



## FIRST LEVEL CONTROL IN FINLAND FOR THE TERRITORIAL COOPERATION OBJECTIVE PROGRAMMES DURING THE 2007-2013 PROGRAMMING PERIOD

### 1. Background

**First level control** is a control system set up to validate the legality and regularity of the expenditure declared by each beneficiary participating in an operation. Such control and verification will be carried out by an auditor, i.e. a controller, proposed by the beneficiary. The controller will also carry out on-the-spot verifications. During the 2007-2013 programming period, the control system for the European Territorial Cooperation objective is based on Article 16 of the Regulation (EC) 1080/2006/EC of the European Parliament and of the Council:

"In order to validate the expenditure, each Member State shall set up a control system enabling **the verification of the delivery of the products and services co-financed, the soundness of the expenditure** declared for operations or parts of operations implemented on its territory, and the compliance of such expenditure and of related operations, or parts of those operations, with **Community rules and the national rules of said Member State**. For this purpose each **Member State shall designate the controllers** responsible for verifying the legality and regularity of the expenditure declared by each beneficiary participating in the operation. Member States may decide to designate a single controller for the whole programme area.

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Before the project's implementation report (the payment application) is submitted to the programme secretariat, it must be verified on behalf of each partner's costs in the project. The purpose of this verification is to satisfy the Programme's Managing Authority, the Certifying Authority and the Lead Partner that the expenditure co-financed from the programme conforms to the rules, the programme, the approved project plan and the project agreement, and to ensure that any problems are detected and solved as early as possible. Only expenditure which has been verified is eligible.

Since first level control will be organised using a method chosen individually by each Member State, each Member State will introduce its own procedure for designating the controllers responsible for verifying the partners' expenditure. The Member States can choose from the systems of one or more controllers, decentralised or centralised control, internal or external control etc. However, the aforementioned article lays down a deadline for carrying out the verification and, in separate communications, the Commission has also emphasised the importance of guaranteeing a sufficient level of quality of the control during the selection process and verifying this through a contract procedure.

**Finland has chosen a decentralised verification model, with the Ministry of Employment and the Economy (MEE) as the authority responsible for the control and efficient management of the system. The Åland Islands is not covered by the decentralised system but will apply a central model with separate guidelines. Finland's decentralised system** will be very different from the payment verification system in place during the 2000-2006 programming period. During the 2007-2013 period each Finnish beneficiary must arrange the verification of its own implementation report/payment application by the controller before the report is submitted to the programme secretariat by the Lead Partner. 'Controller' refers to an independent auditor, whose services are acquired by each Finnish partner participating in the project in accordance to applicable EU, national, Programme and beneficiary's own rules on public procurement, and who shall be designated as controller through the MEE's certification procedure. If the organisation has previously contracted its auditing function in accordance with the public procurement rules, it may propose this same auditor as the controller, provided that said auditor meets the appropriate criteria and that the contract covers controls of EU-financed projects. Finnish beneficiaries participating in the same project can contract a shared auditor to carry out verification for all partners. The beneficiary and the auditor jointly complete the MEE's application form and submit it to the Ministry. On the basis of the submitted application, the MEE verifies that the auditor meets the required criteria. Following the MEE's decision, the beneficiary will be informed of the auditor's designation as controller for the project. If necessary, the beneficiary will then conclude a more detailed agreement with the controller concerning the verification process.

The national legislative provisions on designation of First Level Controllers and their tasks are included in Sections 29 and 29a of the Structural Funds Act (1401/2006, revised with 1653/2009).

**This updated guidance note** provides further information and guidelines on the functions and qualifications of controllers; the selection of controllers including procurement of control services; the certification of controllers; the implementation and scheduling of the verification; covering the expenses incurred due to control; training for controllers; and the monitoring of the control process.

The MEE can issue further guidelines on first level control in Finland, to supplement this guidance note where necessary.

Information on first level control arrangements in other Member States is available at the respective programme's Managing Authority.

## 2. Controller's functions and qualifications

In contrast to the previous period, the role of the auditor as controller of the payment application **is not restricted to the traditional auditing functions, but covers the control of the entire project.** The controller's function is to verify the delivery of the co-financed products and services by the Finnish partner, the soundness of expenditure and the compliance of expenditure with the rules and programme. Consequently, controllers must not only be competent in national audit procedures but must also possess certain knowledge regarding funding and project management. Controllers must know the relevant Community and national legislation concerning the projects and the special rules related to the programme funding the project. The controllers are expected to follow the national and international auditing standards and the Auditing Act (459/2007) and they are liable for damages under the Auditing Act.

