



GOVERNMENT
OF MALTA



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European Agricultural Fund for Rural Development Operational Programme 2014 - 2020

MANUAL OF PROCEDURES
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MANAGING AUTHORITY (EAFRD)

Funds and Programmes Division, The Oaks Business

Centre, Block B, Triq Farsons,

Hamrun (Malta), HMR 1321

Telephone: (+)356 2555 2634

Email: rdd.mefl@gov.mt



Rural Development Programme for Malta 2014-2020

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***The European Agricultural Fund for Rural Development:
Europe investing in rural areas***

The purpose of this Manual of Procedures is solely to provide guidance to beneficiaries. It should be read in conjunction with:

1. Regulation (EU) N° 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund; and
2. Regulation (EU) No 1305/2013 of the European Parliament and of the Council of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)

This Manual cannot in any way override the general principles included in the above mentioned Regulations and any subsequent amendments thereto.

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List of Abbreviations

AG	Accountant General
CA	Competent Authority
CAP	Common Agriculture Policy
CB	Certification Body
CRRB	Change Request Review Board
DAS	Departmental Accounting System
DCS	Director (Corporate Services)
DoC	Department of Contracts
DPDPI	Director (Policy Development and Programme Implementation)
EC	European Commission
EAFRD	European Agriculture Fund for Rural Development
ERA	Environment and Resources Authority
EU	European Union
FAS	Farm Advisory Services
FO	Front Office
FPD	Funds and Programmes Division
IAIB	Internal Audit Investigations Board
IAID	Internal Audit and Investigations Department
IACS	Integrated Administration and Control System
ICT	Information and Communication Technology
LAG	Local Action Group
LM	Line Ministry
LM	Land Manager
MA	Managing Authority
MAFA	Ministry for Agriculture, Fisheries and Animal Rights
MC	Monitoring Committee for the European Agriculture Fund for Rural Development Operational Programme 2014-2020
MFIN	Ministry for Finance
MoP	Manual of Procedures for the European Agriculture Fund for Rural Development Programme 2014- 2020
MPSC	Ministerial Projects Steering Committee
NAO	National Audit Office
CRPD	National Commission for Persons with Disability
NCPE	National Commission for the Promotion of Equality
NGO	Non-Governmental Organisation
NRN	National Rural Network

OLAF	European Anti-Fraud Office
RDP	Operational Programme
PA	Paying Agency (ARPA)
PA	Partnership Agreement
PA	Planning Authority
PL	Project Leader
PPCD	Planning and Priorities Co-ordination Division
PSAB	Project Selection Appeals Board
PSC	Project Selection Committee
RDP	Rural Development Programme
SAMB	State Aid Monitoring Board
SMEs	Small and Medium Enterprises
VAT	Value Added Tax

1. Introduction

1.1 Guide to beneficiaries

1. This Manual of Procedures (henceforth referred to as the MoP) is designed to guide beneficiary organisations involved in the management and implementation of projects co-financed under the European Agriculture Fund for Rural Development (EAFRD).
2. The European Agriculture Fund for Rural Development allocated according to a strategic plan drawn up by Malta and agreed with the European Commission (EC). This plan is referred to as the Partnership Agreement (PA). It may be downloaded from <https://eufunds.gov.mt/en/Information/Pages/Partnership-Agreement.aspx>.
3. The Partnership Agreement is complemented by the RDP 2014-2020 (RDP) which sets out the priority areas which the EAFRD funds will pursue. The RDP may be downloaded from <http://eufunds.gov.mt/en/EU%20Funds%20Programmes/Agricultural%20Fisheries%20Fund/Pages/Links-and-Downloads---EAFRD.aspx>
4. In Malta the overall co-ordination and management of the EAFRD falls under the direct responsibility of the Funds and Programmes Division (FPD) within the Ministry responsible for EU Funds. FPD is the designated Managing Authority (MA) for the RDP.
5. It is important to note that projects implemented through the EAFRD always require both EU and national public funds. An element of co-financing from non-governmental organisations or the private sector may also be applicable in the case of projects implemented by those organisations.
6. The main Regulations which lay down the general provisions for the 2014-2020 programming period are those listed at page 2 of this MoP. Users of this MoP should note that the list is not exhaustive and is subject to change according to any amendments initiated by the EC.
7. This MoP is subject to regular revisions and changes. Should there be changes to the MoP, all Project Leaders and stakeholders will be informed and an updated version of the MoP will be placed on the website of the MA.

2. Roles, responsibilities and channels of communication

2.1 Managing Authority (MA)

The Funds and Programmes Division within the Ministry responsible for EU Funds designated as the MA responsible for the EAFRD RDP, in accordance with Article 123 of the Common Provisions Regulation (EU) N^o. 1303/2013. Under the principle of shared management, the MA retains overall responsibility for the funds and therefore any implementation queries, concerns as well as requests for further information that a beneficiary, stakeholder or the general public feel have not been addressed in a comprehensive manner at the appropriate level, should be brought to the immediate attention of the MA.

The general functions of the MA are set down in Article 125 of the Common Provisions Regulation (EU) N^o. 1303/2013. In addition, the MA shall also perform the functions set down in article 97 of Regulation (EU) N^o. 508/2014.¹

The Managing Authority may sign delegation agreements / co-operation agreements with other entities, in order to assign certain tasks and duties.

MA contact details:

Funds and Programmes Division
The Oaks Business Centre Block B
Triq Farsons
HamrunMalta

Telephone: (+356) 2200 1108

Fax: (+356) 2200 1141

Email: fpd.mefl@gov.mt

2.1.1 PSC Secretariat

The PSC Secretariat falls under the remit of the MA. The main functions of the PSC Secretariat are outlined in the PSC Manual.

2.2 Project Selection Committee

The PSC has been set up in view of Article 125 (3) of Regulation (EU) No. 1303/2013 of the European Parliament and of the Council of 17 December 2013, and Article 65 (4) of Regulation (EU) No. 1305/2013 of the European Parliament and of the Council of 17 December 2013.

The Project Selection Process is steered by the MA and supported by a PSC. The main function of the PSC, concurrently or otherwise with the MA, shall be to assess all proposals received and determine eligibility. The PSC shall also assess eligible proposals according to the relevant selection/award criteria^{2 and 3}.

¹ The remit of the MA includes the issuance of calls for applications some of which may be open calls with a periodical selection facility.

² First version discussed with the Monitoring Committee (MC) on 18th December 2015. Further enhancements were made, following discussions with the MC. The latest version can be downloaded from the MA website: <http://eufunds.gov.mt/en/EU%20Funds%20Programmes/European%20Agricultural%20Fund/Pages/Monitoring-Committee-2014-2020.aspx>

³ No selection criteria apply for sub-measures 10.1, 11.1, 11.2, 13.3, 17.1 and 19.4.

The main functions of the PSC include⁴:

- Confirm or refute the eligibility check of each project proposal;
- Evaluate and assess the projects submitted in line with the objectives of the RDP, and the relevant project selection criteria;
- Following an evaluation, determine the projects most suitable for funding under the RDP in line with the criteria established in the Call for Applications;
- Rank projects in line with the Project Selection Criteria;
- Draw up a list of projects in line with the order of precedence established by the ranking exercise, this list will include projects selected for funding, projects that have not been selected for funding and projects which have been selected for funding but for which, funding is not available at that point in time

The PSC shall be guided by a dedicated PSC Manual to be provided by the MA.

