e.g. ESF funded training courses).

2.7 Intensity of Article 4 verifications

Regulation 438/2001 requires that where any physical or administrative verifications are not exhaustive, but are performed on a sample of works or transactions, the records shall identify the operations selected and shall describe the sampling method used.

Where grants are paid to final beneficiaries on the basis of submitted expenditure declarations, all of the declarations should be subject to certain desk checks as part of the validation and authorisation of payment procedure (e.g. eligibility of expenditure checks). The types of checks and their intensity will vary depending on the nature of the operations and the level of assurance that can be obtained from other sources. It is possible therefore to have in-depth desk based checks of transactions contained in expenditure declarations on a sample basis.

No operation should be excluded from the possibility of being subject to an on-the-spot check and the general approach should be that all operations should be subject to such visits. However, in practice, for measures having a large number of small operations, desk based checks may be sufficient on their own to provide a high level of assurance (e.g. where the project is not of a physical / tangible nature, where the final beneficiary sends all relevant documentation to the managing authority/intermediate body and where documentary evidence of the reality of the project is provided). The desk based checks can then be complemented by on-the-spot visits to a sample of these operations. The intensity of on-the-spot verifications is very much dependent upon the nature of the projects in the programme (or priority/measure) and the type of documentation that is forwarded by the final beneficiary.

For on-the-spot checks, the sample could focus on large value operations, operations where problems or irregularities have been identified previously or where particular transactions have been identified during the desk based checks that appear unusual and require further examination (i.e. risk oriented). For large infrastructure projects implemented over several years,

three or more visits are likely to be required. These could be carried out during project implementation and at project completion. Where a particular final beneficiary is responsible for a number of operations, at least one on-the-spot check should be carried out at the level of such a final beneficiary.

For both desk based checks and on-the-spot checks, the particular sampling method used should be described and justified, a record of the individual transactions sampled maintained and the results of the checks recorded. The sampling method used should be reviewed on a regular basis, and at least annually, to take account of error rates and other known risk factors. The review process should also be recorded.

Where problems are identified in the verifications carried out on a sample of operations, or in a sample of expenditure items within the same operation, the size of the sample of the population should be increased in order to determine whether similar problems exist in the previously unchecked operations.

The managing authority/intermediate body should be in a position to demonstrate that overall the intensity of verifications, desk based and on-the-spot, is sufficient to give reasonable assurance of the legality and regularity of the expenditure co-financed under the programme.

2.8 Documenting Article 4 verifications

All Article 4 verifications should be documented. The records should state the work done, the results of the verifications and the measures taken in respect of irregularities and errors.

Checklists, which act as a guide for carrying out the verifications are often used to record each of the actions performed together with the results. These should be sufficiently detailed. For example, when recording a verification on the eligibility of the expenditure, it is not sufficient to have one box on the checklist stating that the eligibility of the expenditure in the declaration has been verified. Instead, a list of each of the eligibility points verified should be detailed (e.g. expenditure paid within the eligibility period, conformity of supporting documents and bank statements, appropriate and reasonable allocation of overheads to the project).

For more straightforward verifications such as checking the sum of a list of transactions, a simple tick beside the total figure would suffice to record the work done. The name and position of the person performing the verifications and the date they were carried out should always be recorded.

Photographs of billboards, copies of promotional brochures, training course materials and diplomas provide evidence of the verification of compliance with publicity requirements.

Irregularities identified during the verifications should be recorded and any corrective and/or follow up

action documented. Follow up action might include the submission of an irregularity report and/or a proposal for recovery of co-financing.

An overall recording system for verifications carried out should be maintained by the relevant bodies (i.e. managing authorities and intermediate bodies). Records are kept in computerised monitoring information systems in a number of Member States. This facilitates the planning of verifications, helps avoid unnecessary duplication of work and facilitates risk analysis for other bodies (i.e. audit body, winding up body, paying authority).

2.9 Outsourcing Article 4 verifications

As a general principle, Article 4 verifications are to be carried out under the responsibility of the managing authority by the body directly responsible for the management of the programme priority or measure. Member States are encouraged to manage Community funds in the same way as they would manage national funds and accordingly, sufficient staff resources should be allocated to carrying out these verifications in order to ensure that they are carried out properly and in a timely way.

However, in situations where, due to the high volume or technical complexity of the operations to be verified (e.g. aid schemes), managing authorities / intermediate bodies find that they do not have sufficient staff resources or expertise to carry out the verifications themselves, outsourcing of some or all elements of the verifications to external firms may be appropriate. Where the option of outsourcing is used, it is essential that the scope of the work to be carried out is set out clearly in the terms of reference. As already noted in point 2.4, most elements of verifications should be performed ex-ante (i.e. before the related expenditure is submitted to the next level above). Therefore, the consequences of any delays in carrying out this work, such as compliance with N+2 rules or delays in submitting claims, should be recognised before this option is chosen. This is particularly relevant in the case of public sector bodies where delays can be experienced in the award of contracts for this type of work. There is also an onus on the contracting authority to assess the quality of the outsourced work. This will usually involve assigning additional staff resources to this function. Accordingly, before a decision to outsource Article 4 verifications is taken, all of these factors should be taken into consideration.

2.10 Accountant's certificates

The terms of grant agreements may include a requirement for final beneficiaries to provide an accountant's certificate with expenditure declarations they submit for payment. These certificates vary as regards the scope of the work carried out by the accountant but generally cover basic requirements such as confirmation that the expenditure has been

paid within the eligible period, that it relates to items approved under the grant agreement, that the terms of the grant agreement have been complied with and that adequate supporting documentation, including accounting records, exists. Although the verification requirements under Article 4 cannot be fulfilled solely by checks carried out either by final beneficiaries themselves or by third parties (e.g. accountants) on their behalf, the existence of such accountants' certificates may, provided the work carried out is of satisfactory quality, justify the managing authority / intermediate body limiting the Article 4 verifications to a sufficient sample taking account of known risks, including the risk of a lack of independence of the body providing the certificate. However, in order for reliance to be placed on the certificates, it is essential that the managing authority provides guidance for use by the accountants on the scope of the work to be done and the report / certificate to be presented. This should not be simply a one sentence certificate on the regularity of the final beneficiary's claim, but rather, should describe the work carried out and the results.

The annual audited financial statements of a final beneficiary company cannot replace a specific accountant's certificate for each claim made by that final beneficiary.

2.11 Article 4 verifications and Article 10 audits

The staff performing Article 4 verifications should not be involved in systems audits or audits of expenditure under Article 10 of Regulation (EC) No 438/2001 (Article 9 of Regulation (EC) No 1386/02 for the Cohesion Fund) and vice versa. The objectives of Article 4 verifications are different from the Article 10 audits, the latter being carried out ex-post (i.e. after the expenditure declaration has been made to the Commission). The objective of Article 10 audits is to assess whether the internal controls are operating effectively whereas Article 4 verifications form part of the internal controls examined by Article 10 audits. The two types of work must therefore be clearly distinguished in their planning, organisation, execution, content and documentation.

Although Article 4 verifications and Article 10 audits should be separated, exchange of information between the staff carrying out these separate controls is desirable. For example, the staff involved in Article 4 verifications should be kept informed of the results of Article 10 controls and may well look to Article 10 auditors for advice while the latter should take account of the results of Article 4 work in their risk analysis and audit strategy.

2.12 Article 4 verifications of public procurement

General

Verifications in relation to public procurement should aim to ensure that both national and EC procurement rules are complied with and that the principles of

equality of treatment, non-discrimination, transparency free movement and competition have been respected throughout the entire process.

Verifications in this area should be carried out as soon as possible after the particular process has occurred as it is often difficult to take corrective action at a later date.

At award of funding stage, it should be ensured that final beneficiaries are aware of their obligations in this area and that staff have received relevant training. Some Member States have prepared specific guidance on public procurement to be used by final beneficiaries. This is particularly useful where final beneficiaries are involved in 'one off' contracts and lack relevant experience. Guides on the Community rules for public procurement, have been produced by the European Commission and provide useful information and explanations which can be used during verifications.

(http://europa.eu.int/comm/internal_market/publicprocurement/guidelines)

Intensity of verifications of public procurement

The intensity of Article 4 verifications can vary according to the value and type of the contracts.

In at least one Member State compliance with public procurement rules for all contracts that exceed either the thresholds set in the EC public procurement directives, or national thresholds where these are lower, are checked. This approach may not be practical where the number of contracts exceeding the thresholds is high, but should be considered as an option where the contracting authority is known to lack relevant experience.

It is essential that suitably experienced and qualified staff should be used to carry out these checks and that detailed checklists are available for use by the staff.

Planning

Final beneficiaries/implementing bodies are responsible for ensuring the quality of the initial studies, the design and the accuracy of the project costing. Managing authorities/intermediate bodies should verify these elements and also check that cost estimates are up to date. This should ensure that problems with additional works/supplementary contracts during project implementation are avoided.

Particular attention should be paid to checking

- the appropriateness of the procurement method being used,
- the interdependence between the different contract phases (land acquisitions, site preparation, utilities connections etc),
- financing plans and the availability of national co-financing.