The **requirements concerning the controller's qualifications, skills and experience** can be summarised as follows:

- The controller shall be a Chartered Public Finance Auditor authorised by the Board of Chartered Public Finance Auditing (JHTT/CPFA) or an Authorised Public Accountant authorised by the Central Chamber of Commerce (KHT/APA) or an Authorised Auditor authorised by a local Chamber of Commerce (HTM/AA), An auditing company will not be designated as controller because the personal qualifications of the controller will be verified in the designation process.
- A Controller shall have sufficient knowledge of Community and national Structural Fund legislation and preferably experience of verifying projects funded by the EU,
- A controllers shall have sufficient knowledge of English or other language relevant in the programme, in order to carry out the verifications on the basis of the forms and guidance provided by the programme and to communicate with the programme secretariat, other Member State controllers etc,
- A controller shall be fully independent of the organisation, unit and operations subject to verification.

In addition, controllers must agree to carry out the verifications within the required three-month period or a shorter deadline set by the programme.

These criteria will be checked during the certification procedure (see below).

Prior to the certification, the auditor proposed as controller by the beneficiary shall get acquainted with the project and the documents related to the control in order to ensure that he/she understands the nature and scope of said control. The beneficiary shall provide the auditor proposed as controller with this MEE guidance, relevant documents provided by the funding programme, such as the programme manual, eventual guidance on first level control and implementation report, verification checklist and the control report templates. In addition, the controller must have access to the project application approved by the managing or monitoring committee of the relevant INTERREG programme. The partner will also provide the controller with a copy of the partnership agreement, drawn up during the initial stage of the project, and a copy of the grant agreement between the lead partner and the managing authority as soon as it has been signed.

### 3. Selecting the controller

When acquiring the services of a controller relevant Community, national, programme and beneficiary's own rules on public procurement shall be followed. Controller's task can be **subjected to competitive tendering or**, if the organisation has previously subjected its auditing to a tender procedure and selected an auditor, it may **use the same auditor** as controller, provided that the auditor in question meets the appropriate criteria and the service contract concluded also covers controls of EU projects. Finnish beneficiaries on a project can opt for a shared controller carrying out the verification for all beneficiaries. In all cases, the controller must be certified by the MEE before the first control. A single application form containing the details and signatures of each beneficiary is sufficient for the certification of a shared controller. The Ministry still issues each beneficiary with an individual certificate. However, where several departments or units of a legal personality participate in a project, a single certificate will be issued..

**The national and Community regulations and the programme-specific and beneficiary's own rules on public procurement apply to the acquisition of the controller's services** (such as the applicable procedures governing cases where the contract exceeds or falls below the threshold value). If these rules are contravened the controller's fee is considered an ineligible cost for the project and shall be borne by the beneficiary alone. When drawing up the invitation to tender, it is important that the above-mentioned qualifications for a controller are taken into account, since they will be screened during the certification. The invitation to tender must also provide a sufficiently detailed description of the content of the service, including the programme description, project description and the functions of the controller. When certifying a controller the MEE does not, however, pronounce on the regularity of the procurement of the service.

### 4. Certification procedure

The qualifications of the proposed auditor will be checked during the certification procedure. The beneficiary and the auditor will jointly complete the MEE's application form, which includes information on the auditor proposed as controller and the project. **The beneficiary will submit the application form with its appendices to the MEE** by e-mail: eay@tem.fi and in original to the MEE's Registry Office (Työ- ja elinkeinoministeriön kirjaamo, PL 32, 00023 VALTIONEUVOSTO).

**The application form (revised in 2010) is available on the MEE's website [www.tem.fi/eay/valvonta](http://www.tem.fi/eay/valvonta) as well as on each programme website.** The form is published in Finnish, Swedish and English.

Having checked the credentials of the auditor proposed as controller and verified that the criteria are met **the MEE will provide the beneficiary with a designation decision and a certificate.** The beneficiary will forward the certificate to the lead partner of the project (if the lead partner is one of the other partners). The lead partner submits the certificate in original to the programme secretariat as an annex of the first consolidated payment claim of the project.

**The application form can only be completed and the certification carried out following the project's approval for co-financing by the programme's steering or monitoring committee.** Certification is project-specific. Even if the same controller is used in another project of the beneficiary, new certification will be required.

