



**An Roinn Airgeadais
Department of Finance**

Sráid Mhuirfean Uacht,
Baile Átha Cliath 2,
Éire.

Upper Merrion Street,
Dublin 2,
Ireland.

Teileafón / Telephone: 353-1 676 7571
Facsimhler / Facsimile: 353-1 678 9936
Glao Áitiúil / LoCall: 1890 66 10 10
<http://www.irigov.ie/finance>

**CIRCULAR 12/2008:
FINANCIAL MANAGEMENT AND CONTROL PROCEDURES
FOR THE EU STRUCTURAL FUNDS PROGRAMMES 2007-2013.**

Secretary General,

1. I am directed by the Minister for Finance to advise Managing Authorities, Intermediate Bodies, Public Beneficiary Bodies and other Implementing Departments/Bodies of their financial management and control responsibilities relating to the implementation of the EU Structural Funds Programmes 2007-2013 under Ireland's National Strategic Reference Framework (NSRF).
2. This Circular sets out how the requirements of the relevant Structural Funds Regulations are to be implemented in Ireland. All relevant bodies in the financial management and control cascade have been thoroughly consulted and actively involved in the finalisation of this Circular.
3. It also sets out the roles and responsibilities of Managing Authorities, Intermediate Bodies, Public Beneficiary Bodies and other Implementing Departments/Bodies involved in the financial management and control of EU Structural Funds. For queries or for additional copies of this Circular please see section 8 for more information.
4. The Department of Finance, as Member State Authority, has overall policy responsibility for the Structural Funds and has primary responsibility for the European Regional Development Fund (ERDF).
5. The Department of Enterprise, Trade and Employment has primary responsibility for the European Social Fund (ESF).
6. In particular, this Circular sets out the mandatory procedures to be followed by Managing Authorities, Intermediate Bodies, Public Beneficiary Bodies and other Implementing Departments/Bodies in relation to
 - Implementation and monitoring of required financial management and control systems; and
 - Processing and certification of expenditure claims for payments.

7. **Failure to comply with the procedures outlined in this Circular may lead to the suspension of financial assistance and/or loss to the Exchequer for which the relevant Bodies in the Financial Management Cascade will have to account.**
8. Circulars dealing with the rules of eligibility of EU Structural Funds co-financed expenditure will be issued by the Department of Finance in the case of the ERDF and by the Department of Enterprise, Trade and Employment in the case of the ESF.
9. Each Secretary General of Government Departments involved in the implementation of EU Structural Funds co-funded projects/operations 2007-2013, is required to complete Form A and return it to the Department of Finance, by 30th of September 2008.

Pat Casey
Principal Officer
31st of July 2008.

Section 1 Overview

Over the period to 2013, Ireland has been allocated in total **€901m** in European Union Structural Funds. Of that amount, €750m is earmarked for the two Regional programmes and the national Social Fund programme. The regional breakdown of this sum is €458m for the BMW Region and €292m for the S&E region. The Regulations governing the Structural Funds require Member States to prepare Operational Programmes (OPs) to implement the strategic priorities set out in the NSRF. Each Operational Programme should include the rationale for the priorities chosen, a financial plan and indicators for monitoring progress.

As was the case in the previous round, 50% of the funding is to be allocated to labour market activity funded by the European Social Fund (ESF) and 50% to the European Regional Development Fund (ERDF). The balance of €151m is for smaller Territorial Co-operation programmes, including the PEACE and European Territorial Co-operation programmes.

The total programme amounts to **€2.6 billion** of which the **EU Structural Funds contribution is €750 million**.

In order to avail of the EU Structural Funds, each Member State was required to prepare a national strategy document outlining the strategic priorities for the use of the EU Funds. This document is known as a National Strategic Reference Framework (NSRF). The strategic objective of Ireland's NSRF is to complement the investment priorities being pursued under the NDP 2007-2013.

The strategic focus of the NSRF is on the following themes;

European Social Fund (ESF);

- Human Capital Investment – Up-skilling the workforce and increasing the participation and activation of groups outside the workforce.

European Regional Development Fund (ERDF);

- innovation, knowledge and entrepreneurship; and
- strengthening the competitiveness and connectivity of the NSS Gateways and Hubs through improved access to quality infrastructure and environmental and sustainable development.

1.1 Regulatory Framework

Articles 158-162 of the Treaty establishing the European Communities lay down that the European Union should promote an overall harmonious development and strengthen economic and social cohesion by reducing development disparities between the regions.

The instruments to pursue these objectives, for the 2007-2013 period, have their legal basis in a package of regulations adopted by the Council and the European Parliament in July 2006.

The Regulations are the General Regulation (EC 1083/2006), the ERDF Regulation (EC 1080/2006), the ESF Regulation (EC 1081/2006) and the Implementing Regulation (EC 1828/2006).

The **General Regulation** (1083/2006) defines common principles, rules and standards for the implementation of the three cohesion instruments, the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the Cohesion Fund. Based on the principle of shared management between the Union and the Member States and regions, this regulation sets out a

renewed programming process, based on Community Strategic Guidelines for Cohesion and their follow-up, as well as common standards for financial management, control and evaluation.

The regulation on the **European Regional Development Fund (ERDF)** (1080/2006) defines its role and fields of interventions such as the promotion of public and private investments helping to reduce regional disparities across the Union. The ERDF will support programmes addressing regional development, economic change, enhanced competitiveness and territorial cooperation throughout the EU. Funding priorities include research, innovation, environmental protection and risk prevention, while infrastructure investment retains an important role, especially in the least developed regions.

The **European Social Fund (ESF)** (1081/2006) will be implemented in line with the European Employment Strategy and it will focus on four key areas: increasing adaptability of workers and enterprises, enhancing access to employment and participation in the labour market, reinforcing social inclusion by combating discrimination and facilitating access to the labour market for disadvantaged people, and promoting partnership for reform in the fields of employment and inclusion.

The European Commission's **implementing regulation for the Structural and Cohesion Funds** 2007-2013 (1828/2006) represents one set of detailed rules on the management of cohesion policy's financial instruments.

The Regulations can be found on the web site www.eustructuralfunds.ie or http://ec.europa.eu/regional_policy/sources/docoffic/official/regulation/newregl0713_en.htm

The Regulations outlined above impose financial management and control requirements relating to the implementation of Structural Fund co-funded assistance. They set out mandatory procedures to be followed by the Operational Programme Managing Authorities and by Intermediate Bodies in relation to the processing and certification of claims for Structural Fund co-financing.

The regulatory framework for Member States management and control systems is laid down in Regulation (EC) 1083/2006 (Articles 58-62 and 70-71 in particular). Article 70.1 states that,

“Member States shall be responsible for the management and control systems for operational programmes, in particular through the following measures:

- *Ensuring that management and control systems for operational programmes are set up in accordance with article 58-62 and function effectively; and*
- *Preventing, detecting and correcting irregularities and recovering amounts unduly paid.....”*

1.2 Roles and Responsibilities of Departments

The Management and Control system for EU Structural Funds co-financed activities in Ireland is based on the principle of shared responsibilities based on delegation and Administrative Agreements. Each level of the financial management and control cascade must therefore take responsibility for ensuring that the requirements of the management and control system are adhered to at their own levels and that EU and National rules are complied with.

Appendix 1 contains a flowchart of the Financial Management and Cascade System which operates for Ireland's EU Structural Funds programmes 2007-2013.

However, the day-to-day responsibility for the implementation of co-financed activities rests with the appropriate statutory bodies i.e. Government Departments, Agencies and Authorities.

These bodies are also accountable both to the Oireachtas and to the Comptroller & Auditor General for the National/Exchequer contribution of the co-financed activities.

The Secretary General of each Department, involved in the implementation of EU Structural Funds co-funded projects/operations 2007-2013, must sign a declaration annually and return it to the Department of Finance (Form A in Appendix 2) to confirm that his/her Department and all bodies/agencies under its aegis involved in EU Structural Funds co-financed activities are bound by this circular, the applicable eligibility circular, the Administrative Agreement with Managing Authorities, Statutory Instrument (SI 264 of 2008) - European Communities (Financial Checks) Regulations and other relevant EU Regulations. These documents are available on various websites connected to EU Structural Funds in Ireland such as www.eustructuralfunds.ie; www.finance.gov.ie; www.esf.ie; www.bmwassembly.ie; www.seregassembly.ie; and http://ec.europa.eu/index_en.htm.