Tendering

For high value contracts where final beneficiaries are known to be inexperienced in the area of public procurement, managing authorities/intermediate bodies should ensure that the quality of the tender documents, including the terms of reference have been verified either by their own experts or by an external expert. Particular attention should be given to verifying that the technical specifications are well defined as regards technical, economic and financial capabilities.

Although there are specific advertising requirements required by both EC and national public procurement rules, managing authorities/intermediate bodies should also be aware of the need to ensure that, even where contracts fall below the EC thresholds or where services are subject only to a limited application of EC Directive 92/50 (i.e. Annex IB), an adequate (i.e. adequate in the context of the size and nature of the contract⁶) level of advertising of the contract must be made in order to ensure that Treaty's general principles of equal treatment and transparency are respected. This can be achieved by requesting final beneficiaries to provide a copy of the relevant national publications and/or EU Official Journal publications when submitting expenditure declarations. Evidence of dispatch of post-award contract notices should also be requested, particularly for services listed in Annex IB of EC Directive 92/50.

Selection and award criteria

For contracts that exceed the thresholds set in the EC public procurement directives, managing authorities/intermediate bodies in some Member States often send an observer to tender evaluations. A report setting out the observer's conclusions regarding the tender evaluation is then prepared. The observer checks that a sufficiently detailed tender evaluation report has been prepared showing how the evaluation committee has reached its conclusions.

This approach may not be practical where the number of contracts exceeding the thresholds is high, but should be considered as an option where the contracting authority is known to lack relevant experience. It could also be used on a limited sample basis to obtain assurance that better established contracting authorities, that are responsible for a large number of contracts which exceed the thresholds, are complying with the relevant procurement rules.

Particular areas of the tender evaluation and award procedures which Commission audits have identified as being problematic, include:

- no separation between the selection phase and award phase of the procedure and confusion of selection criteria and award criteria;

- selection criteria incorrectly used during the award phase;
- the selection and awarding criteria not being published in the tender notice or tender specifications;
- selection and award criteria other than those published being used during the evaluation;
- the criteria used not being in compliance with the fundamental principles of the EC Treaty;
- inadequate documentation of decisions taken by the evaluation committee;
- supplementary/complementary works awarded directly without being re-tendered.

In some Member States, where managing authorities/intermediate bodies have concerns as to how a particular contract is to be awarded and where their recommendations have not been followed by a final beneficiary, they are empowered to reject the tender award procedure.

Contract implementation phase

For contracts exceeding the threshold in the EU public procurement directives, best practice would include a procedure to ensure that all significant supplementary/complementary contracts are notified to and approved by the managing authority/intermediate bodies before being signed by the contracting authority. This should ensure that where there are additional works, the relevant public procurement rules have been complied with.

2.13 Article 4 verifications of aid schemes

Aid schemes may pose problems for Member States as regards Article 4 verifications due to the following:

- increased control risk (i.e. the inherent complexity of the rules governing the aid scheme, the nature of those recipients – i.e. SME's – with the risk of a potentially weaker control environment, etc.);
- specific eligibility criteria;
- specific provisions concerning the final date of eligibility of expenditure.

For the purposes of establishing a satisfactory approach to Article 4 verifications, two types of aid scheme arrangements should be distinguished:

- 1) When the role of the final beneficiary in the context of the aid scheme is merely an administrative/managerial one (i.e. involving the selection of recipients, the allocation and administration of individual grants provided, etc) and where it holds no direct financial interest in the scheme itself. This may be the case when the final beneficiary is a public administration body.

⁶ Case C-324/98 Telaustria [2000] ECR I-10745

- 2) When the final beneficiary has a financial interest in the scheme or the project (i.e. it provides part of the equity or provides loan funding to the final recipient which is used to finance the project). This is usually the case when the body is a privately owned (financial) institution.

For both cases, best practice would include a very detailed definition of eligible investments for each individual project in the grant decision. This is particularly important when the final beneficiary relies on accountants' certificates, in order to clarify the scope of the verifications and therefore increase the overall assurance of the system.

The problem that may arise concerns the nature and extent of the verifications by the managing authority or the intermediate body within the context of Article 4 in order to obtain assurance that the verifications done at the level of the final beneficiary have been properly carried out. In case 1), the final beneficiary may be seen as a body with a function similar to that of an intermediate body. It would therefore be acceptable for the managing authority and/or the intermediate body to carry out limited verifications itself to obtain assurance concerning the regularity of expenditure from the verifications carried out at the level of the final beneficiary.

Depending upon the managing authority's and/or the intermediate body's judgement concerning the level of risk in the management and control systems of both the final beneficiary and the final recipients, this assurance could take the form of regular reporting by the final beneficiary, including statistics of the results of the verifications and information on who carried them out, the methodology applied and the scope, in particular regarding the respect of the eligibility rules. This reporting could be combined with limited on-site validation checks by the managing authority/intermediate body.

In case 2), where the final beneficiary has a direct financial interest in the fund or project, it may not be regarded as being entirely independent from project implementation and therefore not completely objective in its judgment. The reliance placed by the intermediate body and/or the managing authority on the work of the final beneficiary should be supported by its own on-the-spot visits to the final recipient.

Depending upon the control measures taken by the final beneficiary in response to this higher apparent risk, the control arrangements to be organised by the managing authority/intermediate body will involve a regular reporting mechanism (including the same information mentioned on case 1) combined with on-the-spot verifications, the frequency of which should be established with reference to 2.7 of this guidance note.

APPENDIX D

GUIDELINE – TERMS OF REFERENCE SYSTEMS AUDITS

ERDF FINANCIAL CONTROL UNIT GUIDELINE

Terms of Reference for the performance of Systems Based Audits by Internal Audit Units (or contracted firms on their behalf)

1. INTRODUCTION

This Guideline for the performance of systems based audits required by European Commission Regulation is intended to:

- provide internal auditors with outline guidance on audit approach, and,
- facilitate a common approach to be taken by all audit functions undertaking such work.

The Guideline is not intended to be prescriptive – it offers background information and details of the European Commission Audit Manual which is considered a key tool for auditors carrying out the work. Auditors must decide themselves as to the precise nature and level of audit testing to be undertaken based on their own assessment of the relevant inherent and control risks.

It is worth pointing out that the Audit Manual is extremely detailed and comprehensive – the full range of tests and controls referred to in the Manual would only apply to large undertakings e.g. complex infrastructure projects. Auditors must exercise their own judgement as to the controls and tests appropriate to the project or scheme under review.

Further information is available in the ERDF Financial Control Unit Annual Report which is available from the Unit or at Ireland's Structural Funds website, www.ndp.ie (publications/annual reports)

2. BACKGROUND

Article 10.1(a) of European Commission Regulation 438/2001 requires systems audits to be carried out to verify the effectiveness of the management and control systems in place for operations co-financed by the Structural Funds. EU regulations can be viewed at the European Commission website www.europa.eu.int/eur-lex (legislation search).

In February 2003, the Department of Finance decided to move responsibility for the management of the systems audits from the Internal Audit Unit (Department of Finance) to the ERDF Financial Control Unit, effective from April 2003. This means that the ERDF FCU is responsible for the planning, coordination and control of an annual

programme of systems audits which are carried out by internal audit functions throughout the cascade structure for operations co-financed by the European Regional Development Fund (ERDF). A separate GUIDELINE is available for Cohesion Fund projects.

Department of Finance Circular 34/2001, (as amended by Circular 29/2002) states that the system-based audits required by Article 10.1(a) of Commission Regulation (EC) 438/2001 will be performed by Internal Audit Units at each level within the cascades of bodies implementing co-financed measures.

3. OBJECTIVES OF THE AUDIT

The overall objectives of the audit will be to examine the effectiveness of the management and control systems in place in the organisation to prevent, or to detect and correct, any material misstatement of eligible expenditure in relation to ERDF operations under the six heading listed as follows:

AUDIT TRAIL

That the audit trail is sufficient:

- To allow the various returns/Forms completed at each level of the cascade to be reconciled to the returns/Forms made at the level below it (from the Paying Authority to the Final Beneficiary).
- For the Form B1s completed by the Final Beneficiary to be reconciled to the accounting records.
- To ensure that the accounting records of Final Beneficiaries have an adequate audit trail to invoices and other probative documentation.
- To ensure that accounting records of Final Beneficiaries record transaction accurately.
- To ensure that all adjustments are properly documented.

ELIGIBLE EXPENDITURE

That the expenditure returned is eligible as per European Commission Regulation 448/2004 (replacing 1685/2000).

PUBLIC PROCUREMENT

That public procurement procedures have been adhered to as set out in the "National Public Procurement Policy Unit 2004" document.

PUBLICITY

That EU publicity and information requirements have been met in line with European Commission Regulation 1159/2000.

ARTICLE 4 SPOT CHECKS

The adequacy of the Article 4 spot checks made by each level on the level below.

DOCUMENTED PROCEDURES

The extent to which procedures have been documented.

