INTERREG IVA "2 Mers Seas Zeeën"

Cross-border Cooperation Programme 2007-2013

Programme Guidance on first level controls

6th CALL FOR PROPOSAL

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Operational programme of the European Territorial Cooperation part-financed by the European Regional Development Fund

Introduction

In the programming period of 2007 - 2013, the terms "audit" and "control" (and thus auditor and controller) are not interchangeable since they refer to two different categories of controls.

The word **control** refers to the check performed by the first level controller (FLC) in compliance with Art.16 of Regulation of the European Parliament and Council (EC) No 1080/2006 (ERDF Regulation). The duty of the first level controllers designated by the Member States is to validate the expenditure declared by each beneficiary participating in the operation ([1]).

The word **audit** (or second level auditing (SLA) refers to the checks performed in compliance with Art. 62, (1), a and b of Council Regulation (EC) No 1083/2006). The duty of the second level auditors is to carry out the audits on operations on the basis of an appropriate sample to verify the expenditure declared.

The word **controlled beneficiary** refers to the terminology used by Art. 16(1) of Regulation of the European Parliament and Council (EC) No 1080/2006 (ERDF Regulation). The term *beneficiary* thus addresses both Lead Partner and project partners.

1.1 First level controls established by Member States

Member States participating in the programme have set up their systems for the first level controls: a description of their national systems is available on the Programme web site. Please consult these pages and verify the nature, features and costs of the first level control system established in each Member State. Please consult these pages also for the instructions given for the designation of the first level controllers for the project: the first level controllers at the project partner (PP) and Lead partner (LP) level must be chosen according to the rules that have been set by the countries where the PP and LP are located respectively, otherwise the validation provided is considered inadmissible.
There are two different first level control system applied by the countries that participate in the Programme:

- Centralised system (Flanders);
- Decentralised system (The Netherlands, United Kingdom, France).

Centralised system
In centralised systems a central body is appointed by the Member State to carry out the first level controls in accordance with Art. 16 Regulation (EC) No 1080/2006. This body can be designated at a federal, national, or both federal and national level and acts under the supervision of a governmental body (e.g.: ministry…).
First level controllers are civil servants working within the designated organisation. Only the designated controllers working for the designated organisation can validate the expenditure and sign the certificate for the validation of the expenditure required in each progress report.
First level controllers hold the qualifications required by the Member State and in the performance of their duties are obliged to fulfil the requirements for the first level controls laid down in the Structural Funds regulatory framework and in the national legal framework.
Project partners must submit their progress report to the designated organisation in order to have their expenditure validated.
In our Programme it is just the Flanders to have implemented this system.

Decentralised system
In decentralised systems, the partners are free to select their controller and to propose the name to the "Central Approval Body", which is established at the central level, by the Member State. The Central Approval Body has the duty to check if the controller fulfils the requirements set by the

[1] The term **operation** stands for project. The two terms, operation and project, are by all way equivalent.

Member states for being designated as such. If the controller proposed matches the requirements, the Central Approval Body designates it and delivers the designation to the controller and to the project that has proposed him/her.
The Central Approval Body holds a list of the first level controllers designated in accordance with Art. 16 Regulation (EC) No 1080/2006. The list is available for public consultation and is regularly submitted to the Joint Technical Secretariat and the Audit Authority (AA).

The controller must in all cases fulfil the following conditions:

- he/she must be independent from the controlled beneficiary;
- he/she must hold the qualifications and fulfil the requirements set by the Central Approval Body;
- he/she must perform the first level control in compliance with the requirements set by the Central Approval Body, by the Programme and the legal framework mentioned in the Programme Guidance on eligibility rules.

In this system it is the Central Approval Body of the Member State that monitors and controls the performance of the first level controllers in its territory and thus guarantees that the first level controllers are acting in compliance with the Structural Funds regulatory framework and in the national legal framework for the validation of the expenditure and activities of the controlled beneficiary.

In our Programme the system has been adopted by France, United Kingdom, The Netherlands.