Section 2 Management and Control Framework

Table 1 Designated Authorities for Ireland's EU Structural Funds Programmes 2007-2013

Operational Programme	Managing Authority	Certifying Authority	Audit Authority
Human Capital Investment Operational Programme	Dept. of Enterprise, Trade and Employment	Dept. of Enterprise, Trade and Employment	ESF Financial Control Unit, Department of Enterprise, Trade and Employment
BMW Operational Programme	BMW Regional Assembly	Dept. of Finance	ERDF Financial Control Unit, Department of Finance
S&E Operational Programme	S&E Regional Assembly	Dept. of Finance	ERDF Financial Control Unit, Department of Finance

Table 1 outlines the designated authorities for Ireland's EU Structural Funds Programmes 2007-2013. This is to comply with EU regulations which require the assignment of specific responsibilities for the management and control of the co-financed operations to the Member State and to the designated Managing Authority, Certifying Authority and Audit Authority.

The Structural Funds regulations require each Member State to ensure that management and control systems for Operational Programmes are set up in accordance with Articles 58 – 62 of Regulation (EC) 1083/2006 and that they function effectively. These systems should prevent, or, detect and correct irregularities and recover amounts unduly paid. If such amounts cannot be recovered, the Member State shall be responsible for reimbursing the European Union if the loss has been incurred as a result of fault and negligence on its part.

Appendix 3 sets out the general principles of the management and control systems.

2.1 Fulfilling the requirement for systems descriptions

The Managing Authorities, Certifying Authorities, Intermediate Bodies and Level 1 Public Beneficiary Bodies¹ must provide systems descriptions as set out in Article 22 of the Implementing Regulation 1828/2006.

Before the submission of the first interim application for payment or at the latest, within twelve months of the approval of each European Regional Development Fund (ERDF) Operational Programme, the Department of Finance shall submit to the European Commission a description of the systems as set out in Article 21 of the Implementing Regulations 1828/2006, covering in particular the organisation and procedures of the Managing Authorities, Certifying Authorities, Intermediate Bodies, the Audit Authorities and any other bodies carrying out audits under its responsibility.

A similar requirement will have to be undertaken by the Department of Enterprise, Trade and Employment in respect of the European Social Fund.

¹ The General Regulations 1083/2006 Article 2 (4) define a Beneficiary as "an operator, body or firm, whether public or private, responsible for initiating or initiating and implementing operations". In the Irish context, the Department is making the distinction that the Level 1 Reporting Body will be the Public Beneficiary Body in the Financial Management and Control Cascade System completing the Form B1.

The description referred to above shall be accompanied by a report setting out the results of an assessment of the systems set up and giving an opinion on their compliance with Articles 58 to 62 of Regulation (EC) 1083/2006. If the opinion contains reservations, the report shall indicate the seriousness of the shortcomings and, where the shortcomings do not concern the whole Operational Programme, the priorities concerned. In relation to the European Regional Development Fund, (ERDF) the Department of Finance shall inform the European Commission of the corrective measures to be taken and the timetable for their implementation and subsequently provide confirmation of the implementation of the measures and the withdrawal of the corresponding reservations.

A similar requirement will have to be undertaken by the Department of Enterprise, Trade and Employment in respect of the European Social Fund.

The report and the opinion shall be drawn up by the ERDF Audit Authority for the European Regional Development Fund and by the ESF Audit Authority for the European Social Fund. The Audit Authorities shall carry out their work taking account of internationally accepted auditing standards. In Ireland, the ERDF and ESF Financial Control Units are the designated Compliance Assessment Bodies for the ERDF/ESF co-financed Operational Programmes and Initiatives.

2.2 General Responsibilities of bodies in financial management cascade

The following section sets out the main responsibilities of the Managing Authorities, Intermediate Bodies, Public Beneficiary Bodies, Beneficiaries, Certifying Authorities and Audit Authorities.

2.2.1 Responsibilities of the Managing Authorities

The Managing Authorities shall ensure that all bodies involved in the implementation of the Structural Funds within their Operational Programmes are aware of this circular and the EU Regulations governing the Structural Funds.

Under Article 60 of Regulation (EC) 1083/2006, Managing Authorities have responsibility for managing and implementing the Operational Programme in accordance with the principle of sound financial management. A full list of the Managing Authorities' responsibilities are contained in Appendix 4.

Managing Authorities are required to

- Ensure that systems are in place to implement the statutory financial management and control obligations relating to Structural Funds expenditure;
- Submit eligible expenditure declarations in the required format to the Certifying Authority to facilitate the drawdown of EU Structural Funds and ensuring that an adequate audit trail exists (See appendix 5 for more detail); and
- Provide guidelines/training on financial management and controls.

While Managing Authorities retain overall responsibility for their functions under Article 60 of the General Regulation (1083/2006) the execution of some tasks in whole or in part may be delegated to the Intermediate Bodies and or to the Public Beneficiary Bodies. The arrangements for the exercise of the delegated functions will be detailed in the Administrative Agreements. The roles of the Administrative Agreements are set out in Section 6.1.

2.2.2 Responsibilities of Intermediate Bodies

The Intermediate Bodies shall be responsible for submitting eligible expenditure declarations in the format required by the Certifying Authority, to the Managing Authority to facilitate the drawdown of EU Structural Funds.

The Intermediate Bodies will be responsible for

- Ensuring that all payment claims for Structural Fund expenditure, submitted by Public Beneficiary Bodies are supported by original receipted invoices or, where this cannot be done, by accounting documents of equivalent probative value and audit documents, and that a clear audit trail exists;
- Ensuring in respect of co-financed projects/operations that only eligible expenditure actually incurred is submitted to the Managing Authority; and
- The recorded verification of expenditure incurred and declared by Public Beneficiaries Bodies.

The detail in relation to the responsibilities of the Intermediate Bodies will be set out in the specific Administrative Agreements agreed between the Managing Authorities and each individual Intermediate Body.

2.2.3 Responsibilities of Public Beneficiary Bodies²

The Public Beneficiary Bodies will be responsible for ensuring that only eligible expenditure actually incurred, and expenditure which comes under the terms of the project/operation as approved by the Intermediate Body, is declared.

They will be required to ensure that a clear audit trail exists in relation to EU Structural Funds and that all claims are supported by receipted invoices or, where this cannot be done, by accounting documents of equivalent probative value.

The detail in relation to the responsibilities of the Beneficiary Bodies may be set out in the Administrative Agreements or formal grant agreements, as appropriate, with the Intermediate Bodies/Managing Authorities.

2.2.4 Responsibilities of Beneficiaries

The Beneficiary will be responsible for ensuring that only eligible expenditure actually incurred, and expenditure which comes under the terms of the project/operation as approved by the Public Beneficiary Body, is declared. They will be required to ensure that a clear audit trail exists in relation to EU Structural Funds and that all claims are supported by receipted invoices or, where this cannot be done, by accounting documents of equivalent probative value.

2.2.5 Responsibilities of the Certifying Authority

The Department of Finance has been designated as the Certifying Authority for the ERDF co-financed programmes.

The Department of Enterprise, Trade and Employment has been designated as the Certifying Authority for the ESF co-financed programmes.

² The General Regulations 1083/2006 Article 2 (4) define a Beneficiary as “an operator, body or firm, whether public or private, responsible for initiating or initiating and implementing operations”. In the Irish context, the Department is making the distinction that the Level 1 Reporting Body will be the Public Beneficiary Body in the Financial Management and Control Cascade System completing the Form B1. There may be other Beneficiary Bodies at a level below; their responsibilities are set out at 2.2.4.

The Certifying Authorities are responsible for

- Certifying declarations of expenditure and applications for payment before they are sent to the European Commission.
- Certifying that:
 - (i) the statement of expenditure is accurate, results from reliable accounting systems and is based on verifiable supporting documents,
 - (ii) the expenditure declared complies with applicable European Commission and National rules and has been incurred in respect of projects/operations selected for funding in accordance with the criteria applicable to the programme and complying with European Commission and National rules; and
- Ensuring for the purposes of certification that it has received adequate information from the Managing Authority on the procedures and verifications carried out in relation to expenditure included in statements of expenditure

A full list of the Certifying Authorities' responsibilities is contained at Appendix 5.

2.2.6 Responsibilities of the Audit Authorities

The ERDF Financial Control Unit, Department of Finance, is the designated Audit Authority for the ERDF co-financed programmes.

The ESF Financial Control Unit, Department of Enterprise, Trade and Employment, is the designated Audit Authority for the ESF co-financed programmes.