2.3 Paying Agency

The **Paying Agency** is the Agricultural and Rural Payments Agency (ARPA) within the Ministry for Agriculture, Fisheries and Animal Rights (MAFA). The Paying Agency is subject to checks by the Certification Body who on its part accredits the Agency on the basis of relevant articles in Regulation (EC) 1306/2013. The Paying Agency, on its part, is required to follow the procedures for the receipt, recording, verification and processing of claims for payment to beneficiaries, carrying out on the spot checks and following up on findings as necessary with beneficiaries.

ARPA contact details:

Telephone: (+356) 2292 6148
Email: arpa.mafa@gov.mt

2.4 Certification Body

The Internal Audit and Investigations Department (IAID) is the designated Certification Body (CB) under Article 123 of the Common Provisions Regulation (EU) N^o. 1303/2013. The IAID is the executive branch of the Internal Audit Investigations Board (IAIB) within the Office of the Prime Minister and is regulated by the Internal Audit and Financial Investigations Act 2003 (Chapter 461, Laws of Malta).

The functions of the CB are set down in Articles 126 and 127 of the Common Provisions Regulation (EU) N^o. 1303/2013.

IAID contact details:

Telephone: (+356) 2123 7737
Fax: (+356) 2123 7681
Email: info.iaid@gov.mt

2.5 Line Ministry (LM)

1. In most cases the Director (Policy Development and Programme Implementation) (DPDPI) and / or the Director (EU Affairs) is responsible for the LM function. The DPDPI has to make sure that the full LM function (including raising the commitment in the Departmental Accounting System) is carried out efficiently by the relevant officers within the LM.

⁴ Some of these functions may also be held in conjunction with those functions governing the MA.

2. The LM is primarily responsible for the inter-agency co-ordination for all projects implemented by any department / public organisation forming part of the ministry's portfolio. The co-ordination function is applicable from the very start, including providing ministerial input at programming stage; supporting agencies at the moment of submission of proposals; providing support to beneficiaries during implementation – including liaison with the MA and other horizontal stakeholders; processing of the second stage of the payment process (including EAFRD Database input) and submission to ARPA once documentation is correct; monitoring of projects falling within the ministry's portfolio, including the endorsement of the Project Progress Reports; and following up any issues arising from management checks and audits.
3. In most cases it will be expected that Local Councils process applications and payments through the Ministry for Justice, Culture and Local Government⁵.
4. The list of the Directors can be found on under the contact details of each respective ministry website.

2.6 Beneficiary

1. A beneficiary is an individual/group of individuals (whether, a natural or legal person) or organisation (whether, public or private) responsible for the implementation of a project. A beneficiary has signed a Grant Agreement with the MA and its project must be implemented in line with that Agreement, as may be revised by approval of the Managing Authority. A beneficiary is responsible to implement the operation in line with the relevant terms and conditions of the respective measures guidelines and the Grant Agreement signed with the MA as well as the provisions of this MoP. A beneficiary shall always be guided by the principles of good governance and sound financial management.
2. A Grant Agreement signed between the MA and a beneficiary gives the relevant details on the objective, targets (where applicable) and financial allocation of the respective project. A Grant Agreement binds that beneficiary to implement the project in accordance with the terms and conditions set out therein and any requests for changes shall be notified to the desk officer at the MA in good time to allow for its assessment and determination by the Change Request Review Board. A decision is transmitted to a beneficiary in writing and, in case of an approval this is then generally followed up by means of an addendum, depending on the nature of the change. Although the MA shall approve all changes in writing, there is no need to sign an addendum each time there is a change. In the spirit of proportionality and also to reduce administrative burden, an addendum may cover several changes that would have already been approved by the MA over a span of time. No unilateral changes (by a beneficiary) to a Grant Agreement shall be accepted by the MA.
3. The list of beneficiaries for investment operations can be obtained from the FPD website: <https://eufunds.gov.mt/en/EU%20Funds%20Programmes/European%20Agricultural%20Fund/Pages/Results.aspx> whilst the list of beneficiaries for land based measures can be accessed from the PA website: <https://msdec.gov.mt/en/ARPA/Pages/Payments.aspx> Both lists can be obtained by sending an e-mail to rdd.mefl@gov.mt.

2.7 Department of Contracts (DoC)⁶

1. The Department of Contracts (DoC) within MFIN is responsible for administration of the procurement procedures as laid down in the Public Procurement Regulations 2016 (**LN 352 of 2016 as subsequently amended by LN 155 of 2017, LN 26 of 2018 and any other subsequent amendments**). The DoC provides guidance and advice to beneficiaries on all issues pertaining to public procurement. In the Legal Notice, the DoC is defined as the Central Government Authority whereas an agency procuring the goods/services/works is defined as a Contracting Authority.
2. The DoC makes sure that the relevant tenders are launched and published in accordance with the above-mentioned Regulations and that contracts are awarded in conformity with the principles of non-discrimination, equality of treatment, transparency, mutual recognition, proportionality, open competition, financial management and good governance.
3. The main functions of the Office of the Director of Contracts are set in Regulations 10-15 of LN 352/2016.

⁵ For further information on the payment process, refer to Chapter 5 of this MoP.

⁶ The Department of Contracts is involved in tenders whose value (excluding VAT) exceeds €144,000.

4. It is the responsibility of ALL beneficiaries (even those not falling within the direct remit of the DoC such as NGOs, Local Councils and other LN 352/2016 Schedule 3 entities) to seek the advice of the DoC on procurement-related matters.

DoC contact details:

Telephone: (+356) 2122 0212

Fax: (+356) 2124 7681

Website: www.contracts.gov.mt

www.etenders.gov.mt

Email: info.contracts@gov.mt

2.7.1 Departmental Tender Evaluation Committee

1. A Departmental Tender Evaluation Committee is a committee appointed by a Contracting Authority with the purpose of evaluating departmental tender offers received and making recommendations thereon.
2. In keeping with the principle of proportionality, it is recommended that Departmental Adjudication Boards use templates and procedures available on the DoC website (with applicable amendments that have to be made by the relevant Contracting Authority) and consult the DoC should further information on the procedure be required.
3. It is also highly recommended that Boards refer to the Manual for Evaluation Committees, issued by the DoC and available at: <http://contracts.gov.mt/en/Resources/Pages/Resources.aspx>

2.7.2 Departmental Contracts Committee

For the purpose of EU funding implementation, this refers to the Committee set up in terms of Regulations 73-75 of the Public Procurement Regulations with the purpose of making definite recommendations for the award of public contracts whose value does not exceed €144,000.

Beneficiaries should contact their respective Director (Corporate Services) for more information on their ministry's Departmental Contracts Committee.

2.8 Contractor

A contractor is a provider of works, supplies or services that has been awarded a contract following the launch and adjudication of a public procurement procedure. A beneficiary is responsible for ensuring (through supervision and certification of works, services and/or supplies) that a contractor delivers the works/supplies/services in accordance with the terms and conditions stipulated in the contract and in accordance with Public Procurement Regulations.

2.9 Monitoring Committee

In terms of Articles 47 and 48 of Regulation (EU) N^o: 1303/2013, a Monitoring Committee (MC) charged with overseeing the implementation of the EAFRD EAFRDRDP in Malta has been established. The MC has its own terms of reference (in line with Article 110 of the same Regulation) and is chaired by the Permanent Secretary (MEFL) (or his / her representative).