Appendices A, B and C summarise the audit objectives suggested by the European Commission with references to relevant EU regulations and guidelines.

4. REQUIREMENTS OF THE AUDIT

The European Commission *Management and Control Systems Audit Manual for the Structural Funds* (revised November 2003) sets out a methodology for the audit of Member States management and control systems for the Structural Funds. The Manual provides a framework for audits of these systems which must be carried out in accordance with Council Regulation (EC) No. 1260/1999 and Commission Regulation (EC) No. 438/2001.

Part 4 of the Audit Manual provides a standard framework within which audits of Member States' management and control systems should be carried out and which ensures consistency of approach between auditors and audits. The audit methodology and procedures set out therein can also be used by Member State audit entities to undertake systems based audits.

The Manual is available by e-mail from this Unit (eucontrol@finance.gov.ie).

The ERDF FCU will expect such audits to be supported by the following sets of documents:

- Audit report
- Current Audit File
- Permanent Audit File

The format and contents of each set of documents is outlined at paragraphs 5, 6 and 7 below.

5. AUDIT REPORT FORMAT

Reports of systems audits carried out by Internal Audit Units should contain the following sections/details:

Executive Summary (where appropriate)
 Overview of objectives and scope
 Main findings and conclusions (main strengths and weaknesses)
 Key recommendations

Objectives and scope of the Audit
 Main objectives of the audit (*refer to Section 3*)
 Authorities/bodies and measures and projects/grants selected for audit
 Reasons for choice – risk analysis
 Personnel carrying out audit

Audit fieldwork
 Descriptions of audit fieldwork carried out in each area of the audit.

Findings and conclusions
 Findings and conclusions arising out of audit work.

Recommendations
 Specific recommendations to address weaknesses found

Appendices
 It may be appropriate to include further information, e.g. schedules of the projects/grants examined or the level of transaction testing carried out as part of the audit.

6. CURRENT AUDIT FILE (CAF)/AUDIT WORKING PAPERS FILE

The CAF for each systems audit should contain records of the activities undertaken during the audit and includes the following key documents (see also Appendix D):

- Audit Report
- Audit Programme/Checklist (identifying checks performed, appropriately signed off to indicate auditor who performed them and whether results were satisfactory or not)
- Papers to support audit work performed and conclusions reached (including details of transaction testing of representative samples)
- Points arising on audit.

7. PERMANENT AUDIT FILE (PIF)

The Permanent Audit File should contain background information about the organisation and the systems being audited and should be update each year or as required (see Appendix D)

8. GENERAL INFORMATION

Information is requested from Internal Audit Units regarding the structure of the internal audit function within the organisation and the nature and scope of its remit. Completion of the form at Appendix E is requested to accompany submission of the audit report (submit one completed questionnaire annually if more than one audit undertaken).

9. IRREGULARITIES

European Commission Regulation 1681/94 – Irregularities and the recovery of sums wrongly paid (www.europa.eu.int/eur-lex) requires member states to report errors or irregularities that are over €4,000 in value and which result, or have the potential to result in, an over-claim of ERDF aid. (Definition of an irregularity is contained in *Council Regulation No. 2988/95 – Protection of the European Communities financial interests* which is also available at the above website). Where an internal audit unit finds such errors, it should recommend the completion of an irregularity report for submission to the Managing and Paying Authority in line with the requirements of the Regulation.

10. FURTHER INFORMATION

Further information can be obtained by contacting the ERDF Financial Control Unit below:

ERDF Financial Control Unit,
Department of Finance
Central Business Park (Unit 2)
Tullamore
Co. Offaly.

Telephone: (057) 936 3651

Facsimile: (057) 936 3633

E-mail: eucontrol@finance.gov.ie

Website: www.ndp.ie (publications/annual reports)

*ERDF Financial Control Unit
June 2006*

APPENDIX A

Audit objectives relating to the audit of Member States' management and control systems

Audit objective for verification	Reference
1 Whether functions have been clearly allocated, authorities designated, and separation of duties ensured.	Art. 9 of Regulation 1260/99 Art. 3, 4, 9, 10 and 15 of Regulation 438/2001 Annex of Regulation 1159/2000
2A Whether there are adequate arrangements to ensure that the procedure for grant applications, appraisal of applications and selection for funding comply with the relevant rules ¹ , are in accordance with the needs of the area in question ² , and that decisions by the authority are fully documented.	Art. 34 (1), in particular (b) and (g) of Regulation 1260/99 Art. 7 (2a) and (3) and Annex I of Regulation 438/2001 Guidelines on application of financial corrections point 2.2.1
2B Whether there are adequate arrangements to ensure that the selection of contractors/suppliers complies with public procurement rules.	
3 Whether there are adequate procedures to verify the delivery of products and services, and the reality and eligibility of expenditure.	Art. 34 (1)(f) of Regulation 1260/99 Art. 4 of Regulation 438/2001 Guidelines on application of financial corrections point 2.2.1
4 Whether systems are adequate to provide reliable financial and statistical information on implementation.	Art. 18(3) and 34(1)(a) of Regulation 1260/99 Art. 18 and Annex IV of Regulation 438/2001
5 Whether checks are carried out on a sample basis, which are representative and based on risk-analysis, and cover at least 5 % of the total eligible expenditure; and whether checks are carried out to verify the effectiveness of the management and control systems in place.	Art. 10 and 11 of Regulation 438/2001 Guidelines on application of financial corrections point 2.2.1
6 Whether the bodies taking part in the management and implementation of the assistance maintain either a separate accounting system or an adequate accounting code for all transactions relating to the assistance.	Art. 34(1)(e) of Regulation 1260/99 Art. 7(2)(a) and 8 and Annex I of Regulation 438/2001
7 Whether there are procedures to ensure that certified declarations made to the Commission are accurate, result from accounting systems based on verifiable supporting documents, and that they only include expenditure that has been actually effected, incurred in operations selected for funding under the assistance and for which State Aid has been approved by the Commission.	Art. 38(1)(d) of Regulation 1260/99 Art. 9(2) of Regulation 438/2001 and Art. 7(2a) of Regulation 438/2001 as amended by Regulation 2355/2002.

¹ Apart from main regulations these also include rules on eligibility, publicity, equality of opportunity and public procurement, environment, equality of treatment, state aid, and national implementing rules reflecting the minimum requirements of the Regulations.

² More specifically with what is set out in the programme and the programme complement.

APPENDIX B

Audit objectives relating to audits at bodies/firms carrying out the operations

As set out above, the main purpose of the audits of final beneficiaries/final recipients is to determine whether the relevant aspects of Member State authorities' management and control systems relating to operations are functioning satisfactorily. Audits will involve the documentation and testing of final beneficiaries/final recipients' systems as

they affect the Structural Funds activity. In accordance with this approach, the audit objectives which relate to audits of final beneficiaries/final recipients are set out below. Examples of the questions to be addressed in order to meet these audit objectives are described in Appendix C.

	Audit objective for verification	Reference
1	Whether authorities' accounting records correspond with supporting documents held by the body/firm.	Art. 11(b) and Annex I of Regulation 438/2001
2	Whether the nature and timing of the relevant expenditure comply with Community provisions and correspond to the approved specifications of the operation and the work actually executed.	Art. 11(d) of Regulation 438/2001 Regulation 1685/2000 (eligibility rules) as amended by Regulation 1145/2003
3	Whether the use or intended use of the operation is consistent with the use described in the application for Community co-financing.	Art. 11(e) of Regulation 438/2001
4	Whether the Community financial contributions are within the applicable limits provided for in Art. 29 of Regulation 1260/99 ³ and any other applicable Community provisions and are paid to the final beneficiaries without any reduction and unjustifiable delay	Art. 29 and 32(1) of Regulation 1260/99 Art. 11(f) of Regulation 438/2001
5	Whether the appropriate national co-financing has in fact been made available	Art. 11(g) of Regulation 438/2001
6	Whether the body/firm has complied with Community rules and policies including on publicity, information, competition, award of public contracts, equality of opportunities, and protection of the environment	Art. 12 of Regulation 1260/99 Art. 11(h) of Regulation 438/2001 Regulation 1159/2000 (publicity rules)

³ See also point 9.3 of Commission Communication on the simplification, clarification, coordination and flexible management of structural policies 2000-2006 of 25.04.03 (C(2003)1255).

APPENDIX C

The key objectives of audits at Member State authorities and at final beneficiaries/final recipients

This appendix summarises the audit objectives and the detailed questions which may be addressed during audits of Member State authorities and of final beneficiaries/final recipients.

Appendix 1 of the Audit Manual sets out questionnaires in a modular format, whereby specific objectives and questions may be selected for use according to the particular objectives of the audit. The Appendix provides a structure for the audits, including the criteria which should be used to assess compliance with regulations and other requirements.

Note that where a question asks whether there are procedures to ensure a particular action or activity, the answers to these questions will be provided both through documentation of systems and through tests of controls and/or substantive tests to determine whether the system actually operates effectively in practice.