The Audit Authorities are primarily responsible for

- Ensuring that audits are carried out to verify the effective functioning of the management and control system of the Operational Programme; and
- Ensuring that audits are carried out on projects/operations on the basis of an appropriate sample to verify expenditure declared;

A full list of the Audit Authorities responsibilities is contained in Appendix 6.

Requirement for an audit strategy

EU Regulations require that the Audit Authority present an audit strategy to the European Commission within nine months of the approval of the Operational Programme. The main requirements of the strategy are to outline the bodies which will perform the audits, the method to be used, the sampling method for audits on projects/operations and the indicative planning of audits to ensure that the main bodies are audited and that audits are spread evenly throughout the programming period. Where a common system applies to several Operational Programmes, a single audit strategy may be submitted.

Requirement for an annual control report

Each year from 2008 to 2015 the Audit Authority must submit an Annual Control Report to the European Commission. This report will set out the findings of the audits carried out during the previous 12 month-period ending on 30th June of the year concerned in accordance with the audit strategy of the Operational Programme and report on any short-comings found in the systems for the management and control of the programme.

The report will include an opinion, based on the audits that have been carried out under its responsibility, as to whether the management and control system functions effectively, so as to provide a reasonable assurance that statements of expenditure presented to the European

Commission are correct and as a consequence reasonable assurance that the underlying transactions are legal and regular.

The Annual Control Report must also be made available to the relevant Operational Programme Managing Authorities for the information of the Monitoring Committee in accordance with Article 65 (e) of Regulation (EC) 1083/2006.

The role of audits in the effective functioning of the management and control system

The Audit Authority of an Operational Programme shall be responsible for ensuring that audits are carried out to verify the effective functioning of the management and control system of the Operational Programme. Where these audits are carried out by a body other than the Audit Authority, the Audit Authority shall ensure that such bodies have the necessary functional independence.

The draft audit reports will be conveyed to the Managing Authority and Certifying Authority for the Operational Programme concerned for comment before the final report is forwarded to the European Commission. The European Court of Auditors will also have access to these results. (See appendices 4 and 5 for more detail).

Any systems deficiencies identified during audits will require urgent remedial action. The onus for the introduction, maintenance and operation of satisfactory control procedures for co-financed activity under each Operational Programme is, however, the absolute responsibility of the Managing Authority and there can be no derogation from this responsibility.

The Audit Authority will also be responsible for submitting a closure declaration for the relevant operational programme by 31 March 2017. The declaration shall summarise the conclusions of the audits carried out during the programming period. The declaration will also assess the validity of the application for payment of the final balance and the legality and regularity of the transactions covered by the final certificate of expenditure. Further guidelines on this matter will issue nearer the time.

2.2.7 Committee on the Co-ordination of EU funds

In accordance with Article 27(5)(b) of the Council Regulation 1083/2006 each Member State, in their NSRF, may indicate the mechanisms for ensuring co-ordination between ERDF, ESF, European Agricultural Fund for Rural Development (EAFRD), the European Fisheries Fund (EFF) and other financial instruments. Ireland is to put in place appropriate mechanisms that will ensure appropriate demarcation and that there is no duplication of interventions among the different funds.

At the National level, a Committee on the Co-ordination of EU Funds was established to address co-operation and demarcation issues between ERDF/ESF, EFF and EAFRD. The role of the Committee is to put in place, where necessary, appropriate systems to address these issues in the Operational Programmes, and address any implementation issues that may warrant demarcation in the Operational Programmes and any plans for new programmes to ensure that the Funds are not overlapping

Section 3 Eligibility of Expenditure/Expenditure Declarations

European Union regulations state³ that eligibility rules shall be laid down at the national level. In order to comply with this requirement, Department of Finance Circular 16/2008, *Eligibility Rules for the European Regional Development Fund 2007-2013*, will outline the criteria for eligibility of expenditure under the ERDF.

The Department of Enterprise, Trade and Employment Circular, *Eligibility Rules for the European Social Fund 2007-2013*, will outline the criteria for eligibility of expenditure under the ESF.

The main criteria for eligibility are as follows:

- Expenditure actually paid between 1st January 2007 and 31st December 2015;
- Expenditure incurred by projects/operations approved by the Managing Authority in accordance with the criteria adopted by the Monitoring Committee;
- All expenditure must be supported by appropriate documents to ensure an adequate audit trail;
- All EU publicity and information requirements must be adhered to; and
- EU procurement guidelines must be stringently adhered to.

3.1 State Aids

Managing Authorities and Intermediate Bodies should ensure that projects/operations are in conformity with the relevant State Aids regulations consistent with the Operational Programmes and Administrative Agreements.

Managing Authorities should ensure that the State Aid procedures laid down in relation to the Operational Programme are carried through in full.

3.2 Public Procurement

Public Procurement can be defined as the acquisition, whether under formal contract or not, of works, supplies and services by public bodies. It ranges from the purchase of routine supplies or services to formal tendering and placing contracts for large infrastructural projects by a wide and diverse range of contracting authorities.

The October 2001 *Code of Practice for the Governance of State Bodies*⁴, published by the Department of Finance, identifies procurement as one of a number of activities requiring special attention in promoting good corporate governance. Managing Authorities, Intermediate Bodies, Public Beneficiary Bodies and other Implementing Departments/Bodies should refer to the 2004 *Public Procurement Guidelines – Competitive Process*⁵ document published by the National Public Procurement Policy Unit (NPPPU) of the Department of Finance.

It should be noted that compliance with public procurement provisions will be examined during all audits of EU Structural Funds co-financed expenditure and that failure to comply with the provisions may lead to financial corrections under Article 99 of Regulation (EC) 1083/2006 and a loss to the Exchequer for which the relevant Bodies in the Financial Management Cascade will have to account.

³ General Regulation 1083/2006 - Article 56.4

⁴ <http://www.finance.gov.ie/documents/publications/other/codeofpractice.pdf>

⁵ <http://www.finance.gov.ie/documents/publications/other/pubprocguidejuly04.pdf>

Key Principles of Public Procurement (extracted from 2004 Public Procurement Guidelines – Competitive Process published by the NPPPU).

It is very important that the public procurement function is discharged honestly, fairly, and in a manner that secures best value for public money. Contracting Authorities must be cost effective and efficient in the use of resources while upholding the highest standards of probity and integrity. Procurement practices are subject to audit and scrutiny under the Comptroller and Auditor General (Amendment) Act 1993 and Accounting Officers are publicly accountable for expenditure incurred. Management in Government Departments and Offices should ensure that there is an appropriate focus on good practice in purchasing and, where there is a significant procurement function that procedures are in place to ensure compliance with all relevant guidelines and procedures.

In general, a competitive process carried out in an open, objective and transparent manner can achieve best value for money in public procurement. This is in line with EU Treaty principles and EU Directives on public procurement. Essential principles to be observed in conducting the procurement function include non-discrimination, equal treatment, transparency, mutual recognition, proportionality, freedom to provide service and freedom of establishment. The Directives impose legal obligations on public bodies in regard to advertising and the use of objective tendering procedures for contracts above certain value thresholds.

Even in the case of procurement which might not be subject to the full scope of the Directives, such as “non-priority” services or service concessions, the European Commission and European Court of Justice (ECJ) have ruled that the Treaty principles of non-discrimination, transparency, freedom of movement, freedom to provide goods and services must be observed. ECJ case law implies a requirement to publicise and advertise such contracts of significant value to a degree which allows parties in other Member States the opportunity to express an interest or to submit tenders.

Managing Authorities, Intermediate Bodies, Public Beneficiary Bodies and other Implementing Departments/Bodies shall ensure that projects/operations are in compliance with all national and EU public procurement requirements. **Failure to comply with National or EU Public Procurement rules will lead to a financial correction and may make a project ineligible to receive EU Structural Funds, for which the relevant bodies in the financial management cascade will have to account.**

Public procurement guidelines are available on the public sector procurement website: “www.e-tenders.gov.ie”. EU Procurement Directives can be accessed under the Rules and Guidelines on the EU procurement website: “www.simap.eu.int” linked to the public sector website.

3.3 Information and Publicity

Each Member State was required to draw up and submit a Communication Plan for each Fund to the European Commission. Ireland’s NSRF and ERDF Communication plan sets out the information and publicity strategy for Ireland’s National Strategic Reference Framework (NSRF) and for the two Regional Operational Programmes. The ESF Communication Plan for the Human Capital Investment Operational Programme is consistent with these.