In line with Delegated Act 240/2014 of 7 January 2014, the Committee comprises partners that are the most representative of the relevant stakeholders consulted for the preparation of the EAFRDEAFRD RDP. The partners include public authorities, economic and social partners and bodies representing civil society, including environmental partners, community-based and voluntary organisations which can significantly influence or be significantly affected by implementation of the RDP(EAFRD) . Furthermore, the MC includes representatives of the agriculture sector.

Representatives of the partners shall be delegated to be part of the Monitoring Committee by the respective partners through transparent processes. The membership of the Monitoring Committee shall be published and each representative of the Monitoring Committee shall have a voting right.

2.10 Ministerial Projects Steering Committee

1. In view of the fact that some operations are implemented by public sector bodies, a [Ministerial] Steering Committee may be set up within each LM with the task to monitor projects and steer implementation to make sure that targets – financial and physical – are reached.
2. The Steering Committee is part of the overall monitoring system. The Committee is normally chaired by the Permanent Secretary of each ministry (or his / her representative) and provides a more focused mechanism to keep track of project progress and facilitate programme implementation.
3. Information on the Steering Committee can be obtained from the Director (Policy Development and Programme Implementation) of each respective ministry.

2.11 National Audit Office (NAO)

1. The National Audit Office is the external auditor of the Government of Malta and is completely independent of the executive arm of the Government.
2. Since projects co-financed through the EAFRD are considered to be public funds, the NAO may carry out audits on the projects (both on public entities and agencies as well as private or projects implemented by NGOs) as the external auditor of Government.

NAO contact details:

Telephone: (+356) 2205 5555

Fax: (+356) 2123 8918

Email: nao.malta@gov.mt

2.12 Channels of communication

The following lines of communication shall be adhered to:

1. Only the MA, the PA, the CB (in their respective roles, through the official channels) shall directly communicate with the EC on issues pertaining to the EAFRD 2014-2020.
2. As secretariat to the MC, it is only the MA that will communicate with the MC on issues pertaining to the EAFRD 2014-2020. Members should send their comments to the MA for distribution.
3. In terms of project implementation, the MA will communicate with beneficiaries and, in the case of public sector projects, the Project Leader on issues pertaining to projects. In the case of public sector projects, communication between a beneficiary and the MA shall be copied to the LM.
4. It is the beneficiary's responsibility to consult the relevant national authorities on issues pertaining to a project being implemented by that beneficiary (e.g. DoC on procurement; Paying Agency on payments; ERA/PA on planning and environmental permits; SAMB on State aid; CRPD and NCPE on equal opportunities; the VAT Department on issues related to VAT).
5. Beneficiaries and LMs shall ensure continuous communication with the relevant stakeholders to guarantee that the payment process is progressing accordingly and within acceptable timeframes.
6. Any changes to the implementation (including changes in Project Leader and / or contact persons) shall be notified immediately to the MA. The relevant template found at <https://eufunds.gov.mt/en/EU%20Funds%20Programmes/European%20Agricultural%20Fund/Pages/Manual-of-Procedures.aspx>.
7. Any other queries pertaining to implementation in general may be addressed to the MA.

3. Calls for Application

3.1 Calls for Applications

The MA may use simple open calls, open block procedure calls or restricted calls, depending on the nature of the operations being supported as identified in the RDP (2014-2020).

3.1.1 Restricted Calls Procedure

In the case of certain actions, the MA has the authority to issue restricted calls. This method authorises the MA to select projects without going through an open call due to the characteristics of the operations to be supported or the type of body on account of its technical or administrative competence.

The MA shall invite the relevant organization to submit an application which will also be assessed by the PSC in line with the Eligibility and Selection Criteria, as entailed in the Guidance Notes⁷ to ensure good quality proposals. Following the procedures set out in section 1.3.4, and assessment by the PSC, the MA shall proceed to sign a Grant Agreement⁸ with the relevant organization, in case of a successful selection procedure. The proposals selected under this method will be bound by all the rules and regulations as other projects selected under an open call.

3.1.2 Open Calls Procedure

Calls for proposals shall be published on the government gazette; where appropriate, pre-announcements will be publicised. As per the MA Communication Strategy, the communication objectives can be achieved by identifying the most suitable and effective communication tools and methods to be used.

The MA shall seek to use also other means of publicity and communication to reach potential Applicants, such as website and e-mails, media and other channels as and where applicable. The MA may seek to commit all funds in one call, however will issue subsequent calls where the desired take-up is not reached or when savings are returned to the Fund.

3.1.3 Open Block Calls Procedure

Open Block Calls for proposals shall operate, to a certain extent, in a similar manner to the Open Calls Procedure. Such calls may have a limited budget attached to them and the MA will review applications received within this pre-defined time block (i.e. time window, for example Block 1 period 1st January to 31st March, Block 2 Period 1st April to 30th June etc.).

Within this Open Block Call Procedure, a pass-mark threshold could be adapted but only after one block has been closed, in order to ensure the equal treatment of applicants within a block is respected. Adequate communication of changes to potential beneficiaries should be provided by the MA.

The Open Block Procedure shall close either once the allocated budget has been committed or call withdrawn through a notification by the MA. The MA may re-issue the call in a similar or different format. In cases of an envisaged modification of a call, a pre-announcement will be made before withdrawal of call. The MA may re-issue the call at a later stage, under different guidelines and/or application form. A pre-announcement will be made in case that a call has not been open for a number of months.

3.1.4 Issuance of Calls for Proposals: Procedure to be followed

⁷ As outlined in Section 6 of this Manual

⁸ As outlined in Section 5 of this Manual

Calls for proposals shall include an application form and Guidance Notes to guide Applicants in the scope of the measure and the application process. The MA may also organise information sessions and/or meetings to support Applicants in this regard.

Upon applying the MA issues an acknowledgement letter. Application details are registered within an internal database and over the EAFRD Database. In case where an application is received after the deadline of the batch of a call for applications, then such application will be part of the subsequent batch of applications, whenever and only if another batch is envisaged in an identical rolling batch of the same call for applications

The MA shall conduct, prior to or concurrently with the PSC review, a completeness check on all received applications to determine the validity of the application. Integral documents and obligatory supporting documents will be indicated in the Guidance Notes and listed in the Application Form. If allowed by the specific guidelines or application form attached to the call, the MA or the PSC shall request any missing documentation which is marked as required, but not submitted by the applicant. A similar approach may be adopted by the MA or the PSC in cases where additional information or clarifications (etc.) are deemed necessary following the submission of obligatory documents. A clarification letter will be sent by the MA or the PSC and the applicant will be requested to provide the necessary documentation, within the term stipulated in the notification letter (i.e. deadline by when). Applicants may be given the possibility to request an extension, which the MA may extend without notification to the PSC, if such a valid request for extension is submitted by the applicant. If any missing required documentation has not been submitted within the stipulated deadline, and the applicant does not request an extension to the deadline or the extension request has been refused, the application shall be deemed as ineligible and will not be considered further by the PSC.

3.1.5 Eligibility Criteria

The eligibility criteria shall be used to determine whether an application is eligible for funding. Those proposals deemed to be eligible shall proceed to the selection phase. The PSC Secretariat shall undertake a preliminary eligibility check. Projects which are ultimately deemed ineligible by the PSC Secretariat, after the conduction of the above-mentioned procedure, shall not be considered further. Applicants, however, shall be informed at the first instance and also given the right of appeal. Projects that make it through the eligibility check shall proceed to the next round and assessed according to the general/specific selection criteria by the PSC.