Where questions concern key elements of the system⁴, they have been highlighted in bold. They have not been given a specific position in order to ensure that the questions follow the audit trail of an application, i.e. from submission of application to actual payment of grant.

The following is a summary of the audit objectives and sub-questions in Appendix 1 of the Manual:

- 1 Whether functions have been clearly allocated, where necessary authorities designated, and separation of duties ensured.
 - (a) Have the authorities/bodies been designated?
 - (b) Have functions been clearly allocated?
 - (c) Is an adequate separation of functions ensured?
- 2A Whether there are adequate arrangements to ensure that procedures for grant applications, appraisal of applications and selection for funding comply with the relevant rules⁵, are in accordance with the needs of the area in question⁶, and that decisions by the authority are fully documented.
 - (a) Are there adequate arrangements to ensure that the call for applications reflects the assessed overall needs of the area, i.e. is in accordance with the programme procedures and programme complement?

- (b) Are there satisfactory arrangements to ensure that applications are invited from all potential project managers/operators?
 - (c) Are there adequate measures to ensure that all applications are recorded and dealt with?
 - (d) Are all applications for support evaluated on the basis of consistent and relevant criteria?
 - (e) Does the authority require potential project managers/operators to set out clear and measurable objectives, lined to a sound financial plan?
 - (f) Are decisions on actions to be supported taken by an appropriate authorised individual or individuals and is it ensured that those actions comply with the relevant rules?
 - (g) Are there adequate arrangements to ensure that successful applicants are fully informed of their entitlements and responsibilities as regards the provision of funding?
- 2B Whether there are adequate arrangements to ensure that selection of contractors/suppliers comply with public procurement rules⁷.
 - 3 Whether there are adequate procedures to verify the delivery of products and services, and of reality and eligibility of expenditure.
 - (a) Is the content and frequency for the provision of information adequately specified?
 - (b) Does the managing authority and/or intermediate bodies receive and obtain sufficient information on the physical activity of the actions to make an accurate assessment of progress?
 - (c) Does the managing authority and/or intermediate bodies receive sufficient financial information on the actions to make an appropriate assessment of progress?
 - (d) Are there adequate arrangements to ensure that action is taken when action do not appear to be proceeding according to plan?
 - (e) Are there suitable arrangements to ensure that project managers/operators submit suitable

⁴ In accordance with the guidelines on financial corrections.

⁵ Apart from main regulations these also include rules on eligibility, publicity, equality of opportunity and public procurement, environment, equality of treatment, state aid, and national implementing rules reflecting the minimum requirements of the Regulations.

⁶ More specifically with what is set out in the programme and the programme complement.

⁷ Relevant Sub-questions can be found under audit objective No. 6 for audit of final recipients.

- payment requests and that these are in the appropriate form?
- (f) Are payment requests received by the appropriate person?
- (g) Do payment requests contain appropriate information on expenditure and sufficient justifying documents?
- (h) Are there adequate checks to ensure that payment requests are appropriate, and that they are approved by an appropriate person?
- (i) Has the authority introduced suitable payment arrangements?
- (4) Whether systems are adequate to provide reliable financial and statistical information on implementation.
- (a) Is the IT system set up appropriate to provide reliable information?
- (b) Does the system provide all the information required by Annex IV of Regulation 438/2001⁸?
- (c) Are there adequate procedures to ensure maintenance of the system?
- (d) Are there adequate procedures to protect data in the system?
- (e) Are there adequate procedures for data transfer to the Commission?
- (5) Whether checks are carried out on a sample basis, which are representative and based on risk analysis, and cover at least 5% of the total eligible expenditure?
- (a) Are there appropriate arrangements to ensure that Art. 10 of Regulation 438/2001 is fully implemented and coordination of controls is obtained?
- (b) Do the designated body/bodies undertake system audits?
- (c) Do the designated body/bodies undertake appropriate on the spot checks?
- (d) Do the authorities have systems in place to ensure that by 30 June 2001 and annually thereafter they provide reports to the Commission on the implementation of Art. 10 to 12 of Regulation 438/2001, including information on any necessary completion or updating of the description of their management and control systems?
- (e) Is appropriate action taken when errors are found in payment requests, and when errors or irregularities are found during on the spot checks?
- (6) Whether the bodies taking part in the management and implementation of the assistance maintain either a separate accounting system or an adequate accounting code for all transactions relating to the assistance?
- (a) Has the managing authority and/or intermediary bodies established a sound financial account system in which all of the relevant transactions are recorded?
- (b) Have the authorities established suitable arrangements to ensure the accurate documentation of the audit trail?
- (c) Have the authorities established arrangements to ensure that Community funds are separately identifiable from those of the Member State?
- (d) Does the accounting system enable the relevant final recipients, and the reasons for payments to be identified?
- (7) Whether there are procedures to ensure that certified declarations made to the Commission are accurate, result from accounting systems based on verifiable supporting documents, and that they only include expenditure that has been actually effected, incurred in operations selected for funding, and for which State Aid has been approved by the Commission.
- (a) Has the paying authority established procedures to ensure the completeness and accuracy of all expenditure declarations to the Commission?
- (b) Is it ensured that declarations at winding-up for each form of assistance are prepared by a functionally independent organisation or person, and that these statements are presented to the Commission no later than the time of the final payment request?
- (c) Are there arrangements to ensure that the appropriate exchange rates are used where statements of expenditure are made in Euro⁹?

⁸ The agreement between the Commission and the Member State as regards the data to be made available should be taken into account when answering this sub-question and the specific questions.

⁹ Only applicable for Member States outside the Euro-zone.

APPENDIX D

CURRENT AUDIT FILE

Working papers are the records maintained by the auditor of the work planned and carried out in relation to the audit, including the procedures followed, the tests performed together with the information obtained and the conclusions formed. Working papers should be prepared at the time the work is carried out.

Such papers are the property of the auditors and accordingly appropriate procedures should be adopted to ensure their safe custody and confidentiality. Audit working papers should be held in the Current Audit file.

Although the quantity, type and content of working papers will vary between audits, they should be sufficiently extensive to:

- a) assist auditors in the conduct of their work
- b) provide adequate support for the auditor's opinion
- c) enable the work carried out to be independently reviewed
- d) encourage a methodical approach to the work being undertaken.

The purpose of the current audit file is therefore to provide a record of the audit work performed and to enable any person reviewing the audit to satisfy themselves that an adequate audit examination has been made of the organisations audited. The file should include the following elements

- Planning and audit timetable.
- Extracts from the meetings held
- Audit report
- Working papers relating to the tests carried out.

PERMANENT AUDIT FILE

The purpose of a permanent audit file is to provide auditors with a source of background information about the organisations being audited thus allowing them to obtain a greater understanding of their systems.

The permanent audit file should be updated each year and will thus provide the auditor with the most up to date information available. It should include:

- Protocol, notes of any arrangements or agreements for co-operation with the organisation
- Details of the functions and activities of the organisation.
- Administrative and control systems, audit trail, flowcharts, accounting procedures.
- Organisation charts, including the titles and names of the responsible officials showing the line of responsibility.
- Previous audit reports (ECA, Commission and Member State audits).

APPENDIX E

INTERNAL AUDIT REVIEW QUESTIONNAIRE

Scope

1. What is the scope of the internal audit (IA) function in your organisation?
2. What are the EU funds for which your organisation has audit responsibilities?

Staffing

3. What are the numbers and grades of staff deployed in the IA unit?
4. Are all officers in the unit deployed on a full time basis? (If officers are deployed on a part-time basis, indicate the amount of time spent on IA work).
5. What is the level of experience of each member of staff of the unit.
6. What are the professional qualifications of staff relevant to internal audit?

Training

7. Please give details of courses attended by IA staff (course content and organisers)?
8. Have all staff attended an appropriate training course or is it planned that they do so in the near future?

Reporting Arrangements

9. Please give details of the reporting arrangements for your unit.
(access to Audit Committee*, CEO, Finance Officer etc.)
**Audit Committee*
 - a. Does your organisation have an audit committee?
 - b. What is the membership of the Committee?
 - c. What is the role of the Committee

Implementation of IA Unit recommendations

10. Please give details of procedures in place to track implementation of recommendations made by the IA unit
11. How does your unit approach risk assessment in the selection of areas for audit?