The aims of the Communication Plans are to increase public awareness, transparency and visibility of the Operational Programmes and of EU Cohesion and Regional Policy at national, regional and operation levels. Both Communication Plans have been accepted and adopted by

the European Commission and are available on the Managing Authorities websites as laid out in Section 1.2.

Each level of the financial management and control cascade must therefore take responsibility for ensuring that the requirements relating to the information and publicity are adhered to at their own levels. However, it will be the responsibility of each Managing Authority to ensure that the information and publicity requirements of Regulation (EC) 1828/2006 are met.

In general terms, the National Strategic Reference Framework and EU logos must be displayed on all publicity material, application forms, letters of offer or grant approval as well as on signs for projects/operations, as required under the Regulations. In addition, where appropriate, publicity material should include the required text references and logo acknowledging the role of the Exchequer and EU Structural Funds in the funding of the project/operation. Advice in implementation can be obtained from the Managing Authorities and/or the EU Structural Funds Unit of the Department of Finance. Information and publicity costs are eligible for ESF/ ERDF co-financing and can be charged to the relevant project/operation allocation.

Each Operational Programme includes a budget to cover costs of information and publicity at the Operational Programme level in the cascade system in its Technical Assistance priority.

It should be noted that compliance with information and publicity measures will be examined during all audits of co-financed expenditure and that failure to comply with the provisions of this Regulation may lead to financial corrections under Article 99 of Regulation (EC) 1083/2006. Further guidelines in relation to information and publicity requirements will be provided by the Department of Finance and the Managing Authorities.

3.4 Procedures for the drawdown of ERDF/ESF Funding

It is imperative that the drawdown of EU Structural Funds is maximised. In order to ensure the maximum amount of EU funds are drawn down and in order to comply with the requirements of Council Regulation (General Regulation) 1083/2006 (Articles 58, 60, 61, 66 and 76) and European Commission Regulation (Implementation Regulation) 1828/06 (Articles 14, 39, 40, 41, and 42) the declaration procedure will be completed electronically on the EU Structural Funds 2007-13 IT System.

EU Structural Funds 2007-13 I.T. System

This EU Structural Funds 2007-13 IT System consists of a centralised database containing the accounting records for each project/operation as set out in Article 14 and annex (iii) of the Implementing Regulation 1828/2006 with appropriate internet access for all bodies with the functionality to create the B1, B2 and B3 forms⁶ and subsequently propose them to the body immediately above them in the cascade for approval.

The project/operation data will be input initially by the Public Beneficiary Body. However, overall responsibility for ensuring data input and data accuracy rests with the Managing Authorities at all times. As the integrity of the system depends on accuracy of the data, the Managing Authorities will have a key role to play to safeguard this and will be required to verify the accuracy of the data input at regular intervals.

Full guidance on the use of the EU Structural Funds 2007-13 IT System will be provided by the Department of Finance and the Managing Authorities.

⁶ These forms are contained in Appendices 7, 8 and 9.

3.5 Declaration of Statements of Expenditure and applications for payment

All expenditure reported must be verified on the EU Structural Funds 2007-13 IT System (via Forms B1, B2, B3 see appendices 7, 8 and 9) as eligible before the Certifying Authority can make an expenditure declaration and application for payment to the European Commission, i.e. *ex-ante*.

The Bodies involved in the day to day management of projects/operations will be responsible, in the first instance, for the declaration process. The reporting format provides for confirmation that sound and efficient financial management and control procedures are in place and that an adequate audit trail exists. There are three function levels involved in this process:

1. The Public Beneficiary Body⁷ – The Body responsible for initiating and/or implementing the project/operation (Level 1);
2. Intermediate Bodies (all public bodies or agencies acting under the responsibility of Managing or Certifying Authorities or performing tasks on their behalf in relation to Beneficiaries or the bodies or firms carrying out projects/operations (Level 2); and
3. Managing Authorities (Level 3).

The administrative unit responsible for the relevant areas of projects/operations should in all cases reconcile their expenditure records with those of the accounts/finance unit before reporting to the next level. Each of these levels will fulfill their responsibilities in a timely manner in accordance with the requirements of this circular, the applicable eligibility circular, the Administrative Agreements and the relevant EU regulations to enable the Certifying Authority to draw up and submit to the European Commission certified statements of eligible expenditure and applications for payment.

⁷ The General Regulations 1083/06 Article 2 (4) define a Beneficiary as “an operator, body or firm, whether public or private, responsible for initiating or initiating and implementing operations”. In the Irish context, we are making the distinction that the Level 1 Reporting Body will be the Public Beneficiary Body in the Financial Management and Control Cascade System completing the Form B1. There may be other Beneficiary Bodies at a level below; their responsibilities are set out in Section 2.2.4.

The role of the Public Beneficiary Body (Level 1)

Level 1 (Public Beneficiary Body) will be responsible for declaring the accuracy, actuality and eligibility of the expenditure to Level 2 and for completing Form B1 through the EU Structural Funds 2007-13 IT system in the required format.

Before proposing the B1 Form on the IT System, the Public Beneficiary Body must be fully satisfied that the expenditure declared can be verified and that an adequate audit trail exists. The B1 checklist sets out the requirements in this regard and is attached at Appendix 7.

The role of the Intermediate Body (Level 2)

Level 2 (Intermediate Body¹) will be responsible for aggregating expenditure information coming from Level 1, reporting and declaring expenditure to Level 3 and completing Form B2 through the EU Structural Funds 2007-13 IT system in the required format and in accordance with the Administrative Agreement.

This level will verify that the management and control procedures described in the reporting body's Procedural Manual, see section 6.2, are in place at Level 1 and that steps (including sample checking of information at Level 1 applying an approved sampling method¹) have been taken to give reasonable assurance that the amount returned is correct, before declaring and reporting the expenditure to Level 3.

Before proposing the B2 Form on the EU Structural Funds 2007-13 IT System, the Intermediate Body must be satisfied that the expenditure declared can be verified and that an adequate audit trail exists. The B2 checklist sets out the requirements in this regard and is attached at Appendix 8.

The role of the Managing Authority (Level 3)

Level 3 (Managing Authority) will be responsible for aggregating expenditure information coming from Level 2 up to Priority level and completing Form B3 through the EU Structural Funds 2007-13 IT system.

This level will verify that the management and control procedures described in the reporting body's Procedural Manual, are in place at Level 2 and that steps (including sample checking of information at Level 2) have been taken to give reasonable assurance that the amount returned is correct, before declaring and reporting the expenditure to the Certifying Authority.

Before proposing the B3 Form on the EU Structural Funds 2007-13 IT System, the Managing Authority must be satisfied that the expenditure declared can be verified and that an adequate audit trail exists. The B3 checklist sets out the requirements in this regard and is attached at Appendix 9.

Expenditure Declaration reports will be accessible by the ESF/ERDF Financial Control Units, Internal Audit Units at each level, the European Commission, the European Court of Auditors and the relevant National Authorities including the Certifying Authorities, and other approved bodies, via the EU Structural Funds 2007-13 IT system.

3.6 Applications for Interim Payments

Notwithstanding the 2% and 3% payments on account automatically advanced by the European Commission, following the approval of the Operational Programmes, interim payments will be made by the European Commission based on declared expenditure incurred at project/operation level. As provided for in Article 87 of EC 1083/2006 interim payment claims can be made to the European Commission, in batches, up to three times a year. For a payment to be made by the European Commission in the current year, the latest date on which an application for payment can be submitted to the European Commission by the Certifying Authority is the 31st of October.

Bodies in the financial management and control cascade should ensure that declarations of eligible expenditure are submitted as frequently as possible, so to ensure the Certifying Authority can submit, at a minimum, two claims a year to the European Commission.

It is essential, therefore that the Managing Authorities submit their claims, on the EU Structural Funds IT system to the Certifying Authorities at least one month in advance of the deadlines to facilitate verification and checking. Likewise, Intermediate Bodies shall submit their claims on the EU Structural Funds IT system to the Managing Authorities two months in advance of the deadlines determined by the Managing Authorities.

Failure to comply with the above procedures may lead to the suspension of financial assistance and/or loss to the Exchequer for which the relevant Bodies in the Financial Management Cascade will have to account.

3.7 N + 2 rule

Article 93 of Regulation (EC) 1083/2006 provides that,

“The Commission shall automatically decommit any part of a budget commitment in an operational programme which has not been used for payment of the pre-financing or interim payments or for which an application for payment has not been sent in conformity with article 86 by 31 December of the second year following the year of budget commitment....”.

This is commonly known as the N+2 Rule.