The PSC shall then award marks according to the criteria and rank projects according to the marks obtained. In order to qualify for selection, proposals need to obtain at least 50% of the marks.

In case of open calls and open block calls for proposals, the selection of projects may be limited by the available budget, in which case the highest ranking projects shall be offered a grant. Projects that pass the selection process but cannot be awarded since the sub-measure has been fully committed shall be placed on a 'Reserve List'. These projects will be awarded if and when funding becomes available.

The MA shall inform all applicants about the outcome of the selection process: awarded applicants will receive an Award Letter while applicants that failed the selection process will receive a Rejection Letter. Applicants placed on the Reserve List shall also be notified accordingly.

Beneficiaries having an Award Letter will be requested to sign the contract within a specific period of time. Failure to do so will result in the award being annulled.

3.1.6 Appeals

Aggrieved Applicants shall have the right of appeal within five (5) working days (**subject to change**) from the date of the letter of rejection by the PSC. Appeals from the PSC decision will be received by the secretary of the Projects Selection Appeals Board (PSAB), c/o Ministry responsible for EU Funds, Tal-Pilar 31B, Marsamxett Road, Valletta, VLT 1850. Rejection letters shall follow the format stipulated in Annex 13b - Rejection Letter (2) annexed to this Manual.

All communication linked to the appeal must go through the PSAB Secretary. Also, the MA cannot communicate with the beneficiary on matters relating to a decision which may be appealed, or which is appealed by the applicant. This period stretches from the date when the letter of rejection is issued to the date when the appeal period expires without an appeal having been submitted or until a final decision is reached further to conclusion of the PSAB process or any other appeal proceedings.

3.1.6.1 Approved Appeals by the Project Selection Appeals Board

The PSC shall deem the appeal as having been approved by the PSAB if an application is returned to the PSC for further consideration, unless otherwise notified in the PSAB notification to the applicant and the PSC.

4. Compliance with Community policies: public procurement, State aid, equal opportunities and sustainable development

4.1 Introduction

A beneficiary shall ensure coherence with Community policies, in particular (although not exclusively) public procurement, State aid, environment, equal opportunities and sustainable development. The latter two are identified as horizontal themes at Article 96 of the Common Provisions Regulation (EU) N^o. 1303/2013 and shall be incorporated into EAFRD projects.

4.2 Public procurement

All beneficiaries should make sure that any procurement for projects co-funded by the EAFRD are carried out in line with the principles of non-discrimination, equality of treatment, transparency, mutual recognition, proportionality and good governance. Public entities are to make certain that procurement is carried out in line with the Public Procurement Regulations applicable at the time of implementation. In addition, it is highly recommended that beneficiaries ensure compliance with requirements set by DoC through the relevant Procurement Policy Notes which are regularly published on <http://contracts.gov.mt/en/ProcurementPolicyNotes/Pages/ProcurementPolicyNotes.aspx>.

A beneficiary organisation (or its legal representative) is responsible to make sure that all contracting procedures are carried out in a spirit of good governance, fairness, transparency and non-discrimination between economic operators.

Financial Control Unit Circular 01/2016 issued by the FPD on 15 January 2016 provides public procurement guidance for practitioners on the avoidance of the most common errors. For more information click on link below: http://eufunds.gov.mt/en/EU%20Funds%20Programmes/Financial%20Control%20Unit/Documents/Circulars/circular%2001_2016.pdf.

Tender documents should be drafted in a manner that clearly sets the specifications / terms of reference of the contract and also the way that bids are to be adjudicated. Tender Evaluation Committees are to make sure that bids are administratively, technically and financially compliant with the tender conditions.

Other beneficiaries not governed by the said Public Procurement Regulations (e.g. private sector beneficiaries, NGOs) are to make sure that they follow the spirit of the Regulations and any guidance on procurement as set out in Guidance Notes and circulars issued by the MA and the Paying Agency: <https://agriculture.gov.mt/en/arpa/Documents/guidelines/investmentMeasuresPaymentGuidelinesFinalEN-V3.0.pdf>.

Failure to comply with the Public Procurement Regulations could lead to recovery of funds. The EC has issued a set of guidelines for the financial corrections to be applied for irregularities in the application of the Community

regulations on public procurement in the case of contracts that are co-financed through EU funds⁹. Should such irregularities be detected by the EC services and/or by the control authorities established at a national level, a financial correction (which could reach 100% of the tender value) may be applied.

4.3 State aid requirements

1. In general, EU State aid rules apply to projects which involve any direct (or indirect) financial support from the public sector to commercial enterprises or organisations carrying out an economic activity or if in some way the assistance involved distorts trade or threatens to distort competition within the Community.
2. State aid rules are applicable to all Union Priorities of the EAFRD RDP provided that the operations under them fall outside Article 42 of the Treaty on the functioning of the EU.
3. In line with Chapter 13 of the RDP, the Managing Authority shall clear measures (with the exception of Measure 19.2, which shall be cleared by the respective Local Action Group) with the State Aid Monitoring Board prior to payments being issued by the Paying Agency.
4. Should the nature of the project change during its life-time and/or after completion within the durability obligations outlined in Article 71 of Regulation (EU) 1303/2013, thereby raising the possibility of State aid, a beneficiary shall report this change to the MA without delay. Failure to report such change may result in loss of funds to that beneficiary.
5. Beneficiaries should note that other changes involving State aid implications could also result in recoveries being imposed on the project.

State Aid Monitoring Board (SAMB) contact details:

Executive Secretary, State Aid Monitoring Board

Telephone: (+356) 2125 2757

Email: sambnotif@gov.mt

4.4 Equal opportunities

1. 'Equal opportunities' is a cross-cutting theme and all efforts should be made by a beneficiary to include this element within the project and the effort undertaken needs to go beyond legal obligations. In accordance with Article 7 of the Common Provisions Regulation (EU) N^o. 1303/2013, beneficiaries must take into consideration equal opportunities at all stages of the project and necessary steps should be taken to prevent any discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. In particular, accessibility for disabled people to projects co-financed through the EAFRD should be ensured.
2. Beneficiaries are encouraged to identify possible specific initiatives that promote equal opportunities. In this regard, advice from the National Commission for Persons with Disability (CRPD) and the National Commission for the Promotion of Equality (NCPE) for advice on equal opportunities legislation is recommended in order to determine how to integrate equal opportunities in a project co-financed through the EAFRD. Beneficiaries should make sure that any advertising and/or marketing activities undertaken within the project are free from stereotyping or any form of discrimination.

NCPE contact details:

Telephone: (+356) 2590 3850

Email: equality@gov.mt

CRPD contact details:

Telephone: (+356) 22788555

Email: helpdesk@crpd.org.mt

⁹ 'Commission Decision of 19 December 2013 on the setting out and approval of the guidelines for determining financial corrections to be made by the EC to expenditure financed by the Union under shared management, for non-compliance with the rules on public procurement'.

4.5 Sustainable development

4.5.1 General sustainable development

1. Article 8 of the Common Provisions Regulation (EU) N° 1303/2013 stipulates that the objectives of the Fund shall be pursued in line with the principle of sustainable development and with the EU's promotion of the aim of preserving, protecting and improving the quality of the environment, as set out in Article 11 and Article 191(1) TFEU, taking into account the polluter pays principle. Sustainable development is a cross-cutting theme which covers economic growth, social cohesion and the protection of the environment. All efforts should be made by beneficiaries to include sustainable development issues at all stages of a project.
2. Beneficiaries must make sure that projects are structured in such a manner that sustainable development issues are mainstreamed at all stages of their design and implementation.
3. Beneficiaries should refer to the National Sustainable Development Strategy which can be downloaded from http://www.um.edu.mt/islands/sustainable_development_strategy_for_malta.