APPENDIX E

MINIMUM 5% VERIFICATION AUDITS PERFORMED AND ORGANISATIONS/AUTHORITIES VISITED – 2006

EUROPEAN REGIONAL DEVELOPMENT FUND

Operational Programme	Paying Authority	Managing Authority	Intermediate Body	Final Beneficiary (Final Recipient)
Productive Sector OP	Department of Finance	Department of Enterprise, Trade & Employment	Department of Enterprise, Trade and Employment (Office of Science & Technology Unit) Department of Education	IDA (1 Final Recipient -Moffats)
BMW Regional OP	Department of Finance	BMW Regional Assembly	Pobal (Childcare measure) Department of Environment & Local Government (Urban & Village renewal measure) Department of Enterprise, Trade & Employment (Micro-enterprises measure) Department of Communications, Marine & Natural Resources (E-Commerce Measure)	Mayo County Council Westport Town Council Donegal County Council Donegal County Enterprise Board Mayo County Enterprise Board Mayo County Council
INTERREG North West Europe	n/a	n/a	n/a	Dublin City Council - SAFER project Presentation Order, Cork - Converting Sacred Places Údarás na Gaeltachta – TESIS project
INTERREG Ireland/Wales (joint audit with Welsh European Funding Office)	n/a	n/a	n/a	Agri-Networks, Wexford Garter's Lane Art Centre, Waterford. An Taisce - Coastal Bio-Diversity project An Taisce - Clean Coasts project
PEACE OP	-	-	-	(6 Final Recipients visited – Community Groups)
Economic and Social Infrastructure OP	Department of Finance	Department of Transport	National Roads Authority Department of the Environment & Local Government	Meath County Council
URBAN II Community Initiative - Ballyfermot		Dublin City Council	-	URBAN Ballyfermot (Pre-audit visit)

MINIMUM 15% VERIFICATION AUDITS PERFORMED AND
ORGANISATIONS/AUTHORITIES VISITED - 2006

COHESION FUND

Cohesion Fund Project	Paying Authority	Managing Authority	Intermediate Body	Implementing Body
M50 - South Eastern Motorway	Department of Finance	Department of Finance	National Roads Authority	Dun Laoghaire Rathdown County Council
Heuston Terminal and South West Rail Corridor	-	-	Department of Transport	Iarnród Éireann

APPENDIX F

VERIFICATION AUDITS

ANNUAL ELIGIBLE EXPENDITURE EXAMINED

MINIMUM 5% (ERDF) VERIFICATIONS 2000 – 2006

Operation Programme/ Fund/Initiative	Eligible Expenditure*										Eligible Expenditure Verified									
	2000	2001	2002	2003	2004	2005	2006	Total	2000	2001	2002	2003	2004	2005	2006	Total	% of OP Verified			
	€	€	€	€	€	€	€	€	€	€	€	€	€	€	€	€	€	%		
BMW OP	33,846,972	74,391,891	46,851,645	61,830,269	49,762,629	13,175,591	0	279,857,997	3,880,141	3,959,380	12,722,539	3,751,622	0	0	0	24,313,682	9%			
									11%	5%	27%	6%	0%	0%	0%	9%				
S&E OP	40,468,170	83,562,684	137,569,905	96,553,855	231,388,600	32,468,090	0	622,011,304	6,813,193	3,771,297	1,686,198	17,589,194	0	0	0	29,859,882	5%			
									17%	5%	1%	18%	0%	0%	0%	5%				
ESIOp	121,436,059	288,098,108	381,966,123	429,954,355	245,081,047	158,786,395	6,484,960	1,631,807,047	33,751,990	66,240,680	23,146,126	1,499,315	2,856,651	2,690,417	2,260,834	132,446,013	8%			
									28%	23%	6%	0.3%	1%	2%	35%	8%				
Productive Sector OP	7,476,085	60,186,449	96,982,299	108,915,638	120,882,599	69,549,371	11,067,002	475,059,443	223,226	3,216,171	0	0	0	3,682,037	0	7,121,434	1%			
									3%	5%	0%	0%	0%	5%	0%	1%				
Technical Assistance OP	3,519	1,031,009	2,841,239	2,087,543	852,791	757,637	0	7,573,738	1,716	229,858	0	0	0	0	0	231,574	3%			
									49%	22%	0%	0%	0%	0%	0%	3%				
URBAN Community Initiative	0	209,702	1,001,711	1,132,106	2,659,195	1,579,732	1,626,503	8,208,949	0	0	0	0	0	0	0	0	0%			
									0%	0%	0%	0%	0%	0%	0%	0%				
Peace & Reconciliation OP	0	1,882,753	2,180,259	11,316,245	16,067,529	12,151,924	825,899	44,424,609	0	0	17,124	608,284	156,346	294,674	17,231	1,093,659	2%			
									0%	0%	1%	5%	1%	2%	2%	2%				
Innovative Actions Programme in BMW Region	0	0	0	357,398	1,749,656	658,573	0	2,765,627	0	0	0	314,483	331,276	121,604	0	767,363	28%			
									0%	0%	0%	88%	19%	18%	0%	28%				
Innovative Actions Programme in S&E Region	0	0	30,024	355,864	2,599,292	0	0	2,985,180	0	0	18,619	142,790	251,076	0	0	412,485	14%			
									0%	0%	62%	40%	10%	0%	0%	14%				
TOTAL	203,229,805	509,362,596	669,423,205	712,503,273	671,043,338	289,127,313	20,004,364	3,074,693,894	44,670,266	77,417,386	37,590,606	23,905,688	3,595,349	6,788,732	2,278,065	196,246,092	6%			
% Verified per Year									22%	15%	6%	3%	1%	1%	11%	6%				

* Eligible expenditure returned to the European Commission and notified to the FCU

COHESION FUND MINIMUM 15% VERIFICATIONS 2000 – 2006

Cohesion Fund Project	Eligible Expenditure*										Eligible Expenditure Verified							
	2000	2001	2002	2003	2004	2005	2006	Total	2000	2001	2002	2003	2004	2005	2006	Total	% Verified	
	€	€	€	€	€	€	€	€	€	€	€	€	€	€	€	€	€	%
M1 Motorway – Cloghan /Lissenhall	13,343,298	13,357,234	71,128,115	9,599,877	0	0	0	107,428,524	4,597,063	4,601,864	24,505,216	3,307,370	0	0	0	37,011,513	34%	
M1 Motorway – Lissenhall /Ballibrigan	0	9,330,119	9,355,694	36,925,862	3,744,283	0	0	59,355,958	0	9,330,119	9,355,694	1,184,501	0	0	0	19,870,314	33%	
Cork Main Drainage (i)	182,257	19,643,807	20,296,483	38,704,580	8,123,127	0	0	86,950,254	11,259	4,990,266	8,143,328	1,456,154	1,881,415	0	0	16,482,422	19%	
Limerick Main Drainage	20,146,083	44,330,662	53,164,295	29,943,351	10,898,792	0	0	158,483,183	2,180,665	10,752,726	3,521,288	6,633,534	2,916,281	0	0	26,004,494	16%	
Heuston & SW Rail Corridor	14,681,251	26,965,265	39,529,323	13,015,309	2,748,254	0	0	96,939,402	1,375,149	3,937,755	9,003,968	8,391,828	1,041,343	0	0	23,750,042	24%	
Dublin Waste Water (ii)	68,825,293	74,604,184	30,387,914	16,470,129	0	0	190,287,520	62,568,908	72,937,933	18,984,897	2,984,896	0	0	0	0	157,476,634	83%	
Dublin Solid Waste (iii)	0	0	0	0	0	5,783,769	0	5,783,769	0	0	0	0	0	0	0	0	0%	
M50 South Eastern Motorway	0	10,899,520	5,630,155	25,985,514	0	44,894,321	0	87,409,510	0	0	0	0	0	24,891,408	0	24,891,408	28%	
N18 Ennis By-Pass	0	0	0	0	5,166,663	13,476,936	0	18,643,599	0	0	0	0	0	0	0	0	0%	
TOTAL	117,176,182	199,130,791	229,491,979	170,644,622	30,681,119	64,155,026	0	811,281,719	70,733,044	106,550,663	73,514,391	23,958,282	5,839,039	24,891,408	0	305,486,827	38%	
% Verified per Year									60%	54%	32%	14%	19%	39%	0%	38%		

* Eligible expenditure returned to the European Commission and notified to the FCU

- (i) A capital contribution reduction of €26m for Cork Main Drainage has been entirely set against the Expenditure figures for 2002 for the purposes of this analysis
- (ii) A capital contribution reduction of €44.5m for Dublin Waste Water has been equally set against the Expenditure figures for 2001 and 2002 for the purposes of this analysis
- (iii) The annual expenditure analysis for Dublin Solid Waste is not available and has been entirely set against 2005 for the purposes of this analysis

APPENDIX G

SYSTEMS AUDITS - REPORTS REVIEWED 2006

OP	Measure	Organisation	Cascade Level	Date
Border Midlands & Western Operational Programme	E-Commerce	Department of Communications, Marine & Natural Resources	Intermediate Body	March 2006
	Urban & Village Renewal	Galway County Council	Final Beneficiary	March 2006
Southern & Eastern Operational Programme	Technical Assistance	Southern & Eastern Regional Assembly	Managing Authority	November 2006
	Non-National Roads	South Dublin County Council	Final Beneficiary	April 2006
		Kildare County Council	Final Beneficiary	March 2006
		Waterford City Council	Final Beneficiary	February 2006
Urban & Village Renewal	Dublin City Council	Final Beneficiary	September 2006	
ESIOP	DTI Public Transport & Traffic Management	Rail Procurement Agency	Final Beneficiary	November 2006
	Waste Water Measure	Cavan County Council	Final Beneficiary	December 2006
		Roscommon County Council	Final Beneficiary	December 2006
	National Roads Measure	Department of Transport	Managing Authority	February 2006
National Public Transport Service	Department of Transport	Managing Authority	September 2006	
PSOP	Education	Department of Education & Science	Intermediate Body	May 2005
		Higher Education Authority	Final Beneficiary	February 2006
		Royal College of Surgeons	Final Beneficiary	February 2006
		Cork Institute of Technology	Final Beneficiary	February 2003
		Dublin Institute of Technology	Final Beneficiary	February 2004
Technical Assistance OP	NDP/CSF Monitoring, Coordination & Computerisation	Department of Finance		Draft
URBAN	Active Citizenship	Urban Ballyfermot Ltd	Implementing Body	June 2006
	Integrated Services			
	Environmental Enhancement & Security			