In practice this means that the European Commission's 2007 Structural Funds budget commitment⁸ (allocation) must be claimed in full from the European Commission by the end of 2009. Any portion of this commitment, remaining unclaimed at the end of 2009, will be automatically decommitted by the European Commission and lost to Ireland. The N+2 rule is a rolling process and applies equally to the 2008 commitment, which will have a 2010 deadline for payment application, and for each successive year's commitment.

Managing Authorities will have overall responsibility for identifying underspends in their Operational Programmes and notifying the Certifying Authority and the Member State Authority by the 30th September annually to enable appropriate action to be taken in order to prevent the loss of funding under the N+2 Rule.

However, the Intermediate and Public Beneficiary Bodies will have in practice the primary function of identifying underspends in the projects/operations from which they are drawing funding and immediately notifying the relevant Managing Authority. To facilitate monitoring of this requirement, Intermediate Bodies will be required to provide an initial indicative forecast of eligible public expenditure for the 2007-13 period and thereafter a more accurate annual forecast by 31st January each year consistent with the Departmental Vote.

⁸ Less any advance paid by the European Commission

Section 4 Financial Management

4.1 Financial Corrections

Articles 98, 99 and 100 of Regulation (EC) 1083/2006 provide the legal basis and set out the procedures for making financial corrections to assistance granted under the Structural Funds. The Audit Authority and/or the European Commission shall base their financial corrections on individual cases of irregularity identified and may take account of the systemic nature of the irregularity to determine whether a flat rate or extrapolated correction should be applied. The Audit Authority and/or the European Commission shall take account of the nature and gravity of the irregularity and the extent and financial implications of the deficiencies found in the Operational Programme concerned. The ultimate sanction that can be applied is the cancellation of all or part of the Structural Funds contribution.

4.2 Reporting irregularities and disconformities

The European Commission definition of irregularity is given in Council Regulation 2988/95, Article 1, and restated in Council Regulation 1083/2006 Article 1 (7) which defines an irregularity as:

“Irregularity shall mean any infringement of a provision of Community law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure.”

For the Irish Authorities irregularities are

- Ineligible expenditure included in aid claims **already** submitted to the European Commission having been certified by the Paying Authority and submitted to the European Commission;
- Discovered during the course of subsequent checks, reviews or audits found by the Financial Control Unit (FCU);
- Subject to the threshold of €10,000 per transaction; and
- Are corrected by means of ex-post adjustments in the subsequent aid claim.

Irregularities must be reported regularly by the completion of irregularity forms to the Certifying Authority. The basis for reporting irregularities is as set out in Article 70 of European Commission Regulation (EC) 1083/2006 and Articles 27-32 of European Commission Regulation (EC) 1828/2006.

Each level of the cascade must take responsibility for ensuring that the requirements for reporting irregularities are adhered to at their own levels and are in agreement/reconcilable with the negative adjustments entered on the EU Structural Funds 2007-13 IT system.

Certifying Authorities will have overall responsibility for reporting irregularities and will report such irregularities on a quarterly basis⁹ based on information provided through the Managing Authorities.

⁹ Within two months following the end of each quarter (Article 28 – 1828/2006)

The tasks of the collation of irregularity reports and the recoupment to the European Commission of amounts incorrectly drawn down may be delegated to the Managing Authorities. Irregularities will count towards Ireland's error rate.

The Departments of Finance will be responsible for reporting any ERDF irregularities to the European Commission/European Anti-fraud Office (OLAF).

A similar requirement will have to be undertaken by the Department of Enterprise, Trade and Employment in relation to the ESF.

4.3 Disconformities

Disconformities are ineligible items of expenditure which are identified and adjusted out of a claim **before** it is signed by the Paying Authority and submitted to the European Commission, and therefore do not constitute a charge on the EU budget.

These include deductions arising from the findings of the Managing Authority's Article 4 checks, before the associated expenditure declarations and aid claims are finalised and thus do not make their way into the EU payments system and can therefore have no negative impact on the EU Budget. They are subject to a threshold of €10,000 per transaction.

Disconformities can include practical negative adjustments which are adjustments made in the interest of clarifying and simplifying the audit trail through for example the deletion of blocks of expenditure which are underpinned by the voluminous and individually very small transaction amounts; such adjustments are only made where there is sufficient eligible substitute expenditure.

Disconformities must be reported regularly to the Certifying Authorities. Further guidance will issue in relation to irregularities and disconformities by the Department of Finance.

4.4 Withdrawn and recovered amounts (Debtor's ledger).

The Managing Authority will be responsible for the recovery of payments from the Structural Funds made to projects/operations, subsequently deemed ineligible, and for ensuring prompt recovery and repayment of the same to the Irish Exchequer.

To facilitate the maintenance of a register of amounts recoverable and withdrawn the Managing Authority shall provide to the Certifying Authority an annual and cumulative year end statement on expenditure that as previously been declared to the European Commission as eligible, under the following headings listed below;

- ***Annual and cumulative amounts withdrawn:*** Expenditure withdrawn from the subsequent expenditure declarations to the European Commission once it was considered/detected as ineligible;
- ***Annual and cumulative amounts recovered:*** Expenditure that was previously included as pending recoveries (see next point) but has now been excluded from the expenditure declaration to the European Commission and, therefore, is no longer a pending recovery; and
- ***Amounts to be recovered:*** Expenditure that remains in the expenditure declaration even after it was detected as ineligible.

This statement will facilitate the Certifying Authority's responsibility to report information by 31 March each year as required by Article 61(f) of Regulation 1083/2006 and more specifically by Article 20(2) of European Commission Regulation 1828/2006.

To this end, the Managing Authority shall maintain a register of amounts recoverable and withdrawn (debtor's ledger) detailing the three heading listing and before each claim reconcile this record with the record held by the Certifying Authority. However each level of the cascade must take responsibility for ensuring that the information required for the debtor's ledger is made available and is in agreement/reconcilable with the negative adjustments entered on the EU Structural Funds 2007-13 IT declaration system.

Section 5 Monitoring and Reporting Arrangements

5.1 Annual Implementation Reports

Under Article 67 of Regulation (EC) 1083/2006, it is the responsibility of the Managing Authority to submit the Annual Implementation Report to the European Commission by 30 June each year.

The co-operation of Intermediate Bodies and Public Beneficiary Bodies is required and they must provide implementation information as set out in the Administrative Agreements.

Article 67 (2) of the Regulation describes the information required for the report; Article 67(2) is included in Appendix 10.

In addition, an assessment of the results of the information and publicity measures in terms of visibility and awareness of the Operational Programmes and of the role played by the European Commission will be included in the 2010 Annual Implementation Report and in the Final Implementation Report¹⁰.

5.2 Role of Programme Monitoring Committees

Under Article 65 of General Regulation 1083/2006, Operational Programme Monitoring Committees shall satisfy themselves as to the effectiveness and quality of the implementation of EU co-financed expenditure, in accordance with the following provisions.

The Monitoring Committee shall:

- a) Consider and approve the criteria for selecting the operations financed within six months of the approval of the Operational Programme and approve any revision of those criteria in accordance with programming needs;
- b) Periodically review progress made towards achieving the specific targets of the Operational Programme on the basis of documents submitted by the Managing Authority;
- c) Examine the results of implementation, particularly achievement of the targets set for each priority axis and the evaluations referred to in Article 48 (3);
- d) Consider and approve the annual and final reports on implementation referred to in Article 67;
- e) Be informed of the Annual Control Report, or of the part of the report referring to the Operational Programme concerned, and of any relevant comments the European Commission may make after examining that report or relating to that part of the report;
- f) Propose to the Managing Authority any revision or examination of the Operational Programme likely to make possible the attainment of the Funds' objectives referred to in Article 3 1083/2006 or to improve its management, including its financial management; and
- g) Consider and approve any proposal to amend the content of the European Commission decision on the contribution of the Funds.

¹⁰ In accordance with Article 4(2) of Regulation (EC) No. 1828/2006

Section 6 Administrative Agreements, Training and Procedures Manuals

6.1 The role of Administrative Agreements

Under Article 12 of European Commission Regulation (EC) 1828/2006 governing the Structural Funds for 2007-2013, where one or more tasks of a Managing Authority or Certifying Authority are performed by an Intermediate Body, the relevant arrangements must be formally recorded in writing.

To comply with this requirement and to ensure there is a clear understanding of responsibilities; Administrative Agreements will be prepared between the Managing Authorities and each Intermediate Body for the Operational Programme. In relation to the management of the ERDF, the Department of Finance will be party to these agreements.

