

ANNEX I

THIS WORKING PAPER AIMS AT IDENTIFYING THE KEY ELEMENTS OF THE MANAGEMENT AND CONTROL SYSTEMS AND THE ASSESSMENT CRITERIA TAKING INTO ACCOUNT THE MINIMUM REQUIREMENTS OF THE APPLICABLE LEGAL FRAMEWORK FOR THE 2007-2013 PROGRAMMING PERIOD.

The key elements, structured by key authority, are those which have been designed for and which are essential in ensuring the legality and regularity of expenditure and the reality of operations supported by the Structural Funds and the Cohesion Fund.

Key requirements in relation to the MANAGING AUTHORITY/INTERMEDIATE BODIES

Key requirement 1: Clear definition, allocation and separation of functions between and within the managing authority / intermediate body/ies (art. 58 a), b), e), 59.2, 59.3, 60 of R 1083 and art. 12, 13.5 and 22 b) of R 1828)

Assessment criteria:

There should be:

1. adequate procedures in place at the managing authority to monitor the effective implementation of the tasks delegated to the intermediate body/ies.
2. a clear definition and allocation of functions (organisation chart, indicative number of posts, documented procedures and manuals), including the existence of a formal documented agreement clearly setting out any tasks that are delegated by the managing authority to the intermediate body/ies.

Key requirement 2: Adequate procedures for the selection of operations (art. 60 a) and art. 65 a) of R 1083 and art. 5 and art. 13.1 of R 1828)

The objective is to ensure that there is transparency, equal treatment and completeness of the selection process.

Assessment criteria:

3. Calls for applications should be published¹

(calls for applications in accordance with the conditions and objectives of the OP, should contain a clear description of the selection procedure used and of the rights and obligations of the beneficiaries. Calls for applications should be advertised in order to reach all potential beneficiaries...).

4. All applications received should be recorded¹.

(applications should be registered on receipt, evidence of receipt delivered to each applicant and records kept of the approval status of each application).

¹ Not applicable in cases of direct allocation of EU funds to certain national, regional or local projects.

5. All applications/projects should be evaluated in accordance with the applicable criteria.

(the evaluation should be applied consistently, the criteria/scoring used should be in accordance with those approved by the Monitoring Committee and mentioned in the calls, results should be documented, the substance of the applications evaluated, the financial, administrative and operational capacities of the beneficiaries to fulfil the responsibilities regarding the provision of funding should also be adequately evaluated).

6. Decisions taken on the acceptance or rejection of applications/projects should be communicated to the applicants.

(decisions should be taken by an appropriate designated person/body, results notified in writing and the reasons for acceptance or rejection of applications clearly set out. The appeals procedure and related decisions should be published).

Key requirement 3: Adequate information and strategy to provide guidance to beneficiaries (art. 56, art. 60 c), d), f) of R 1083 and art. 13.1 of R 1828):

The objective is to ensure that beneficiaries are informed of their entitlements and responsibilities regarding the provision of funding and that an appropriate level of guidance is provided concerning these entitlements and responsibilities.

Assessment criteria:

7. Effective communication to beneficiaries of their rights and obligations in particular the national eligibility rules laid down for the programme, the applicable Community rules on eligibility, the specific conditions concerning the products or services to be delivered under the operation, the financing plan, the time-limit for execution, the requirements concerning separate accounting or adequate accounting codes, the information to be kept and communicated. The information and publicity obligations should also be clearly expressed and communicated to them (in grant approval letters, decisions...).
8. The existence of clear and unambiguous national eligibility rules laid down for the programme.
9. The existence of a strategy to ensure that beneficiaries have access to the necessary information and receive an appropriate level of guidance (leaflets, booklets, seminars, workshops, web sites...).

Key requirement 4: Adequate management verifications (art. 60 b), g) of R 1083 and art. 13.2-13.4 of R 1828)

The objective is to ensure that there are adequate procedures for verifying the delivery of the products and services in order to ensure the reality of the expenditure claimed and compliance with the relevant Commission decision, the grant conditions, and the applicable national and Community rules, in particular on eligibility of expenditure, public procurement, State aid, protection of the environment, equality of opportunities and information and publicity.

It is essential that sufficient staff are allocated for management verifications taking into account their qualifications and experience.

Assessment criteria

10. The existence of written procedures and comprehensive checklists in order to detect any material misstatements. This means that the checklists should address verifications on:
 - √ the correctness of the application for reimbursement,
 - √ the eligible period,
 - √ compliance with the approved project,
 - √ compliance with the approved financing rate (where applicable),
 - √ compliance with the relevant eligibility rules and Community and national rules on public procurement, State aid, environment, publicity and equal opportunity requirements,
 - √ the reality of the project, including physical progress of the product/service and compliance with the terms and the conditions of the grant agreement,
 - √ the expenditure declared and of the existence of audit trail.
11. The administrative verifications regarding the expenditure in a particular statement should be completed before certification.
12. All applications for reimbursement submitted by beneficiaries should be subject to administrative verifications and should include an examination of both the claim itself and the relevant supporting documentation attached.
13. The on-the-spot verifications should be undertaken when the project is well under way, both in terms of physical and financial progress (e.g. , for training measures).
14. Evidence should be kept of:
 - √ the administrative verifications and the on-the-spot verifications, including the work done and the results obtained,
 - √ the follow-up of the findings detected.
15. Where on-the-spot verifications are not exhaustive, the sampling of operations should be based on an adequate risk assessment and the records should identify the operations selected, describe the sampling method used and provide an overview of the conclusions of the verifications and the detected irregularities.
16. The existence of procedures approved by the managing authority to ensure that the certifying authority receives all necessary information on the verifications carried out for the purpose of certification.