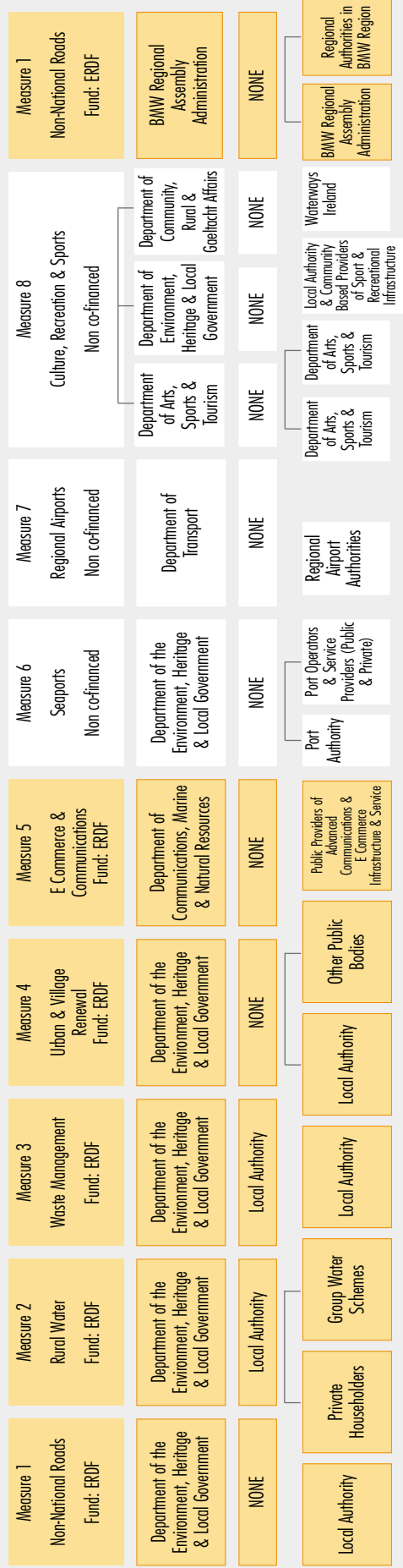
SYSTEMS AUDITS - REPORTS REVIEWED 2006 (CONTINUED)

OP	Measure	Organisation	Cascade Level	Date
PEACE II	Building Better Communities	SEUPB	Managing Authority	August 2003
		Sligo Task Force	Final Beneficiary	February 2004 August 2003
		Monaghan Task Force	Final Beneficiary	February 2004 August 2003
		Louth Task Force	Final Beneficiary	February 2004 August 2003
		Leitrim Task Force	Final Beneficiary	March 2004 August 2003
		Donegal Task Force	Final Beneficiary	March 2004 August 2003
		Cavan Task Force	Final Beneficiary	March 2004 August 2003
	Increasing Cross Border Economic Development Opportunities	Co-Operation Ireland		July 2004
	Border Reconciliation & Cultural Understanding	ADM/CPA	Final Beneficiary	October 2004
	Measure not stated	ADM/CPA	Final Beneficiary	August 2003
	Measure not stated	Department of Education & Science		August 2003
	Measure not stated	Organisations not stated	PEACE II Implementing Bodies	Not stated

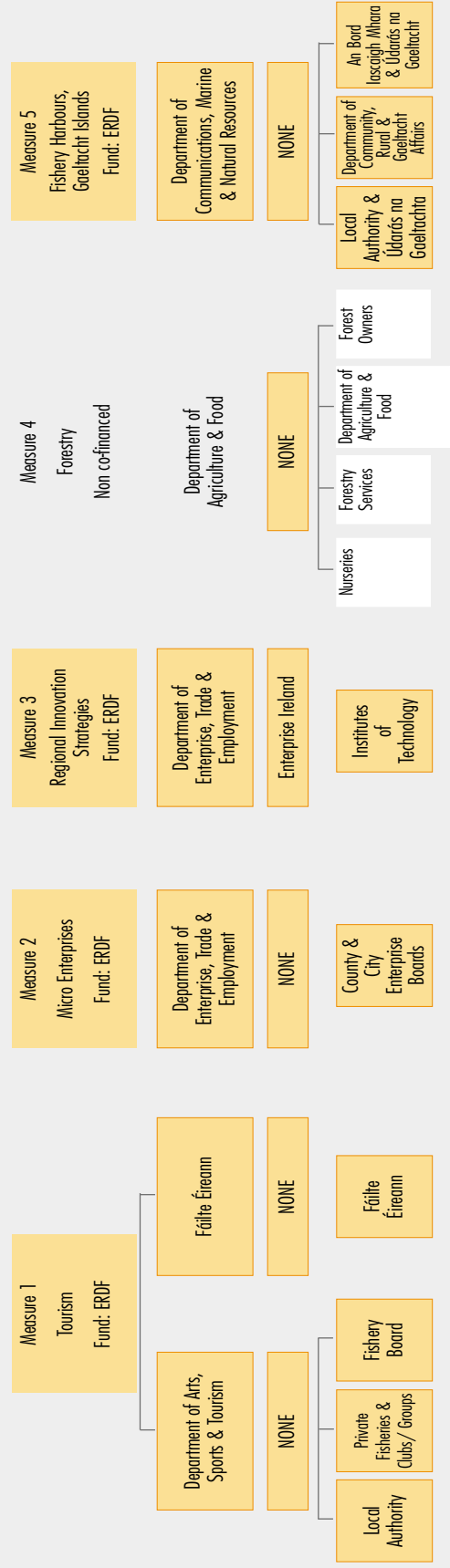
FUNDING FLOWCHART FOR THE BMW REGIONAL OPERATIONAL PROGRAMME 2000/06

APPENDIX H

SUB-PROGRAMME 1 – LOCAL INFRASTRUCTURE



SUB-PROGRAMME 2 – LOCAL ENTERPRISE DEVELOPMENT



SUB-PROGRAMME 3 – AGRICULTURE & RURAL DEVELOPMENT

Measure 1 General Structural Improvements Fund: EAGGF	Department of Community, Rural & Gaeltacht Affairs	NONE	Department of Community, Rural & Gaeltacht Affairs
Measure 2 Alternative Enterprises Non co-financed	Department of Community, Rural & Gaeltacht Affairs	NONE	Department of Community, Rural & Gaeltacht Affairs
Measure 3 General Rural Development Fund: EAGGF	Department of Community, Rural & Gaeltacht Affairs	NONE	Western Development Commission
Measure 4 Services for Agriculture and Rural Development Non co-financed	Department of Agricultural & Food	NONE	Department of Community, Rural & Gaeltacht Affairs
	Department of Community, Rural & Gaeltacht Affairs	Area Based Groups	Teagasc
	Department of Community, Rural & Gaeltacht Affairs	Western Development Commission	

SUB-PROGRAMME 4 – SOCIAL INCLUSION & CHILDCARE

Measure 1 Childcare Fund: ERDF	Department of Justice, Equality and Law Reform	NONE	Area Development Management Limited
Measure 2 Equality for Women Non co-financed	Department of Justice, Equality and Law Reform	Equality Authorities	Equality Authorities
Measure 3 Community Support & Family Support Non co-financed	Department of Community, Rural & Gaeltacht Affairs	NONE	Department of Community, Rural & Gaeltacht Affairs
Measure 4 Crime Prevention Non co-financed	Irish Prison Service	Probation and Welfare Service	Probation and Welfare Service
Measure 5 Youth Service Measure Non co-financed	Department of Justice, Equality and Law Reform	An Garda Síochána	Institutes of Technology
Measure 6 Local Development Non co-financed	Department of Community, Rural & Gaeltacht Affairs	Department of Education and Science	Area Based Partnership Companies and ADM Community Groups
	Department of Community, Rural & Gaeltacht Affairs	Local Authority	Local Authority
	Department of Community, Rural & Gaeltacht Affairs	Vocational Education Committees	Projects at Local Level
	Department of Community, Rural & Gaeltacht Affairs	National Voluntary Youth Work Organisation	Youth Information Centres
	Department of Community, Rural & Gaeltacht Affairs	NONE	National and Major Youth Work Organisations

APPENDIX I

GUIDELINE TO RISK ASSESSMENT STRUCTURAL FUND OPERATIONS IN IRELAND

INTRODUCTION

The main aim of independent audits by this Unit and other audit functions is to review and verify that the management and control systems relating to operation co-financed by the European Union (EU) are functioning effectively in order to prevent errors and irregularities, or, where they occur, to detect and correct them.