These Administrative Agreements will set out, inter alia, the responsibilities of the Intermediate Body in respect of;

- Implementation of projects/operations in accordance with the Operational Programme Implementation Plan;
- Provision of an initial indicative forecast of eligible public expenditure for the 2007-13 period and thereafter a more accurate annual forecast by 31st January each year consistent with the Departmental Vote.
- Provision on an bi-annual basis of expenditure incurred to 30th June and 31st December to allow the effective monitoring of the Financial Plans;
- Perform management verification checks in accordance with Article 60 of Regulation 1083/2006.
- Mechanisms for the recorded verification of expenditure claims by Public Beneficiary Bodies including agreed targets for the volume and value of on-the-spot checks and, where appropriate, agreed sampling levels;
- Certification of expenditure in accordance with the provisions of this circular including the provision of all necessary information on the procedures and verifications carried out in relation to expenditure for the purpose of certification;
- Audit arrangements, including:
 - maintenance of an adequate audit trail;
 - facilitating verification audits by the European Commission or its agents, European Court of Auditors, ESF/ERDF Financial Control Units; and
 - facilitating systems audits at Intermediate Body level, co-ordinated by the ESF/ERDF Financial Control Units.
- Arrangements for reporting on financial and physical progress on the implementation of the Theme/Sub-theme to the Monitoring Committee;

- Facilitating the evaluation process;
- Ensuring compliance with the EU and NSRF Information and Publicity requirements; and
- Co-operating with Managing, Certifying and Audit Authorities in relation to management verification checks and closure arrangements.

Intermediate Bodies may be required to either enter into administrative agreements with the Public Beneficiaries Bodies or ensure that all of the Public Beneficiaries Bodies' responsibilities are included in the terms of grant agreements entered into between the Intermediate Body and the Public Beneficiary Body. In such cases, it is envisaged that the Managing Authority will be party to these agreements.

6.2 Procedures Manual

To overcome any weakness in the area of financial management and control of the Structural Funds, detailed Procedures Manuals shall be prepared for each level of the financial management and control cascade.

The Procedures Manual shall provide guidance and give details of responsibilities, tasks and procedures for personnel involved in the implementation of EU co-financed activity. The manual should comply with European Commission requirements as set out in Article 22 of Regulation 1828/2006.

The manuals shall be reviewed regularly and should be available for inspection by the level above the Body in the Financial Management and Control Cascade i.e. Certifying Authority, Managing Authority, the ESF and ERDF Financial Control Units, the Internal Audit Units, the European Commission or its agents and the European Court of Auditors.

6.3 Training

The training of staff particularly in relation to familiarisation with the European Regulations, procedures manuals, roles and requirements of each body in the financial management and control cascade will help to ensure a consistent approach across all bodies in the financial management and control cascade.

Managing Authorities, Intermediate Bodies, Public Beneficiary Bodies and other Implementing Departments/Bodies shall ensure the proper training of staff involved in the management of EU Structural Funds.

Section 7 Retention of Records and ensuring an adequate Audit Trail

Retention of Records and ensuring an adequate Audit Trail

All original supporting documentation must be retained in accordance with Article 90 of Council Regulation (EC) 1083/2006 and Article 19 of Council Regulation EC 1828/2006 i.e. for three years after the closure of the programme.

In accordance with Article 78(2)(c) of Regulation 1083/2006 receipted invoices or accounting documents of equivalent probative value shall also be retained for at the least three years after the year of the payment.

Managing Authorities, Intermediate Bodies, Public Beneficiary Bodies and other Implementing Departments/Bodies shall ensure that an audit trail is adequate. An audit trail is considered adequate (Article 15, Implementing Regulation EC 1828/2006) where, for the Operational Programme concerned, it complies with the following criteria:

- It permits the aggregate amounts certified to the European Commission to be reconciled with the detailed accounting records and supporting documents held by the Certifying Authority, Managing Authority, Intermediate Bodies and Public Beneficiary Bodies as regards operations co-financed under the Operational Programme;
- It permits verification of payment of the public contribution to the Public Beneficiary Body;
- It permits verification of application of the selection criteria established by the Monitoring Committee for the Operational Programme;
- It contains, in respect of each operation, as appropriate, the technical specifications and financing plan, documents concerning the grant approval, documents relating to public procurement procedures, progress reports and reports on verifications and audits carried out; and
- It complies with Article 90 of the General Regulation 1083/2006, Articles 14 and 19 of Implementing Regulation 1828/2006, the Administrative Agreements and the Electronic Commerce Act 2000 with regard to electronic storage and location of documents.

Failure to comply with the above procedures may lead to the suspension of financial assistance and/or loss to the Exchequer for which the relevant Bodies in the Financial Management Cascade will have to account.

Section 8 Conclusion

Conformity with this Circular and with the relevant EU Regulations is obligatory.

Each level of the cascade must take responsibility for ensuring that the requirements for implementation are adhered to at their own levels.

Managing Authorities are required to ensure that all Intermediate and Public Beneficiary Bodies, responsible for implementing the EU Structural Funds co-financed projects/operations in their Operational Programmes, comply with the requirements of this Circular. Managing Authorities will be requested to demonstrate to the appropriate Certifying Authority the steps they have taken to this end.

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

Failure to abide by the financial management and control procedures outlined above may lead to the deferment or cancellation of Structural Funds assistance and result in a loss to the Exchequer.

Contact points for further information

Any queries from Intermediate and Public Beneficiary Bodies on the terms of the Circular should in the first instance be addressed to the relevant Managing Authorities.

BMW Regional Assembly
Telephone: 094 9862970
www.bmwassembly.ie

S&E Regional Assembly
Telephone: 051 860700
www.seregassembly.ie

ESF Managing Authority
Telephone: 01 6313120
www.esf.ie

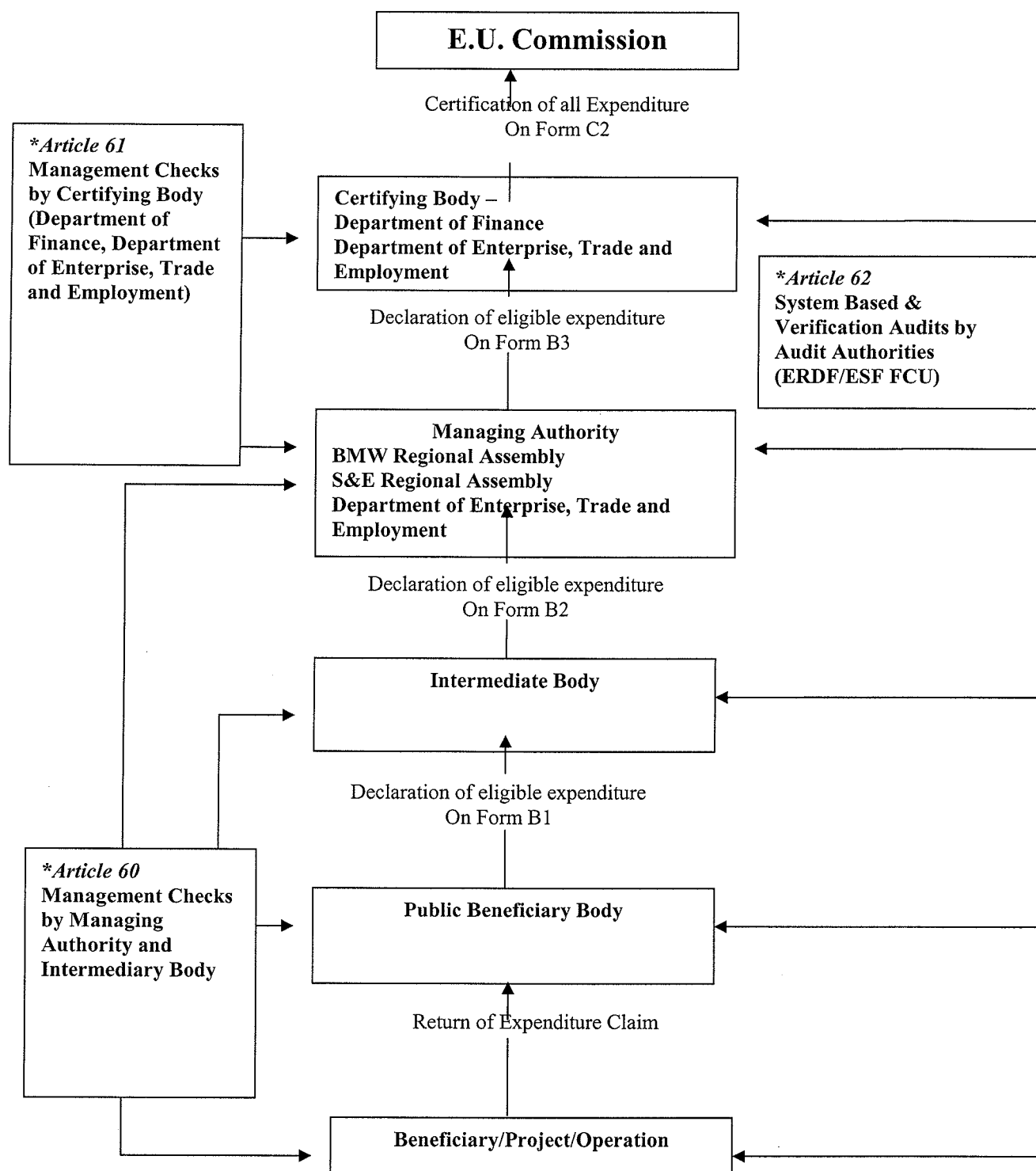
All other queries should be addressed to Mr. Noel Tallon, ERDF Certifying Authority, Department of Finance, telephone 01 6045721, e-mail address noel.tallon@finance.gov.ie.