**The Finnish beneficiaries in projects financed by the ESPON 2013 and URBACT II Programmes shall submit the MEE application form and its appendices to the Ministry in English. These programmes require a copy of the application form in addition to the certificate.**

## **5. Scheduling and carrying out the control**

Verifications can be initiated when a funding decision has been received for the project or when the funding agreement has been signed. In Finland, a so-called normal (desk based) verification is carried out **either at the controller's or the partner's premises with the help of the latest version of the checklist provided by the programme.** The controller shall use the programme's latest report templates. **The verification covers 100% of the expenditure reported by the beneficiary.** Examples of the items covered include each expense recorded in the project's cost centre, invoices, receipts and other appendices of the payment application, such as the employment contracts of full-time employees, the timesheets of part-time employees, documents related to the competitive tender, the allocation criteria of the project's overheads and expenditure shared between the partners, revenue generated by the project etc. With the help of these documents, the controller must be able to verify that **all** expenses declared by the partner are real and incurred due to the project, that they comply with the regulations, the programme and the approved project plan, and that the reported operations have been performed. If each receipt is not verified, the sampling method which must conform with Good Auditing Practice shall be documented in the control report. The substantiality principle applied in general auditing practice is not applicable in first level control. All errors detected shall be reported even if they have been corrected in the final payment claim.

It must be verified that relevant publicity activities on the project have been carried out. With regard to environmental projects, it must be verified that the environmental authorities have been heard, the necessary environmental permits have been acquired, the environmental impact assessment has been carried out for the appropriate projects, sufficient information has been communicated on projects with an environmental impact, and the measures are not in conflict with the environmental directives (Bird, Water Framework and Waste Framework Directives). The controller must also verify that the promotion of equal opportunities based on gender has been taken into account in the project's activities. It should be noted that the above

matters can be verified only through cooperation and the exchange of information between the controller, the managing authority, the national co-financing body and the relevant environmental and other authorities.

For the second implementation report and thereafter, the controller shall also verify transfers of ERDF aid, paid by the programme's managing authority, from the lead partner to the other beneficiaries, and any Finnish national co-financing transfers to the Finnish beneficiaries. In addition, the controller will monitor the compliance with the beneficiary's own funding requirement.

If the controller finds errors in the payment claim/activity report that can be corrected on the basis of further clarifications before the document is verified, he/she shall include a note in his/her control report or its appendix presenting the original error and the measures to rectify it. In this way the programme receives information on systemic errors made by beneficiaries in their reports and where appropriate can clarify its own guidance.

In accordance with Section 29a (3) of the Structural Funds Act, the controller may authorise another independent auditor to perform a control on the beneficiary. Only the controller designated for the project can sign the control report also in these cases.

Each beneficiary shall submit the verified implementation reports to the lead partner, who will be responsible for compiling them. The lead partner is also responsible for ensuring that the expenses declared by each beneficiary are related to the project's operations, that they comply with the partnership agreement and are verified by the officially designated controller. It is the Finnish lead partner's responsibility to ensure that the joint implementation report (incl. the payment application) is based on the reports received from all beneficiaries, drawn up accurately, that it complies with the project agreement and includes the verification by the competent controller of each beneficiary. The Finnish lead partner's controller does not control the eligibility of costs reported by other beneficiaries but his/her task is also to verify that the lead partner is fulfilling its obligations as the lead partner in the project.

According to Article 60 of Regulation 1083/2006/EC and Article 13 of Regulation 1828/2006/EC, **on-the-spot verifications will be carried out in order to verify the products and services.** In Finland, first level controllers carry out **at least one on-the-spot verification for each partner**, which can be performed during the normal verification visits described above. On-the-spot verification shall always be conducted on the beneficiaries of projects chosen by the programme for such controls. Such on-the-spot verifications **will be reported according to the programme practice, either in the relevant section of the verification report or on a separate form.** On-the-spot verifications should be carried out when the project's operations are being performed, however, not too early for the amount to be verified but in good time prior to the closure of the project, when problems and irregularities detected during the verification can be solved. On-the-spot checks should be carried out more than once for major projects involving investments and infrastructure.

The partnership agreements and the agreement between each partner and the controller must indicate the verification schedule and liabilities for delays, reporting mistakes and irregularities.

Each European Territorial Cooperation programme **follows the approved reporting schedule**, including the verification deadlines. When the schedule is agreed, it must be taken into account that, under the Regulation 1080/2006/EC, **the expenditure must be verified no later than within three months. However, the funding authority may issue more stringent and detailed rules on the reporting methods and schedules.** In any case, the partner-specific verifications must be initiated without delay following the closure of the programme's reporting period, and an efficient schedule must be drawn up for the preparation, verification and delivery to the lead partner of all reports for the final verification. It should also be noted that a verification cannot be carried out for any of the partners if the documentation is not complete. The lead partner must be allowed sufficient time to compile the verified implementation reports from each partner, while the lead partner controller must have enough time to check all documents related to the entire project's implementation report before the project's final report is delivered to the programme secretariat. **Towards the end of the project, enough time must be reserved for the verifications** so that they are carried out after the closure of the actual operations but **before the closure of the implementation period**. Any expenditure on control measures will not be eligible in all programmes after the closure of the implementation period, as indicated in the funding agreement.