4.5.2 Environmental sustainability

1. Beneficiaries should make sure that a project is structured in such a way so as to make sure that environmental sustainability is mainstreamed in its aims and throughout its life-time.
2. Supporting the shift to a low carbon economy is an important element for projects co-financed under EAFRD. In this regard, beneficiaries should strive to take into consideration the total climate-damaging carbon emissions generated, reduce them, where possible, and then balance the remaining emissions through resource efficient plant and equipment / renewable energy sources measures within the projects.

4.6 Environment and planning

As explained above, Project Leaders must make sure that planning regulations and obligations are adhered to and that environmental issues are taken into consideration throughout a project's life cycle. Projects should be structured to ensure minimum environmental damage and maximum benefits. Project Leaders should also factor in timeframes stipulated by national law and procedures needed to obtain planning permits in order to ensure an adequate project implementation timeframe. Officials at ERA/PA may provide advice on environmental and planning permitting.

ERA contact details:

Hexagon House
Spencer Hill
Marsa MRS 1441
Telephone: (+356) 2292 3500
Email: info@era.org.mt
Website: www.era.org.mt

PA contact details:

St. Francis Ravelin
Floriana FRN 1230
Telephone: (+356) 2290 0000
Email: customercare@pa.org.mt
Website: www.pa.org.mt

5. Contracting

5.1 Introduction

1. Beneficiaries should note that EU funds are public funds and EU funded projects are subject to audits by various national and EU audit bodies. Funds *must be contracted* in a transparent and competitive manner. In this regard beneficiaries must be guided by the principles of non-discrimination, equality of treatment, transparency, mutual recognition, proportionality, open competition, sound financial management and good governance.
2. It is important to note that the following points are only guidelines *which are* not intended to substitute in any way the relevant regulations or guidance issued by the Paying Agency (PA) and the Department of Contracts (DoC). **The MA emphasises that advice should be sought from the PA and DoC on ALL ISSUES pertaining to contracting.**
3. When preparing a tender dossier, a beneficiary must refer to the Public Procurement Regulations (LN 352/2016) and any subsequent amendments. **Beneficiaries not bound by the Public Procurement Regulations, NGOs and non-public organisations are encouraged to follow the spirit of the Regulations and any guidance as set out in circulars issued by the PA and MA. In any case the principles of transparency, fair competition and good governance should always apply.**
4. The relevant tendering templates are available from the Department of Contracts and beneficiaries should consult the Department of Contracts about such templates. All beneficiaries are encouraged to use the procurement templates issued by the DoC when carrying out procurement in relation to EU funded projects and to consult the DoC on any procurement issue. Given that tender drafting is a very complex, laborious and costly process, it is highly recommended that beneficiaries check with the DoC whether there are any changes (administrative or legal) planned in the near future PRIOR to the commencement of the drafting of the tender so that there is no unnecessary waste of resources and time.
5. Schedule 3 entities (refer to LN 352/2016 and any subsequent amendments), NGOs and non-public organisations that are not bound by the Public Procurement Regulations shall make sure that tenders issued for EAFRD projects follow the spirit of the Public Procurement Regulations and any guidance set out in circulars issued by the PA and MA. The principles of transparency, fair competition and good governance should always apply.
6. **The provisions of sub-paragraph 5 also¹⁰ apply to Local Councils in cases of EU funded projects.**

5.2 General principles

Beneficiaries should note that irregularities in contracting procedures may render the project (or parts thereof) ineligible for funding.

Beneficiaries who do have a Ministerial Procurement Unit inside their respective ministry should adhere to the terms of DoC Circulars 09, 10/2017 and any subsequent amendments.

The following principles *must be observed* for all contracts.

¹⁰ Following the publication of Act XIV of 2019 amending Local Councils Act CAP 363

General issues:

1. Beneficiaries are to make sure that contracting is in line with the approved project proposal and reflected in the Grant Agreement.
2. Tenders are initiated by a beneficiary organisation as the Contracting Authority. A beneficiary organisation is also responsible for the management of the contract.
3. Beneficiaries are to ensure consistency and compliance with EAFRD publicity requirements when drafting or using tender and contract templates (issued by the Department of Contracts or the department / ministry as Departmental Calls for Tenders), and when issuing adverts relating to EAFRD published in the Malta Government Gazette and any other publications¹¹.
4. Tenders must be evaluated by an Evaluation Committee. It is highly recommended that Committees refer to the Manual for Evaluation Committees, issued by the DoC.
5. Selection and award criteria must be specified in advance and tenders are to be evaluated exclusively on the basis of those pre-established criteria. No other criteria can be used for the evaluation of the tender. Experience cannot be used as an award criterion.
6. The tender dossier must describe all items in sufficient detail in order to determine eligibility of costs under the EAFRD.
7. Items which are not included in the approved project proposal and Grant Agreement should either not be included in the same tender / lot of the eligible items or be clearly identifiable (also in terms of cost), ideally by having a separate lot within the same tender for the ineligible items. This is particularly important for beneficiaries issuing works tenders. In addition, extra works which are not to be paid out of the EU funds should be settled in a separate contractual arrangement.
8. When preparing the tender dossier, a beneficiary must observe the EU horizontal requirements, in particular equal opportunities and sustainable development. In executing the contract, a beneficiary must make sure that the contractor observes EU and national environmental and equal opportunities legislation and may recommend ways in which those requirements are met.
9. It is important to ensure transparency and fair competition, for example by requesting comparable quotations from several potential providers to enable the selection of the most cost effective technically compliant option.
10. A beneficiary should seek to consolidate the number of tenders. In the first instance, this reduces administrative burden. Moreover, artificial splitting of tenders is not in line with Public Procurement Regulations and the EU Directives on Public Procurement.
11. Publication in the EU Official Journal is mandatory for tenders exceeding certain thresholds and depending on the classification of a beneficiary as a Contracting Authority as defined in LN 352/2016 and any subsequent amendments. The thresholds are subject to change from time to time. It is advisable that a beneficiary regularly consults the EU Directives on Public Procurement¹², and contacts the DoC with regards to possible revisions of the thresholds.

Contract requirements:

1. Contracts should comply with the publicity requirements as set out in the visual identity guidelines issued by the MA.
2. The MA should insert contract details, including the financial component in the EAFRD Database as soon as the contract is awarded, to ensure data accuracy in the system.

¹¹ Refer to Visual Identity Guidelines, issued by the MA and uploaded on:

<http://eufunds.gov.mt/en/Operational%20Programmes/Publicity/Pages/Cohesion-Policy-2014-2020.aspx>

¹² http://europa.eu/european-union/business/public-contracts_en

Currency and payment schedule:

1. All tenders must be issued in Euro and all contracts must be signed in Euro. Payments will be in Euro.
2. Beneficiaries are advised to prepare a payment schedule which must be included in the special conditions section of the tender dossier and which should generally be consistent with what has been agreed in the Grant Agreement¹³.
3. A contractor shall issue an invoice according to the conditions stipulated in the respective contract and deliver it to the beneficiary implementing the project.
4. **Financial Identification Form:** Whenever a beneficiary receives an invoice for the first time from a contractor, the ARPA requests that beneficiary to provide a Financial Identification Form filled in by the contractor. By means of this form, the ARPA will have the necessary information on the contractor enabling the proper execution of bank credit transfers. This form needs to be sent to ARPA prior to insertion of invoice in the EAFRD Database.
5. It is important for beneficiaries to note that should a contractor's financial details change during the execution of a contract, the beneficiary is to inform the ARPA in order to make sure that contractor fills in a new Financial Identification Form (TR/S-9) and submits it to the ARPA to insert that contractor's new details.
6. The ARPA will issue payment against the details of the latest TR/S-9 Form.
7. Invoices should be addressed to the beneficiary and / or Project Leader. Contractors are to note that invoices must be issued by the company that was awarded the contract. Payments are to be made via bank credit transfers only.
8. Contractors and beneficiaries are advised to consult Annex 10 Guidelines for Issuing Valid Invoices and Receipts¹⁴ in particularly article 3 – Requirements and contents of an invoice.