All queries related to European Social Fund (ESF) should be directed to Mr. Tom Whelan, ESF Certifying Authority, Department of Enterprise, Trade and Employment, telephone 01 6313073, email address tom_whelan@entemp.ie

Pat Casey
Principal Officer
31st of July 2008.

Appendix 1

Flow Chart – EU Structural Funds Financial Management and Control Systems.



These articles refer to Council Regulation (EC) No 1083/2006 and should be examined in detail to address the requirements of the regulations.

Appendix 2

Form A - Compliance with Structural Funds Regulations and Associated European Commission Decisions to be signed annually by the Secretary General of Government Departments involved in the implementation of EU Structural Funds co-funded projects/operations 2007-2013.

I confirm that my Department and all Agencies/Bodies involved in the implementation of EU Structural Funds co-funded projects/operations have received copies of and are bound by Department of Finance Circular 12/2008 and the terms of the following Regulations, Decisions etc., governing the administration of the European Regional Development Fund (ERDF)/European Social Fund (ESF), including;

- General Regulation:
Council (EC) No. 1083/2006 of 5th July, 2006, laying down General Provisions on the Structural Funds.
- ERDF Regulation:
Regulation (EC) No. 1080/2006 of the European Parliament and of the Council of 5th July 2006 on the European Regional Development Fund.
- ESF Regulation:
Regulation (EC) No. 1081/2006 of the European Parliament and of the Council of 5th July 2006 on the European Social Fund.
- Council Regulation (EC Euratom No.)1605/2002 as amended by 1995/2006 on the Financial Regulation applicable to the general budget of the European Communities and the accompanying implementing regulations.
- European Commission Regulation (EC) No. 1828/2006 of 8th December 2006 setting out the rules for the implementation of Council Regulation (EC) No. 1083/2006 laying down general provision for the Structural Funds and Regulation EC No 1080/2006 of the European Parliament and of the Council on the ERDF.
- National Strategic Reference Framework 2007-13.
- ERDF BMW Operational Programme, S&E Operational Programme and ESF HCIOP Operational Programmes 2007-13.
- European Commission Decision(s) in respect of the Operational Programme(s) for which your Department has responsibility.
- Communications Plan for ESF/ERDF.
- Eligibility Rules for ESF/ERDF.

Secretary General _____

Department of _____

Date _____

Appendix 3

General Principles of the management and control systems.

General principles of the management and control systems as set out in Article 58 of Regulation (EC) 1083/2006.

The management and control systems of Operational Programmes set up by Member States shall provide for:

- (a) The definition of the functions of the bodies concerned in management and control and the allocation of functions within each body;
- (b) Compliance with the principle of separation of functions between and within such bodies;
- (c) Procedures for ensuring the correctness and regularity of expenditure declared under the Operational Programme;
- (d) Reliable accounting, monitoring and financial reporting systems in computerised form;
- (e) A system of reporting and monitoring where the responsible body entrusts the execution of tasks to another body;
- (f) Arrangements for auditing the functioning of the systems;
- (g) Systems and procedures to ensure an adequate audit trail;
- (h) Reporting and monitoring procedures for irregularities and for the recovery of amounts unduly paid.

Appendix 4

Responsibilities of the Managing Authorities.

The specific responsibilities of the Managing Authorities are detailed in Article 60 of the General Regulation (EC) 1083/2006 as follows:

- a) Ensuring that projects/operations are selected for funding in accordance with the criteria applicable to the Operational Programme and that they comply, for their whole implementation period, with applicable Community and national rules;
- b) Verifying the delivery of the co-financed products and services and that the expenditure declared by the Beneficiaries for projects/operations has actually been incurred and complies with Community and national rules, as detailed in Article 13(2) of the Implementation Regulation and in accordance with procedures provided for under Article 74 (2) of the General Regulation, relating to proportional control arrangements;
- c) Ensuring that there is a system for recording and storing in computerised form accounting records of each project/operation under the Operational Programme and that the data on implementation necessary for financial management, monitoring, verifications, audits and evaluation is collected;
- d) Ensuring that Beneficiaries and other bodies involved in the implementation of projects/operations maintain either a separate accounting system or an adequate accounting code for all transactions relating to the project/operation without prejudice to national accounting rules;
- e) Ensuring that the evaluations of Operational Programmes referred to in Article 48(3) are carried out in accordance with Article 47;
- f) Setting up procedures to ensure that all documents regarding expenditure and audits required to ensure an adequate audit trail are held in accordance with the requirements of Article 90;
- g) Ensuring that the Certifying Authority shall receive all necessary information on the procedures and verifications carried out in relation to expenditure for the purpose of certification;
- h) Guiding the work of the Monitoring Committee and providing it with the documents required to permit the quality of the implementation of the Operational Programme to be monitored in the light of its specific goals;
- i) Drawing up and, after approval by the Monitoring Committee, submitting to the European Commission the annual and final reports on implementation;
- j) Ensuring compliance with the information and publicity requirements laid down in Article 69; and
- k) Providing the European Commission with information to allow it to appraise major projects

Appendix 5

Responsibilities of the Certifying Authorities.

The specific responsibilities of the Certifying Authorities are detailed in Article 61 of the General Regulation 1083/2006 as follows:

- a) Drawing up and submitting to the European Commission certified statements of expenditure and applications for payment;
- b) Certifying that:
 - (i) the statement of expenditure is accurate, results from reliable accounting systems and is based on verifiable supporting documents,
 - (ii) the expenditure declared complies with applicable Community and national rules and has been incurred in respect of projects/operations selected for funding in accordance with the criteria applicable to the programme and complying with Community and national rules;
- c) Ensuring for the purposes of certification that it has received adequate information from the Managing Authority on the procedures and verifications carried out in relation to expenditure included in statements of expenditure;
- d) Taking account for the purposes of certification of the results of all audits carried out by or under the responsibility of the Audit Authority;
- e) Maintaining accounting records in computerised form of expenditure declared to the European Commission; and
- f) Keeping an account of amounts recoverable and of amounts withdrawn following cancellation of all or part of the contribution for a project/operation. Amounts recovered shall be repaid to the general budget of the European Union, prior to the closure of the Operational Programme by deducting them from the next statement of expenditure.

Appendix 6

Responsibilities of the Audit Authorities.

The specific responsibilities of the Audit Authorities are detailed in Article 62 of the General Regulation 1083/2006 as follows:

- (a) Ensuring that audits are carried out to verify the effective functioning of the management and control system of the Operational Programme;
- (b) Ensuring that audits are carried out on projects/operations on the basis of an appropriate sample to verify expenditure declared;
- (c) Presenting to the European Commission within nine months of the approval of the Operational Programme an audit strategy covering the bodies which will perform the audits referred to under points (a) and (b), the method to be used, the sampling method for audits on projects/operations and the indicative planning of audits to ensure that the main bodies are audited and that audits are spread evenly throughout the programming period. Where a common system applies to several Operational Programmes, a single audit strategy may be submitted;
- (d) By 31 December each year from 2008 to 2015:
 - (i) submitting to the European Commission an Annual Control Report setting out the findings of the audits carried out during the previous 12 month-period ending on 30 June of the year concerned in accordance with the audit strategy of the Operational Programme and reporting any shortcomings found in the systems for the management and control of the programme. The first report to be submitted by 31 December 2008 shall cover the period from 1 January 2007 to 30 June 2008. The information concerning the audits carried out after 1 July 2015 shall be included in the final control report supporting the closure declaration referred to in point (e);
 - (ii) issuing an opinion, on the basis of the controls and audits that have been carried out under its responsibility, as to whether the management and control system functions effectively, so as to provide a reasonable assurance that statements of expenditure presented to the European Commission are correct and as a consequence reasonable assurance that the underlying transactions are legal and regular;
 - (iii) submitting, where applicable under Article 88, a declaration for partial closure assessing the legality and regularity of the expenditure concerned. When a common system applies to several Operational Programmes, the information referred to in point (i) may be grouped in a single report, and the opinion and declaration issued under points (ii) and (iii) may cover all the Operational Programmes concerned; and
- (e) Submitting to the European Commission at the latest by 31 March 2017 a closure declaration assessing the validity of the application for payment of the final balance and the legality and regularity of the underlying transactions covered by the final statement of expenditure, which shall be supported by a final control report.