Key requirement 5: Adequate audit trail (art. 60 c), d), f), art. 90 of R 1083 and art. 15 of R 1828)

The audit trail at the level of managing authority is considered sufficient when it permits reconciliation of the summary amounts certified to the Commission with the individual

expenditure records and supporting documentation held at all of the administrative levels down to beneficiary level.

Assessment criteria:

17. The accounting records for operations should be kept at the appropriate management level and should provide detailed information on expenditure actually incurred in each co-financed operation by beneficiary. The accounting system enables both the beneficiaries and the other bodies involved to be identified together with the justification for the payment.
18. The technical specifications and financial plan of the operation, progress and monitoring reports, documents concerning application, evaluation, selection, grant approval and tendering and contracting procedures and reports on inspections of the products and services co-financed should also be kept at an appropriate management level.
19. The managing authority should verify whether the beneficiaries maintain either a separate accounting system or an adequate accounting code for all transactions relating to the assistance which allows for verification of (1) the correct allocation of expenditure only partly relating to the co-financed operation and (2) certain types of expenditure which are only considered eligible within certain limits or in proportion to other costs.
20. Procedures should be in place to ensure that all documents required to ensure an adequate audit trail are held in accordance with the requirements of Article 90 of Regulation 1083/2006; i.e. regarding availability of documents.

Key requirement 6: Reliable accounting, monitoring and financial reporting systems in computerised form (art. 58 d) and art. 60 c), of R 1083, art. 14.1 and annex III of Reg. 1828/2006)

Assessment criteria:

21. The existence of computerised systems capable of providing reliable and relevant information.

(procedures to ensure maintenance of the system, data protection and data integrity are in place, the system provides all the information required by Annex III of Reg 1828/2006)

Key requirement 7: Necessary preventive and corrective action where systemic errors are detected by the audit (art 98.1 of R 1083 and art. 16.3 of R 1828)

If the errors detected by the audit authority are systemic in nature and therefore entail a risk for other operations under the operational programme, the relevant authorities shall take the necessary preventive and corrective action.

Assessment criteria:

22. Procedures should be in place to ensure adequate review and follow-up of the results of all audits carried out by the relevant audit bodies pursuant to Article 62 of R 1083 and that this review is adequately documented.

23. Procedures should be in place to ensure implementation of preventive and corrective action in case of systemic errors.

Key requirements in relation to the **CERTIFYING AUTHORITY / INTERMEDIATE BODY/IES**

Key requirement 1: Clear definition, allocation and separation of functions between and within the certifying authority / intermediate body/ies (art. 58 a), b), 59.2, 61 of R 1083 and art. 12 of R 1828)

Assessment criteria:

24. Compliance with the principle of separation of functions between the certifying authority and the managing authority and within these bodies (certifying authority and its intermediate bodies).
25. Procedures are in place in the certifying authority to monitor the effective implementation of any delegated tasks.
26. A clear definition and allocation of functions (organisation chart, indicative number of posts, documented procedures and manuals), including the existence of a formal documented agreement setting out any tasks that are delegated by the certifying authority to the intermediate body/ies.

Key requirement 2: Adequate audit trail and computerised system (art. 61 b), e) of R 1083, art. 15 of R 1828)

Assessment criteria:

27. Adequate accounting records should be maintained in computerised form of expenditure declared to the Commission
28. The audit trail within the certifying authority should allow reconciliation of the expenditure declared to the Commission with the expenditure statements received from the managing authority/intermediate bodies MA/IBs.

Key requirement 3: Adequate arrangements for the certification of expenditure to be reliable and soundly based (art. 61 b,) c), d) of R 1083)

Ensuring, for the purpose of certification, that the certifying authority has received adequate information concerning the procedures operated by the managing authority and by intermediate bodies to verify the delivery of the co-financed products and services, the reality of the expenditure claimed, compliance with the applicable Community and national rules, that the expenditure declared has been incurred in respect of operations properly selected for funding and that an adequate audit trail has been maintained.

Assessment criteria:

The certifying authority should:

29. specify the information it requires on the procedures operated by the managing authority and by the intermediate bodies for the verification of expenditure and has put in place agreed procedures with the managing authority to ensure that it receives it on a regular and timely basis.
30. review the reports drawn up by the managing authority or the intermediate bodies on the progress of implementation, including a review of the verifications carried out pursuant to Article 60b) of R 1083 (all reviews should be documented).
31. review the results of all audits pursuant to Article 62 of R 1083 (all reviews should be documented).
32. ensure that the results of these examinations are properly taken into account in reaching a conclusion as to whether there is a sufficient basis for certifying that the expenditure being certified is legal and regular.
33. The certifying authority reconciles and does an arithmetical check of the payment requests.