Bank guarantees and retention money:

1. Safeguards such as bank guarantees must be put in place to enable recovery of funds in the case of misspent advance or pre-financing payments. Subject to the applicable threshold stipulated in the Public Procurement Regulations, a pre-financing guarantee to cover the full amount of the pre-financing payment shall be issued by the contractor.
2. Where applicable, safeguards such as bank guarantees should be inserted in the tender dossier to recover funds in case of advance payments and/or termination of contract.
3. It is important to note that beneficiaries ARE NOT TO RETAIN MONEY AT THE END OF A CONTRACT. Retention money during the implementation of a contract is allowed, however all money should be released upon completion of a contract. In this regard if beneficiaries feel the need to have some money retained for specific safeguards, they are to insert a clause in the tender dossier and in the contract whereby a contractor would be paid all funds due upon completion of its contract (i.e. at provisional acceptance stage) but against a bank guarantee (to be renewed until final acceptance stage) of an amount equivalent to the value of the retention money. For EU co-financed projects, this guarantee is NOT OPTIONAL, so if there is a need for retention money, it must be included as a condition in the special conditions within the tender document. This is necessary to safeguard public funds. Further advice should be sought from the DoC.
4. Apart from the retention guarantee, the performance guarantee must be kept valid until final acceptance.
5. Where VAT is an eligible cost, bank guarantees concerning EU co-financed projects must also cover the VAT element.

¹³ When deciding on the payment schedule, Beneficiaries should be guided (where possible) by the disbursement schedule in the Grant Agreement signed with the MA.

¹⁴ Prepared by the EU Certification Body, May 2009.

5.3 Contracting procedure

5.3.1 Procurement procedures for public contracts with an estimated value below €144,000

1. When the estimated value of the procurement does not exceed the €144,000 threshold, beneficiaries should consult Part III of LN 352/2016 with specific reference to Regulations 9, 100-103 (vide also Schedule 5).
2. In the case of a beneficiary choosing to obtain hand quotations from the open market (refer to Regulation 100), for the purpose of good governance, a minimum of three **comparable** quotations must be obtained and the cheapest technically compliant quotation is to be selected. Dossier publication on the Government's e-Procurement platform or the Government Gazette applies depending on the threshold. Other procedures may also be applicable as approved by the competent authorities.

5.3.2 Procurement procedures for public contracts with an estimated value higher than €144,000

1. In the case of public contracts with an estimated value exceeding €144,000, the administration of the contract depends on whether the beneficiary is listed under Schedule 2 or 3 of the Public Procurement Regulations¹⁵. Procurement procedures are administered through the DoC if the beneficiary is listed under Schedule 2 of the Public Procurement Regulations. If the beneficiary is a contracting authority listed under Schedule 3, then that beneficiary publishes the tender and administers and determines public contract/s in accordance with the provisions of the Public Procurement Regulations (LN 352/2016 and any subsequent amendments).
2. The beneficiary needs to submit the EAFRD Commitment Form (<https://eufunds.gov.mt/en/EU%20Funds%20Programmes/European%20Agricultural%20Fund/Pages/Manual-of-Procedures.aspx>) to DoC before launching tenders with an estimated value higher than €144,000. It is important to note that the Commitment Form must be submitted immediately as no tender can be launched unless the Commitment Form is submitted to DoC. The beneficiary submits the original Commitment Form to the DoC, retains a copy for itself and submits a copy to the MA, a copy to the Assistant Director (Capital Expenditure) MFIN and a copy to the Accounting Office and Director (Policy Development and Programme Implementation) of its line ministry. It is pertinent to note that before a tender is published, the beneficiary will also need to submit an original copy of the Tender Originator's Form, the Green Public Procurement approval and priced budget estimates. The Civil Works Form and PA permits for works tenders as per Contracts Circular N^o 18/2008 are to be submitted, if applicable. This procedure is not applicable to NGOs and beneficiaries falling under Schedule 3 of the Public Procurement Regulations.
3. The DoC vets the tender document and advises the beneficiary on any amendments, if necessary. The beneficiary will incorporate these amendments and re-submit the tender document to DoC as early as possible for further vetting.
4. Once the tender vetting is complete and approval on the final text is granted, the DoC will take the necessary steps to forward the publication forms to the EU Official Journal (where applicable) and also to publish the tender in the Malta Government Gazette. Beneficiaries wishing to give further publicity to tenders on other media should allow for publication by the DoC prior to publishing such adverts.
5. A beneficiary is responsible for following up matters with the DoC at all stages of the procurement and contracting procedure including publication of clarifications during the publication period, evaluation of tenders, requests for clarifications / rectifications during evaluation, adjudication and publication of results, contracting, approval of additional costs, addenda to contracts, non-compliance with contractual obligations by contractors, release of financial guarantees, etc.

5.4 Procurement of equipment through the EAFRD

1. **Documentation:** When purchasing fixed assets through EAFRD funds, it is important that the item is used for the specific reasons for which it was acquired and in accordance with the conditions in the Grant Agreement. All documentation in relation to purchase and use of fixed assets (including guarantees), has to be filed in the

¹⁵ Beneficiaries should consult the latest version on the website as there could be changes to the schedules from time to time. Beneficiaries are to use the one applicable at the time of launching the tender.

project file. The Project Leader should make sure that all relevant documents are handed over by the supplier and filed for ease of future reference, in line with the principle of sound financial management.

2. **Inventory:** Beneficiaries are obliged to keep an inventory of the fixed assets¹⁶ including their location in file. The beneficiary is required to fill in an Inventory of the fixed assets list of **all assets**¹⁷ and **where possible**, the following details should be included:

- Contract number;
- Name of supplier;
- Serial / ID number – *Where serial number is not visible, a unique inventory number should be assigned;*
- Date of purchase / installation;
- Total cost or value;
- Location of asset;
- Description of asset;
- Quantity;
- Whether a guarantee has been applied or not.

Items which have (i) a short life, (ii) cannot be aggregated, and (iii) their value does not exceed €116.47 will fall in the category of consumables. Such items are not to be included in the inventory of the fixed assets, however, a record thereof has also to be retained for a proper audit trail.

The beneficiary should also list any equipment that has undergone any alterations following acquisition.

The inventory list / fixed asset register of each project should be frequently updated to include the relevant details of the assets purchased. The list is to be signed and certified correct by the Project Leader and made available to the MA upon request.

In the case of public entities and NGOs compiling their own accounts, the equipment must also be accounted for according to established accounting standards. In the case of beneficiaries which are either government departments or ministries, the inventory list / fixed asset register should be in compliance with MF Circular N° 14/99 (and any subsequent amendments) which refers to the Revised Inventory Control Regulations.