1.2 Qualifications of first level controllers

Controllers can be either internal (e.g. employed by the project partner) or external (e.g. not employed by the project partner, but hired according to a service contract) to the organization subject to control.
In order to check and validate the expenditure, the first level controller must be properly qualified.

More specifically:

- he/she must hold professional skills and experience in international and national auditing standards and accountancy in general;
- he/she must hold professional skills and experience in the field of control of projects co-financed by EU-funds (Structural Funds and ERDF in particular), if possible;
- he/she must hold knowledge of the Community rules, Programme operational programme, Guidance, and any document that the Programme or national authorities might consider binding for the projects;
- he/she must hold sufficient knowledge of the English language, in order to read and understand all relevant documents;
- he/she must be professionally independent from the unit dealing with the activities and finances (accounting, salary calculations and payment orders). This implies that the controller must not be involved in project approval, project activities (incl. signing the project report as project partner), project finances (project accounting and payment orders);
- he/she must ensure that his/her work is properly documented and accessible to ensure an efficient review of the work in a way that any other controller/auditor can perform again the control with the only use of the control file;
- he/she must ensure that the work will be carried out within the deadlines set by the Programme ([2]).

In addition to the above requirements, there are some requirements that vary depending on if the controller is external or internal.

If the controller is external:

- he/she can be either a private or a public controller;

[2] Programme Guidance on eligibility, para.12.

- he/she must be registered as a member of a professional organisation (this requirement is mandatory for private external controllers);
- he/she must perform his/her tasks according to a professional code of conduct or other rules defining his/her function and independence;
- there must be a basis for the controller to carry out the control (e.g. a service contract, a mandate, or contracting document);
- All experts working as tax *advisors* or financial/accounting *advisors* (or similar categories of advisors) cannot be considered qualified controllers, since the same term that is defining their status, "advisors", is not providing assurance of their independence from the controlled organisation.

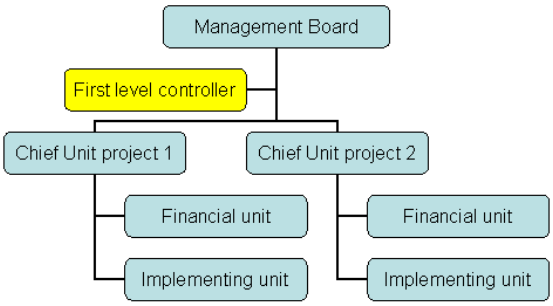
If the controller is internal:
He/she must be independent both from the unit involved in the project management and from the unit involved in activities implementation. This requirement must be absolutely ensured in the terms of reference indicated by the European Commission ([3]).

An organisational chart must be provided to the Central Approval Body and to the JTS in order to give evidence of compliance with the above requirements.

In addition:
- The controller's independence must be regulated by law or local or internal rules in the country where the controlled partner is located (e.g. rules regarding internal controller's function, code of conduct);
- An organisational chart must be provided where it is shown that the controller is absolutely independent from the units where the activities and finances are managed, where the payments are ordered and where the control is carried out;
- There are no relationships by blood or marriage between the controller and employees/managers of the unit in charge of project activities and finance;
- The controller must be *independent of mind,* meaning that he/she doesn't feel dependent on the entity/unit to be controlled.