The programme secretariat will issue further guidance on the preparation of implementation reports and delivery to the secretariat. **Copies of each verification report and checklist shall be submitted to the MEE by mail.**

#### **Verifications related to Finnish national co-financing**

The control system described in this guidance note could cover verifications of national funding as well. However, at its discretion the national co-financing body may carry out additional verifications for its funding. The beneficiary receiving Finnish national co-financing must apply for payment in accordance with the guidance issued by the relevant authority.

#### **6. Reporting of irregularities**

Irregularities refer to cases where aid has been applied and/or paid unduly and on an unsound basis. There can be several explanations for irregularities, such as non-implementation of the project due to the applicant or for other reasons, such as a bankruptcy or some other financial reason, an undetected human error committed by the applicant and/or financing body, or even fraud. The method of reporting irregularities depends on the stage at which the mistake was detected and whether any aid was actually paid to the applicant and/or reported to the Commission for the purpose of applying for payment.

Normal verification reports must indicate any conflicts and discrepancies detected during the verification, and the measures taken to correct them. However, sometimes these irregularities may go unnoticed during the normal verifications carried out by the controllers and even during the checks performed by the programme secretariat/verification authority. Consequently, aid can be paid on an unsound basis and must be recovered. Where past irregularities are detected during later verification(s), the controller must immediately draw up a separate irregularity report for the MEE's regional development unit, which will forward the information to the MEE financial unit responsible for reporting to the Commission. Such irregularity reports shall also be submitted for information to the programme's managing and certifying authorities.

Where irregularities are detected before the certifying authority has paid out the grant to the beneficiary, it is not necessary to submit a separate irregularity report to the MEE. Nonetheless, irregularities must be clearly documented in the verification report.

## **7. Processing the payment application**

When verified implementation reports and documents from all partners have been enclosed with the project's joint implementation report, and the Finnish lead partner's controller has verified the joint implementation report as having been correctly drawn up, the lead partner will then deliver the implementation report to the programme secretariat in accordance with the programme guidance. The lead partner's function is to ensure that the verified payment application is submitted to the programme secretariat within the reporting schedule agreed for the programme. However, the time spent on the verification itself must be less than three months.

The programme's certifying authority will carry out a further verification, checking that the implementation report has been drawn up correctly, i.e. that it contains each partner's controller's report, and that the verification has been carried out and documented correctly, taking into account the observations and notes presented in the report. In addition, the certifying authority will ensure that the on-the-spot checks have been carried out. Where necessary, the certifying authority may request additional information from the project for the implementation report.

The certifying authority and the MEE may carry out additional on-the-spot checks.

## **8. Costs for first level control**

Any expenditure incurred for first level control will be **covered by the beneficiary**. This **expenditure is eligible** as part of the project, provided that it has been subject to appropriate procurement procedure. The expenditure will be included in the project budget under the correct expenditure group during the application stage. In order that the control expenditure is included in the project, sufficient time must be reserved for the verifications after the closure of the actual operations of the project but prior to the closure of the implementation period, since the project's expenditure is eligible only within the implementation period.

The MEE does not charge a fee for the certification of an auditor as first level controller.

## 9. Training and information events for the controllers

In order to ensure access to adequate information and skills, and to guarantee the quality of the controls, the MEE will organise regular training and information events for the controllers. These events will feature a discourse of general Community and national regulations and decrees concerning the European Territorial Cooperation objective programmes, introduction of the programmes and their special features and presentations on certification procedure. Information on future events will be sent to the designated controllers. Controllers are liable for travel and other costs incurred due to the training events, as these expenses will not be considered eligible project expenditure.

## 10. Monitoring of first level control and keeping the documents

All project and verification documents must be recorded and kept by the beneficiary until 31 December 2025.

Copies of each verification report and checklist shall be submitted to the MEE by the beneficiary. The MEE will monitor the first level control and may in accordance with Section 29a (4) of the Structural Funds Act conduct checks on controllers or empower another authority or an independent auditor to conduct such checks.

The audit authority designated for each programme is responsible for the second level control, ensuring that the projects are checked through the appropriate sampling in order to verify the project expenditure. Depending on the programme, the projects are verified either by an international auditing corporation, selected through competitive tendering, or the national competent body (in Finland, the Controller function of the Ministry of Finance).

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