3. Beneficiaries must keep in mind that:

- a) When fixed assets are purchased through EU funds, it is imperative that they are kept in good working order throughout and after the project life (in line with durability clause in the Grant Agreement (Article 71 of Regulation (EU) N° 1303/2013);
- b) The beneficiary is to make sure that an asset comes with the appropriate warranties;
- c) If any fault results in an asset, all documentation in relation to the repair must be kept and when that asset needs to be replaced, it is important that all documentation is kept on file;
- d) If an asset is replaced, both the old and new serial numbers must be retained;
- e) If an asset is faulty and / or damaged and is replaced at the supplier's or the beneficiary's expense – whether under guarantee or not – the replacement must perform the same function and be of the same or higher specifications as the asset being replaced;
- f) Relocation of an asset needs to be reflected in the inventory;
- g) The beneficiary shall make sure that the relevant publicity¹⁸ appears on the equipment purchased as well as on the relevant documentation (proportionality should apply in the case of infrastructural project whereby the whole building or area is co-financed).

5.5 Employment contracts

1. Services may either be procured through a service tender (procured in accordance with the foregoing sections of this Chapter) or through an employment contract. It is highly advisable that, prior to publication, a beneficiary consults the Department of Contracts (in the case of government departments, entities or Local Councils) and

¹⁶ MF Circular N° 14/99 issued by the Ministry of Finance stipulates that tangible fixed assets are non-trading business assets that have the following characteristics: (i) a relatively permanent nature in that their useful life is expected to span over a number of years that is not normally less than three years, and (ii) a relatively material cost that is not less than Euro 116.47.

¹⁷ Paragraph 9 of the International Accounting Standard IAS 16 states that it may be appropriate to aggregate individually insignificant items, such as mould, tools and dies, and to apply the (recognition) criteria to the aggregate value. Aggregated items which are short-lived but exceed €116.47, have to be included in the inventory.

¹⁸ Refer to the Visual Identity Guidelines and/or consult the responsible officer within the MA in case of difficulties/particular cases.

the Department of Industrial and Employment Relations (all types of beneficiaries, including public, private and NGOs) to identify which procedure to apply when considering a beneficiary's particular requirements. The option of a **contract of service** (employment) as opposed to a **contract for service** (outsourcing) may have to be applied depending, amongst others, on the nature of the service required, level of autonomy allowed, the duration and frequency of delivery, and time (office hours or not) and location of delivery requested.

2. For employment contracts, a beneficiary should follow its official recruitment procedure provided that such procedure complies with the principle of good governance, is transparent and in line with national legislation.
3. **Full-time or part-time employment, with tasks solely related to a single project:** Where a beneficiary engages a person on a full- or part-time employment contract to work solely on a project co-funded through EU funds, that beneficiary shall make sure that the person being engaged works solely on that project and does not undertake any unrelated work within the beneficiary organisation.
4. **Full-time or part-time employees performing other tasks not related to the project:** Where an individual is working on a co-financed project but also undertakes other unrelated tasks within the organisation (as part of his / her job description), a beneficiary shall be entitled to claim only that part of the salary related to tasks carried out on the project. Before claiming staff costs, a beneficiary should make sure that these costs are in line with the eligibility rules. To calculate the hours to be claimed, the MA has developed staff costs calculators, based on formula and on different pay periods (e.g. monthly, four-weekly). These are available on request from the Financial Control Unit within the MA. A beneficiary should make sure that this template is properly filled in and submitted when claiming these costs. The eligibility of staff costs shall be determined in the Grant Agreement. The number of hours claimed must be supported by timesheets endorsed by the Project Leader. The timesheets need to show time in and out (not just record of the number of hours worked) and a concise description of tasks carried out. In this regard the Project Leader should make sure that regular task-based reports are drawn up.
5. If a beneficiary employs a person on an employment contract, a clause should be inserted in the contract that the employment of that person is only for a specified period (in line with the completion of the project up till the submission of the final report on the implementation of the project). The beneficiary concerned should always seek advice from the relevant department / entity responsible of employment procedures. A beneficiary should always ensure compliance with national legislation and be guided by the relevant internal procedures. The MA and the EC are not responsible for any employment related disputes that may arise during and after project implementation.
6. Terms and conditions of an employment contract should strictly conform to those issued in the respective Call for Applications. Beneficiaries should also consult the relevant Eligibility Rules before drafting the call and / or the contract.
7. Beneficiaries shall retain the necessary documentation recording the employment procedure and employment contract (including the call, selection criteria, reports of the Selection Board, evidence of publication of results, time sheets (if applicable), progress / performance reports and lesson / course plans [in case of trainers]). Further details on document retention are available in Chapter 12.

6. Financial management and payments

6.1 Eligibility of costs

A set of guidance notes is available on the MA's website¹⁹. These guidance notes shall guide the eligibility of costs for each RDP sub-measure.

6.2 Co-financing and aid intensity

The financing of all projects benefiting from EU funds carry a co-financing from national funds at a rate of 75% EU and 25% national funds. The eligible cost and aid intensity (EU, national public and own resources²⁰) are outlined in the Measures Guidance Notes and Grant Agreement²¹.

6.3 Government financing set-up

1. Distinct procedures for the mobilisation and circulation of funding have been set up to facilitate project implementation and ensure the transparency of financial flows. The financial flows vary according to specific categories of beneficiaries.
2. **Public Sector Beneficiary:** In the case of projects being implemented by a public sector beneficiary²², the Maltese Government's annual financial estimates provide for the financing of the EU share of the forecast annual eligible expenditure of projects (through the ARPA line vote-EU). The financial estimates also provide for the national co-financing share of the forecast annual eligible expenditure (through the ARPA line vote-MT), as well as an allocation for other expenditure not eligible for EU co-financing (e.g. through the respective LM line vote)²³. The Paying Agency pays the relevant service / supplier / works provider by subrogation or reimburses the beneficiary (as the case may be) following a request for payment raised by a beneficiary.
3. **Public Equivalent Beneficiary:** In the case of projects being implemented by public equivalent beneficiaries, the Maltese Government's annual financial estimates provide for the pre-financing of the EU co-financing share of the forecast annual eligible expenditure of the projects. The national public co-financing share of projects is provided for from the beneficiary's own funds., unless otherwise instructed by the Paying Agency. ARPA
4. **Non-Governmental Organisations / Private Beneficiary:** In the case of NGOs / private beneficiaries, the public share (EU and national) for the respective accounting year is allocated in the ARPA budget line items (EU and MT). ARPA

6.4 Reimbursement of staff costs

Staff costs relating to the implementation of a project shall be in proportion to the time spent on that project in the reporting period. In the case of staff not working full time on the project, costs claimed must be substantiated by timesheets signed by the employee and endorsed by the Project Leader.

For the purposes of apportioning staff costs relating to the implementation of a project, the hourly rate applicable may be calculated by dividing the latest documented annual gross employment costs by 1,720 hours.

For eligibility purposes, beneficiaries shall ensure compliance with the eligibility rules of the relevant RDP.

¹⁹ Beneficiaries should make sure that they have the latest version as the list is reviewed periodically. Information may be obtained from the MA website:

<https://eufunds.gov.mt/en/EU%20Funds%20Programmes/European%20Agricultural%20Fund/Pages/Measures/Measures-of-the-Rural-Development-Programme-2014-2020.aspx>

²⁰ Where applicable.