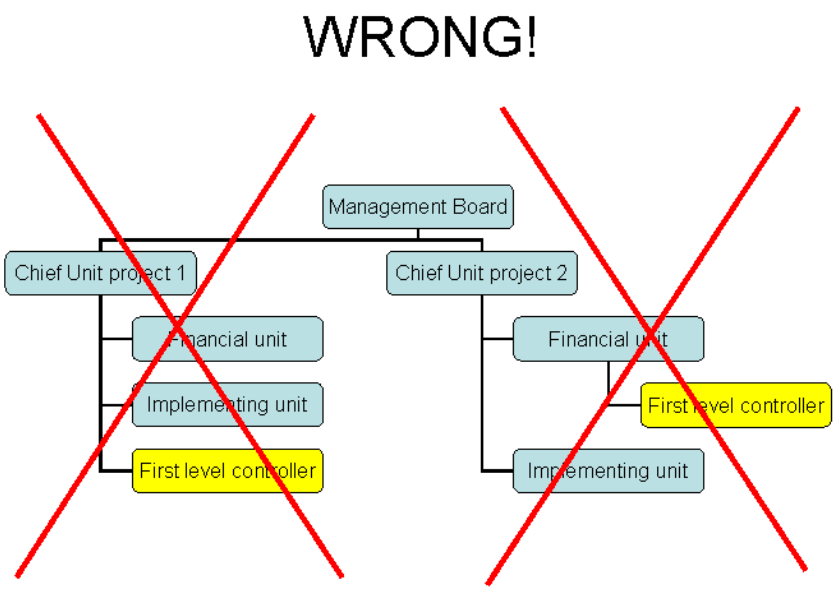
Example of a correct positioning of the first level controller (yellow box).

CORRECT!



Any other situation of the following type must be considered not acceptable.

[3] European Commission recommendation on statutory auditors' independence in the EU: a set of fundamental principles according to 2002/590/EC; International standard on quality control N°1 (IFAC); Code of ethics of the INTOSAI, Chapter II-2.2.Standards with Ethical significance.



The first level controller must maintain a close contact with the Joint Technical Secretariat in order to ask for assistance whenever there are doubts linked to the above points.

Special additional requirements on qualification of first level controllers designated in each Member State are published in website of the Programme, in the descriptions of the national systems.

1.3 Validation of the expenditure by first level controllers

Despite the control system chosen by the Member State, it is the first level controller's duty to validate the expenditure declared by each beneficiary participating in the operation and its activities.

The validation by the first level control follows a two-step approach:

1. Validation of expenditure declared by the project partners in the respective progress reports at the project partner level (validation of the PP *progress report*);
2. Validation of the expenditure declared by the project in the respective report at the lead partner level (validation of the consolidated project *progress report*).

Validation must be based on a control of the total reported expenditure (100%).

On the spot verifications should be undertaken when the project is well under way, both in terms of physical and financial progress.

The detailed procedure for the validation of the expenditure is listed in the Programme Guidance on reporting and it also mentioned in the Programme Guidance for the eligibility (para. 12 and 13).

Validation at the project partner level
All expenditure and activities must be validated at a project partners' level by **national** first level controllers.

First level controllers of the project partners must be chosen according to the provision set by the Member State where the partners are located and must perform their controls on the basis of the first level controlling system established in that particular Member State.

First level controllers at the project partner level are required to:

- Validate the expenditure incurred by the controlled project partner;

- Validate the contents of both the activity and financial component of the project partner report;
- Draft a report/checklist on the control performed;
- Sign the certificate of the validation of the expenditure;
- Submit to the Lead Partner the following documentation: the certificate of the validation, the control check list/report, a project partner progress report (financial and activity progress report), the designation of the first level controller.

As a general rule, a copy of the documents sent to the LP should also be archived at the project partners' premises.

Validation at the LP level
The first level controller of the Lead Partner must perform a control on the Lead Partner share of expenditure and of the Lead Partner activities according to the provisions set by the Member State where the Lead partner is located.

It is a duty of the first level controller of the Lead Partner to check also the documents related to the controls performed at the project partners' level in order to satisfy itself of the soundness of the first level controls performed and to check their formal compliance with the Programme requirements: progress reports, certificate of the validation of the expenditure, control reports/checklists, and further documentation if the case (e.g. public procurement procedures, contracts with suppliers, invoices, proofs of payments etc.).

Once the first level controller finalises its control, the Lead Partner has to submit to the Joint Technical Secretariat the following documentation:
- the *project progress reports*;
- the *certificates of validation* of the Lead Partner and project partners' expenditure;
- the *designations* of the FLC of the Lead Partner and project partners;
- the *control checklists/reports* of Lead Partner and project partners.

1.4 Tools

The Programme has developed tools for the financial management:
- template for *progress reports*;
- template for *control report/check list*;
- template for *certificate of the validation* of the expenditure.

All these tools are available on the Programme website.