***Form B1-
Level 1 Public Beneficiary Body Checklist.***

The Public Beneficiary Body must confirm the following before the Form B1 is sent to the Intermediate Body on the EU Structural Funds 2007-13 IT System.

Level 1 – Public Beneficiary Body Checklist

1. Expenditure on the project/operation is consistent with the provisions of the National Eligibility Rules;
2. The intended purpose of the project/operation is consistent with the objectives of the Operational Programme Priority;
3. The payment application for EU recoupment is based on eligible expenditure actually paid out by the Public Beneficiary Body and supporting documentation is available;
4. The expenditure for which recoupment is sought has been paid within the eligibility period;
5. EU State Aids; EU and National Public Procurement Rules; Horizontal principles of sustainable development, equality between men and women and non-discrimination in accordance with Articles 16 and 17 of the General Regulation and social inclusion in accordance with the NSRF and the Operational Programmes; and Regional aid rates, have been observed as appropriate;
6. EU information and publicity requirements are being observed, i.e. in conformity with Articles 2-9 of Regulation (EC) 1828/2006;
7. Physical and financial progress is being monitored and documented including on-the-spot site inspection where appropriate, in accordance with Article 13 of the Implementation regulation 1828/2006;
8. There has been no overlapping of EU aid for the project/operation;
9. A separate accounting system or an adequate accounting code is being maintained for all transactions relating to the project/operation;
10. Evidence of receipt of funding by the Beneficiary of the grant is available;
11. Details of the underlying transactions are recorded, where possible, on computer files and are available on request to the European Commission Services responsible and national authorities;
12. Accounting records and an adequate audit trail exist i.e. in conformity with Articles 14 and 15 of European Commission Regulation (EC) 1828/2006;
13. All original supporting documentation will be retained in accordance with Article 90 of Council Regulation (EC) 1083/2006 and Article 19 of Council Regulation EC 1828/2006 i.e. for three years after the closure of the programme;

14. Expenditure has been reconciled between the administrative unit and the accounts/finance unit and any differences explained and a print-out from the EU Structural Funds IT System financial management system and a copy of the reconciliation has been supplied; and

15. Projects/Operations have been selected in accordance with the criteria approved by the Monitoring Committee.

Have any financial control weaknesses, risk or irregularities/disconformities been identified in the execution of the project/operation(s)?

If yes, please specify:

- a) What corrective action has/will be taken, including submission of irregularity report where appropriate?
- b) Specify the controls applied to guarantee valid certification and quantify the amount of expenditure actually checked during on-the-spot verifications:

LEVEL 1

I certify that the controls listed from 1 to 15 above have been performed and on that basis the eligible expenditure returned is correct.

Report Prepared by: _____
Public Beneficiary Body: _____
Date: _____
(Certified)

Verified and Countersigned by: _____
Public Beneficiary Body: _____
Date: _____
(Validated)

**Form B2-
Level 2 Intermediate Body Checklist.**

The Intermediate Body must confirm the following before the Form B2 is sent to the Managing Authority on the EU Structural Funds 2007-13 IT System.

LEVEL 2 - Intermediate Body Checklist

1. Management and control procedures in accordance with the reporting body's Procedural Manual and/or Administrative Agreement 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, the working papers are available for inspection and provide adequate assurance regarding proper audit trail.

Have any financial control weaknesses, risk or irregularities/disconformities been identified in the execution of the project/operation?

If yes, please specify:

- a) What corrective action(s) has/will be taken?
- b) 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: _____
Intermediate Body: _____
Date: _____
(Certified)

Verified and Countersigned by: _____
Intermediate Body: _____
Date: _____
(Validated)

**Form B3-
Level 3 Managing Authority Checklist.**

The Managing Authority must confirm the following before the Form B3 is sent to the Certifying Authority on the EU Structural Funds 2007-13 IT System.

LEVEL 3 – Managing Authority Checklist

1. Management and control procedures in accordance with Administrative Agreement and reporting bodies' Procedure Manuals 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, the working papers are available for inspection and provide adequate assurance regarding proper audit trail.
4. The latest Annual Implementation Report has been forwarded to the European Commission; and
5. An amounts withdrawn and recovery statement is being maintained, in accordance with section 4.4 of the Department of Finance Circular 12/2008.

Have any financial control weaknesses, risk or irregularities/disconformities been identified in the execution of the project/operation(s)?

If yes, please specify:

- a) What corrective action has/will be taken?
- b) Specify the controls applied to guarantee valid certification:

LEVEL 3

We certify that requirements 1 to 5 have been complied with and on that basis are satisfied that eligible expenditure is correct.

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

Verified and Countersigned by: _____
Managing Authority: _____
Date: _____
(Validated)

Appendix 10

Article 67 of General Regulation (EC) 1083/2006

Annual report and final report on implementation

1. For the first time in 2008 and by 30 June each year, the Managing Authority shall send the European Commission an annual report and by 31 March 2017 a final report on the implementation of the Operational Programme.

2. The reports referred to in paragraph 1 shall include the following information in order to obtain a clear view of the implementation of the Operational Programme:

(a) The progress made in implementing the Operational Programme and priority axes in relation to their specific, verifiable targets, with a quantification, wherever and whenever they lend themselves to quantification, using the indicators referred to in Article 37(1)(c) at the level of the priority axis;

(b) The financial implementation of the Operational Programme, detailing for each priority axis:

(i) the expenditure paid out by the Beneficiaries included in applications for payment sent to the Managing Authority and the corresponding public contribution;

(ii) the total payments received from the European Commission and quantification of the financial indicators referred to in Article 66(2); and

(iii) the expenditure paid out by the body responsible for making payments to the Beneficiaries.

Where appropriate, financial implementation in areas receiving transitional support shall be presented separately within each Operational Programme;

(c) For information purposes only, the indicative breakdown of the allocation of Structural Funds by categories, in accordance with the implementation rules adopted by the European Commission in accordance with the procedure referred to in Article 103(3);

(d) The steps taken by the Managing Authority or the Monitoring Committee to ensure the quality and effectiveness of implementation, in particular:

(i) monitoring and evaluation measures, including data collection arrangements;

(ii) a summary of any significant problems encountered in implementing the Operational Programme and any measures taken, including the response to comments made under Article 68(2) where appropriate;

(iii) the use made of technical assistance;

(e) The measures taken to provide information on and publicise the Operational Programme;

(f) Information about significant problems relating to compliance with European Commission law which have been encountered in the implementation of the Operational Programme and the measures taken to deal with them;

(g) Where appropriate, the progress and financing of major projects;

(h) The use made of assistance released following cancellation as referred to in Article 98(2) to the Managing Authority or to another public authority during the period of implementation of the Operational Programme;

(i) Cases where a substantial modification has been detected under Article 57. The breadth of information transmitted to the European Commission shall be proportional to the total amount of expenditure of the Operational Programme concerned. Where appropriate, such information may be provided in summary form.

Information referred to in points (d), (g), (h) and (i) shall not be included if there has been no significant modification since the previous report.

3. The reports referred to in paragraph 1 shall be judged admissible where they contain all the appropriate information listed in paragraph 2. The European Commission shall inform the Member State on the admissibility of the Annual Report within 10 working days from the date of its receipt.

4. The European Commission shall inform the Member State of its opinion on the content of an admissible Annual Report on implementation submitted by the Managing Authority within two months from the date of receipt. For the final report on an Operational Programme, the time limit shall be a maximum of five months from the date of receipt of an admissible report. If the European Commission does not respond within the time limit laid down, the report shall be deemed to be accepted.