Key requirement 4: Satisfactory arrangements for keeping an account of amounts recoverable and for recovery of undue payments (art. 61 f) of R 1083 and art. 20.2 of R 1828)

Assessment criteria:

34. The certifying authority should keep an account of amounts recoverable and of amounts withdrawn following cancellation of all or part of the contribution for an operation. Amounts recovered shall be repaid prior to closure of the operational programme by deducting them from the next statement of expenditure.
35. By 31 March each year as from 2008, the certifying authority shall send to the Commission a statement, in the format in Annex XI of R 1828.

Key requirements in relation to the AUDIT AUTHORITY
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Key requirement 1: Clear definition, allocation and separation of functions (art. 58 a), b) and 62.3 of R 1083, art. 23 a),b), d) of R 1828).

Assessment criteria:

36. A clear definition and allocation of functions (organisation chart, indicative number of posts, qualifications and/or experience required, written procedures and manuals)
37. Compliance with the principle of separation of functions between the audit authority and the managing authority, the certifying authority and intermediate bodies together with the principle of independence of the audit authority and other audit bodies.
38. Existence of procedures, including, where appropriate, procedures for the supervision by the audit authority of the work any audit bodies carrying out audit work delegated by the audit authorities.

Key requirement 2: Adequate systems audits (art. 62.1 a) of R 1083, art. 23 c) of R 1828)

The systems audits are carried out to verify the effective functioning of the management and control systems of the operational programme(s).

They are to be performed in accordance with the audit strategy, approved by the Commission and updated annually based on a clearly described methodology including proper risk analysis, taking account of internationally accepted audit standards. The audit scope includes, inter alia, verification that the relevant authorities properly ensure compliance with Community and national rules on public procurement, state aid, protection of the environment, equality of opportunity and information and publicity rules.

Assessment criteria:

39. The audit scope should be in accordance with the audit strategy and be focused on the key requirements of the management and control systems in the relevant bodies (s managing authority, certifying authority and intermediate bodies).
40. All phases of the systems audits should be properly documented. Adequate and complete checklists should exist that address verifications on all key requirements of the management and control systems.
41. There should be effective procedures for monitoring the implementation of recommendations and corrective measures resulting from audit reports which can be demonstrated to the Commission.
42. There should be qualitative and/or quantitative evidence present to allow for verification of the establishment of the assurance level which has been obtained from the systems.

Key requirement 3: Adequate audits of operations (art. 62.1 b) and 98.4 of R 1083, art. 16-17, 23 c) and Annex IV of R 1828)

Audits on operations should be performed in accordance with the audit strategy approved by the Commission and updated annually and be based on a clearly described methodology, taking into account internationally accepted auditing standards. The parameters for sampling should be set in accordance with the provisions of Annex IV of Regulation (EC) No 1828/2006 and the results of the systems audits.

The operations should be selected on the basis of a method approved by the audit authority and be based on random statistical sampling in the first instance. The audit authority should regularly review the coverage provided by the random sample and decide whether a complementary sample is necessary, taking account of identified risk factors.

Assessment criteria:

43. A description of the approved methodology should exist, including the parameters for sampling set in accordance with Annex IV of R. 1828, the statistical sampling method, the results and the degree of confidence obtained from the systems audits, including the planned materiality level.
44. The audits of operations should be carried out in accordance with the audit strategy approved by the Commission and should be updated annually.
45. Verification should be done, based on adequate and complete checklists, of the legality and regularity of expenditure subject of audit, including ensuring that:

- ✓ The operations satisfy the selection criteria for the operational programme and have been implemented in accordance with the grant approval decision (notably as regards the co-financing rate and the reality of the project) and fulfil any applicable conditions concerning their functionality and the objectives to be attained.
 - ✓ The expenditure declared corresponds to the accounting records and supporting documents held by the beneficiary.
 - ✓ The expenditure declared by the beneficiary complies with national and Community rules (in particular as regards eligibility, public procurement, state aid, environment, publicity and equal opportunities...).
 - ✓ The public contribution has been paid to the beneficiary in accordance with Article 80 of Regulation (EC) No 1083/2006, i.e. as quickly as possible and in full, without any deductions or charges
46. In cases where problems detected appear to be systemic in nature, the audit authority should ensure that further examination is carried out to establish the scale of such problems.
47. The existence of effective procedures for monitoring the implementation of recommendations and corrective measures arising from audit reports should be demonstrated to the Commission.
48. Where the projected error rate is above the materiality level for an operational programme, the audit authority should analyse its significance and take the necessary action.

Key requirement 4: Adequate annual control report and audit opinion (art. 62.1 d), (i) & (ii) of R 1083, art. 18.2 and Annexes VI and VII of R 1828)

Assessment criteria:

49. The annual control report and audit opinion should be in accordance with the audit strategy, based on the results of the system audits and audits of operations and drawn up in accordance with the models set out in Annex VI and VII of R 1828.
50. The annual control report and audit opinion should cover all Member States concerned in programmes under the European territorial cooperation objective.