Management and control systems should ensure that actions selected for EU co-financing are eligible for Structural Fund support, remain eligible for the duration of the action, achieve stated objectives and comply with EU legislative and regulatory requirements.

RISK ASSESSMENT

The purpose of management and control systems is to have control procedures in place, carried out by designated and authorised personnel, which prevent errors or irregularities or reduce the risk of such errors. Therefore, a fundamental objective of an audit is the assessment of how effectively controls are reducing risks.

The identification of risk factors is essential to the planning of the audit of any operation. European Commission Regulation 438/2001 requires Member States to adopt a risk-based approach to the selection of projects or operations for audit.

The key risks can be categorised as follows:

Inherent risk

- Also known as 'business risk' – the risk of error or irregularity due to the environment in which the operation/action takes place.

Control risk

- Also known as the 'staff' or 'organisational' risk – the risk that errors or irregularities (above) will not be prevented, or, detected and corrected, by control procedures within the organisation.

Inherent Risk

It is important to remember that inherent risk must be viewed in isolation of financial control systems, i.e. it is the risk of error/irregularity irrespective of the control procedures which may be applied to reduce such risks. In the context of EU co-financed operations, inherent risk may be attributed to several factors including the following:

- complex rules – where the rules governing the operation are numerous and/or rigorous increasing the risk of misinterpretation or error in their application.

- complex operation – where the operation being co-financed is complicated and diverse, e.g. a road or rail infrastructure project with many individual construction elements and/or many actors (organisations, contractors, consultants)
- actions delivered through agents or third parties, whether state, semi-state or private, may have a higher risk than those delivered directly by a single managing authority
- level of EU support – the proportion of expenditure met from Structural Funds would influence risk - an error or irregularity in an operation receiving 75% EU aid would have greater consequences than in an action attracting 25% support (assuming the same eligible expenditure).

Control Risk

Management and control systems refers to the control environment within an organisation, i.e. the structural and procedural arrangements put in place by an organisation in order to mitigate inherent risks and prevent, or, detect and correct material errors or irregularities.

Structural arrangements

Structural arrangements relate to the manner in which an entity organises its control procedures and would include the following:

- the organisation structure – a clear diagrammatic outline of the various divisions of the organisation, their relationship to each other and the reporting lines
- delegation of responsibilities to individuals – how the organisation delegates and segregates responsibilities for key functions
- reporting lines – is there sufficient accountability demonstrated
- authorisation levels – are responsibilities allocated appropriately to individuals at the various levels in the organisation
- internal audit – does the organisation have an effective and independent internal audit function.

Therefore, the type of organisation involved in operations may have a bearing on the above. A newly established organisation may not have developed clear structures and allocated responsibilities in the manner in which it would be expected in a well-established entity. Similarly, one might expect a higher level of probity and accountability in a public body as compared to a private firm seeking grant aid.

Procedural arrangements

Procedural arrangements comprise the actual procedures and processes which constitute control activity within the

organisation. Because these procedures and processes are carried out by individuals, their effectiveness relies to a great extent on the competence of staff responsible for their performance. Issues arising would include:

- experience of staff – the use of temporary or untrained staff will increase the risk of error, a common problem in areas of high staff mobility.
- motivation – poorly paid and motivated staff are more likely to make or overlook errors
- qualifications and training – expert staff will require specialist qualifications or training (e.g. auditors, financial controllers)
- procedures manuals – does the organisation document its procedures and the personnel responsible for their performance.

Previous audit/irregularity

Apart from an evaluation of the inherent and control risks, the auditor will have other factors to consider when assessing the risk associated with a co-financed operation:

- Previous error/irregularity - If there are previously reported errors or irregularities or a critical consultancy report, it may indicate a higher level of risk.
- Previous audit – the findings of previous audits by the FCU or other auditors (external or internal) could be judged as increasing (critical report) or decreasing (clear report) the degree of risk.
- Audit environment – frequent and effective audits help the auditor to measure residual risk (risk of an error escaping detection by controls). Infrequent or inadequate audits leaves uncertainty as to the

effectiveness of controls – therefore priority might be given to the audit of an operation which has not been subject to regular or recent audit.

ERDF FCU Risk Assessment Model (RAM)

The ERDF Financial Control Unit (ERDF FCU) is responsible for the audit of Measures co-financed by the European Regional Development Fund (ERDF) and Cohesion Fund projects. Operations co-financed by the ERDF are generally organised into multi-annual Operational Programmes focussing on various themes (e.g. Productive Sector) or regions (e.g. Border Midlands & Western Region).

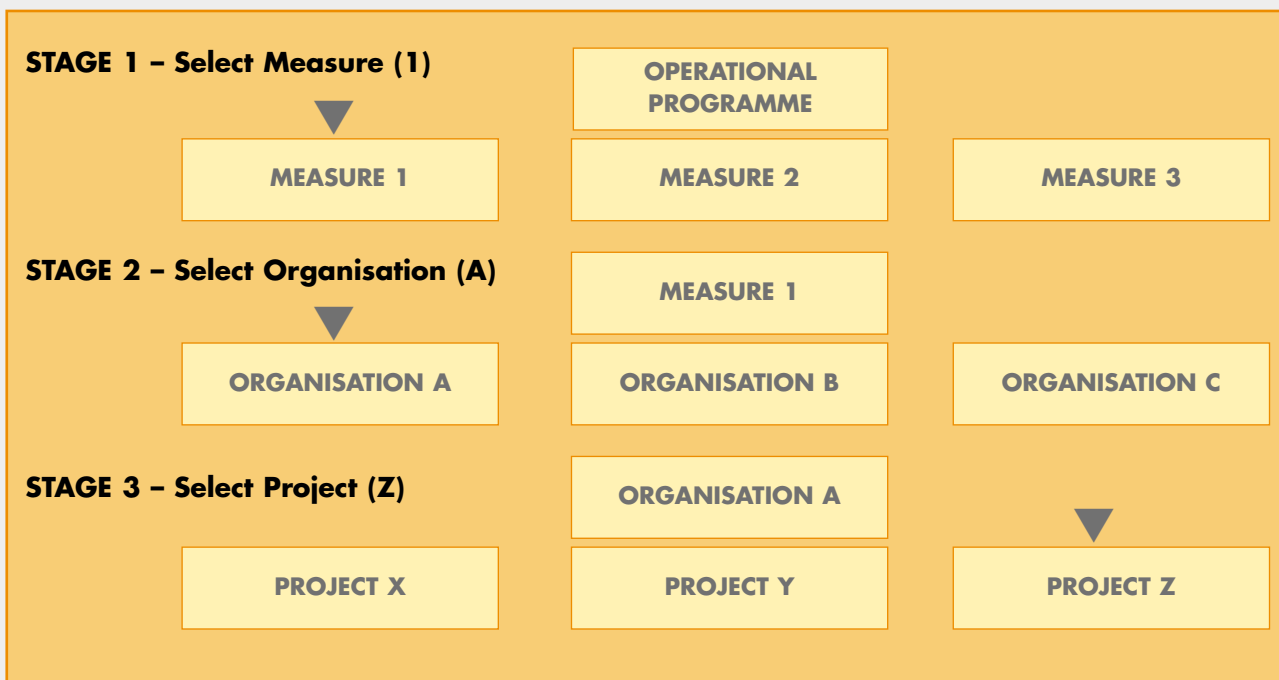
The Programmes are organised into Sub-programmes, which are further broken down into Measures and Sub-measures. At Measure or Sub-measure level, organisations are identified which will implement operations or arrange for their implementation by grant-aiding bodies (private or public). Public sector implementing bodies will often be involved in a number of individual projects carried out in-house or by grant-aided bodies.

The risk assessment performed by the ERDF FCU generally consists of three distinct stages:

- Stage 1: for each Operational Programme, select the high risk Measure(s) for audit
- Stage 2: for each Measure selected at Stage 1, select the organisation(s) to be audited
- Stage 3: for each organisation selected at Stage 2, select the project(s) to be audited.

The Diagram below demonstrates a risk assessment process that selects Measure 1, Organisation A and Project Z.

DIAGRAM: STAGES OF RISK ASSESSMENT



Risk factors for each Stage

The ERDF FCU has identified suggested risk factors which may be used at each Stage (Appendix 1). The list is not intended to be exhaustive – ideally auditors should attempt to identify risk factors that are appropriate to the environment of the operation, particularly at project level. Risk factors used at Stage 1 may not be applicable for another Stage, e.g. complexity of regulations is an appropriate risk factor when selecting a Measure since each Measure can be expected to have different rules by nature of the different business environments. However, when selecting the organisation(s) posing the highest risk, complexity of regulations is no longer a differentiating factor, as the same rules should apply to every organisation assessed, i.e. risk factors giving the same score for each potential choice should be critically examined for their relevance.

While the audit function in a Managing Authority would have recourse to using the three stages – an audit unit in a Final Beneficiary might only use Stage 3 (it has no choice of Measure or organisation, only projects).

Risk Model – Scoring

Risk factor scores

Table 1 below outlines the methodology for scoring risk factors, in this case, for Stage 1, selecting a Measure. Each risk factor is allocated a score ranging from 1 (the level of risk is considered low) to 5 (the level of risk is

considered high). The Table should be repeated for each Measure under consideration so that the results can be compared.

The scoring process is a qualitative judgement relying on the expertise and experience of the auditor and the level of information that is available at time of selection. Suggested guidance as to how the scores might be applied is given at Appendix 2.

Weighting

The Model at Table 1 assumes that some risk factors may be considered to have a greater impact on overall risk than others, e.g. in the example, the incidence of a previous reported irregularity/error is weighted by a factor of three to indicate its extra significance in the choice of Measure. We would stress that the weighting factors shown are not definitive – they should be decided by reference to the judgement of the auditor carrying out the risk assessment exercise.

Total score

In this example, the total of risk factor scores at (A) comes to 24. This number is converted to a percentage at (B), by dividing the score at (A) by the maximum score possible (if every factor received a HIGH marking, the result would be 60). The result is 24/60 or 40%. It should be pointed out that the percentage itself has no significance numerically – it is only useful when compared to the equivalent percentage score for another Measure.

TABLE 1: SUGGESTED RISK ASSESSMENT MODEL

KEY RISK FACTORS (MEASURE)	Weight factor	LOW 1	MED' 2	HIGH 3	4	5	TOTAL
Complexity of regulations/operations	2	1					2
Cascade levels	-		2				2
Proportion of Structural Fund support	-				4		4
Type of Final Beneficiaries/Recipients (public/private, new/well established)	2			3			6
Previous reported irregularity/error	4		2				8
Previous audit of Measure (yes/no)	2	1					2
Total Score (maximum 60)	A						24
Score %	B						40% (=A/60)
Monetary Value of Measure (€)	C						€20m
Risk Adjusted Monetary Value (€)	D						€8m (C x B)

Risk Adjusted Monetary Value (RAMV)

It should be noted that, at this point in the exercise, no account has been taken of materiality, i.e. the value of the expenditure projected for each Measure. Since this factor is arguably the most important risk element in terms of a potential loss due to error or irregularity, the Risk Assessment Model takes primary account of this value. The percentage score at (B) is multiplied by the monetary value of the Measure (C), in this case €20m, to give what is termed the Risk Adjusted Monetary Value (RAMV) of €8m (40% x €20m) as shown at (D).

When this exercise is repeated for each Measure under consideration, the Measures with the highest RAMV should be prioritised for audit.

Definitive advice cannot be given as to what exact score a risk factor merits – there will often be minor differences of judgement between the work of different individuals. However, it is important that the same auditor performs the scoring process for each potential choice of Measure/organisation/project to avoid inconsistencies in the assessment of the potential choices for sampling, i.e. that the selection result is broadly similar for any competent and experienced auditor undertaking the task.

Other selection criteria

European Commission Regulation 438/2001 requires that, in addition to risk analysis, selection of the sample for audit should take account of:

- the need to check an appropriate mix of types and sizes of operations
- the main intermediate bodies and final beneficiaries are checked at least once before the winding up of assistance.

Therefore risk analysis should not be the sole basis for audit planning. However, it is suggested that, from a practical viewpoint, the above considerations can best be addressed, not annually, but over the life of the Programme, i.e. ensure that audit coverage is sufficient to satisfy these requirements while prioritising the high risk areas identified.

Selection of risk factors

Since this model was first developed by the ERDF FCU in February 1999, our experience would suggest that the number of risk factors considered should be confined to the five or six factors considered most appropriate. Firstly, the use of ten or more factors tends to dilute the effect of specific factors, particularly where a weighting approach is not used. Secondly, inappropriate factors tend to be included, often yielding the same scores for each option and further diluting the effect of the critical differentiating factors.

Cohesion Fund risk assessment

The same principles of risk analysis apply to Cohesion Fund co-financing. However, a number of points are worth making. Firstly, as Cohesion Fund aid is project based (not

Programme), Stage 1 of the risk assessment process would not be necessary. Secondly, Cohesion Fund projects tend to be high monetary value and involve complex infrastructural development initiatives. Thirdly, in Ireland's case, Cohesion Fund aid is limited to several projects for the 2000/06 round of funding.

In the light of these facts, it is considered that audit coverage of all the projects is if not essential over the life of the round of funding. Therefore, the risk assessment exercise will tend to prioritise the timing of project audits rather than eliminate projects from the audit process.

ERDF Financial Control Unit
Department of Finance, Ireland.
May 2003

APPENDIX 1

SUGGESTED RISK FACTORS

STAGE 1: SELECTION OF MEASURE

- Complexity of regulations/operations
- Cascade levels
- Proportion of Structural Fund support for Measure
- Typical Final Beneficiary/Final Recipient (public/private; new/well established)
- Previous reported irregularity/error in this Measure
- Previous audit(s) of Measure

STAGE 2: SELECTION OF ORGANISATION

- Documented procedures (manuals, flowcharts, organisation chart)
- Competence of staff (qualifications and training)
- Mobility of staff (experienced, temporary, newly appointed)
- Pressure of work (under-staffed, high volume of transactions, backlogs)
- Previous reported errors/irregularities in organisation
- Audit environment – previous audits (regular/recent)
- Evidence of Article 4 spot checks (yes/no)
- Organisation – newly formed/well-established
- Organisation – public/private
- Inadequately completed/inaccurate Form B's

STAGE 3: SELECTION OF PROJECT

- Previous reported error/irregularity
- Previous audit(s) – regular/recent
- Type of Final Recipient (grant scheme)
- Complexity of project (e.g. upgrade existing asset or design and build new asset)
- Evidence of increased projected cost (overruns)
- Proportion of Structural Fund support for each project (if variable).

Note:

Appendix 2 offers guidance on the scoring approach for a selection of the risk factors listed above.

APPENDIX 2

KEY TO SCORING RISK FACTORS

RISK FACTOR	LOW RISK	MEDIUM	HIGH RISK
Stage1: Selecting Measure			
Complexity of regulations/operations	Regulations are easy to understand and interpret/simple grant scheme		Complex regulations difficult to interpret/complicated operation involving many actors
Cascade levels	Flat cascade structure – Managing Authority pays Final Recipients		Four or more levels from Managing Authority to Final Beneficiary/Recipient
Proportion of Structural Fund support	Measure is co-finance at a level of below 20% of eligible expenditure		Measure is co-financed at the rate of 75% of eligible expenditure
Type of Final Beneficiaries/Recipients	Public body; well established firm; good business reputation		Private firm; newly formed; unestablished reputation.
Previous reported irregularity/error	No previously reported error/irregularity		Previously reported errors/irregularities of a material nature.
Previous audit of Measure (yes/no)	Audits carried out regularly/recently.		No previous audit or independent check
Stage2: Selecting Organisation			
Documented procedures (manuals, flowcharts, organisation chart)	Well documented procedures and responsibilities		No documented procedures; Staff responsibilities unclear
Competence of staff (qualifications and training)	Qualified staff, trained to implement control systems		Unqualified staff, lacking in basic skills and competencies
Audit environment – regular/recent audits	Regular and recent audits (external & internal audit unit)		No previous audits; no internal audit function
Mobility of staff (experienced, temporary, newly appointed)	Experienced staff familiar with control systems		Temporary or newly appointed staff unfamiliar with controls
Pressure of work (under-staffed, high volume of transactions, backlogs)	Well planned approach to management of projects/schemes		Delays in processing of project/grant applications, payments & spot checks
Previous reported errors/irregularities in organisation	No previous reported irregularity or error		Significant previous reported irregularities/errors
Organisation – newly formed/well-established; public/private	Well-established organization; Public body with effective controls		Newly established or ad-hoc body; lack of experience in management & control systems
Stage3: Selecting Project			
Previous reported error/irregularity	No previous reported irregularity/error		Significant previous reported errors/irregularities
Previous audit(s) – regular/recent	Regular and recent audits (external and internal audit)		No previous audits; no internal audit function
Type of Final Recipient (grant scheme)	Final recipient is well established firm		Final recipient is newly formed/start-up enterprise
Complexity of project (e.g. upgrade existing asset or design & build new asset)	Project is routine (e.g. upgrade existing asset – few problems anticipated)		Project is innovative or prone to problems (new asset, planning and procurement issues)
Evidence of increased projected cost (overruns)	Project expenditure is in line with estimates		Project expenditure is seriously in excess of estimates
Proportion of Structural Fund support for each project (if variable)	Co-financing by EU is below 25% of eligible expenditure		Co-financing by EU is above 70% of eligible expenditure

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	County 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	Liaison 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
RAM	Risk Assessment Model
RAMV	Risk Adjusted Monetary Value
S & E Region	Southern & Eastern Region – a NUTS II Region
SME	Small & Medium Sized Enterprise
VAT	Value Added Tax



ERDF Financial Control Unit

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