²¹ The eligible cost can vary and can also change during the project's lifetime (e.g. due to changes arising from the monitoring exercise).

²² Public Sector beneficiaries consist of LMs, government departments, public authorities, public corporations, public agencies, public commissions, and public foundations amongst others.

²³ In the case of some public entities/corporations the national co-financing and ineligible costs may be sourced from the entity's own resources.

6.5 Treatment of VAT

VAT shall be considered as an eligible cost only if it is genuinely and definitively borne by the beneficiary. VAT, which is recoverable, by whatever means, shall not be considered eligible even if it is not actually recovered by the beneficiary.

Beneficiaries should consult with the VAT Department for all issues concerning VAT.

6.6 Invoices and confirmation (proof) of payment

Payments are received and processed by the ARPA and hence beneficiaries are to observe guidance accordingly.

6.7 Invoices payment process

1. Stakeholders involved in the payment process [beneficiaries, ARPA, LMs (DPDPI and Accounting Officers), and the Central Bank of Malta] are to make sure that the payment process progresses in the shortest time possible since Malta will only be able to draw down funds from the EC on the basis of payments effected to contractors. It is the responsibility of Project Leaders to make sure that invoices and supporting documentation are submitted on time and correctly (i.e. right first time) in order not to delay the process.
2. For further information related to the payment process, beneficiaries should refer to guidelines provided by the ARPA.

6.8 Revenue-generating projects

1. In case of revenue-generating projects, beneficiaries are to be guided by the obligations emanating from Article 61 of Regulation (EU) N°1303/2013. A revenue-generating project is defined as any operation involving:
 - An investment in infrastructure the use of which is subject to charges borne directly by users; or
 - Any operation involving the sale or rent of land or buildings; or
 - Provision of any other services against payment.
2. Same Article 61 Para 7 (h) includes exclusions under EAFRD, operations for which amounts or rates of support are defined in Annex II to the EAFRD Regulation (Reg 1305/2013).

6.9 Accounting system

In terms of paragraph 4 (b) of Article 125 of Regulation (EU) N°1303/2013, the MA is responsible to make sure that beneficiaries involved in the implementation of operations reimbursed on the basis of eligible costs actually incurred maintain either a separate accounting system or an adequate accounting code for all transactions relating to an operation.

Accordingly, beneficiaries and other bodies involved in the implementation of operations must maintain either a separate accounting system or an adequate accounting code for all transactions relating to each operation. It is the responsibility of beneficiaries to make sure that all transactions related to each co-financed operation are recorded either:

- i. In a fully-dedicated, separate accounting system / bank account; or
- ii. By assigning a specific accounting code in their existing system (easily identifiable and retrievable, as well as auditable).

The ARPA may carry out specific checks on the above.

In this regard, in order to ensure compliance with the obligation to maintain separate accounting the MA may include further instructions in Grant Agreements.

7. Drawdown of funds from the European Commission

7.1 Grant Agreement

The Grant Agreement signed between the MA and a beneficiary gives the relevant detail on the objective, targets and financial allocation of the project. The Grant Agreement binds the beneficiary to implement the project in accordance with its terms and conditions. Any change requests shall be notified to the MA through a formal change request using standard templates (<https://eufunds.gov.mt/en/EU%20Funds%20Programmes/European%20Agricultural%20Fund/Pages/Manual-of-Procedures.aspx>), which application is reviewed by a dedicated Change Request Review Board (CRRB). Change requests are to be submitted in good time to allow for their assessment and determination (approval or rejection) by the MA. Approvals are sent to a beneficiary in writing and these are then generally followed up by means of an addendum where deemed necessary by the MA. In fact, although the MA shall approve all changes in writing, there is no need to sign an addendum each time there is a change. In the spirit of proportionality and also to reduce administrative burden, an addendum may cover several changes that would have already been approved by the MA over a span of time. No unilateral changes by a beneficiary to the Grant Agreement shall be accepted by the MA.

7.2 Savings on a project

1. It is important to note that as a general rule any savings on a project revert to the Priority Area Area of the RDP. In this regard, a beneficiary is to inform the MA of any actual or potential savings on a project. **Beneficiaries will be held responsible for any loss of funds to Malta resulting from failure to report actual or potential savings on a project in a timely manner.**
2. A beneficiary cannot utilise any savings arising in any component of a project without prior authorisation from the MA. As a general rule, if a beneficiary needs to utilise savings, it should submit a duly justified request to the MA through a Change Request.

7.3 Statement of Expenditure

1. As explained in Chapter 5 of this MoP, the Government of Malta pre-finances projects. However, Malta can only submit a claim for payment from the EU when expenditure is actually incurred. Therefore, beneficiaries and line ministries are to make sure that invoices are received and payments are processed as expeditiously as possible.
2. It is important to be aware that **failure to make sure that payment procedures are initiated and processed efficiently may result in Malta losing funds.**
3. Settled invoices are stored in the EAFRD Database by the ARPA and undergo a verification process by the ARPA. The CB is informed by the ARPA on the dates it will be forwarding the relevant SOE documents for certification.

7.3.1 The verification process

The ARPA may carry out verification processes on payments at any stage of the project lifetime.

7.4 The certification process

The CB has the overall responsibility for the certification process.

8. Monitoring, reporting and evaluation

8.1 Monitoring

Articles 47 to 53 of Regulation (EU) N° 1303/2013 deal with monitoring. Monitoring is an on-going process of examining the progress of interventions and expenditure to ensure the attainment of programmed results. The MA has the overall responsibility for monitoring at programme level. However, the monitoring and reporting systems are based on a bottom up approach and it is important that all players in the system give their input in a timely manner. The implementation system foresees a number of tools and structures to support the monitoring process.

8.1.1 Monitoring structures and tools

There are different levels of monitoring, namely:

Monitoring committee

Malta has set up a monitoring committee (MC) in terms of Article 47 of Regulation (EU) N° 1303/2013. Its main function is to monitor the RDP at the strategic level, ensuring that the objectives and targets at programme level are being met. The committee is chaired by the Permanent Secretary responsible for EU funds (or his / her delegate) and its members include representatives of ministries as well as partner organisations, civil society and the EC. The MC is convened at least once a year. The aim is to monitor targets as well as facilitate implementation and the timely and effective absorption of funds. The secretariat to the MC is provided by the MA and any queries regarding the RDP can be sent to the MA on the contact address provided at chapter 2 of this MoP.

Ministerial Projects Steering Committee (in case of public sector projects)

This is a monitoring structure at ministerial level which is intended to provide an effective mechanism to track progress of projects falling within the portfolio of a particular LM. This committee is chaired by the ministry's Permanent Secretary (or his/her representative). The purpose of this committee is to monitor targets as well as facilitate implementation and the timely and effective absorption of funds. In this regard Project Leaders are required to compile Project Progress Reports bi-annually (refer to section 7.2.1) through a structured template that will be provided by the MA.

Bilateral meetings (all projects)

From time to time the MA may organise bilateral meetings with beneficiaries (including NGOs and Local Councils) to discuss issues arising from the progress (monitoring) reports and / or from the day-to-day monitoring conducted through the EAFRD Database. *Ad hoc* meetings are held with those projects deemed to have specific issues which could put at risk their timely implementation. In this regard Project Leaders are required to compile Bilateral Briefs (refer to section 7.2.1) using a structured template that will be provided by the MA.

Line Ministries

As the co-ordinating units in the LMs, Directors (Policy Development and Programme Implementation) are responsible for monitoring of projects and to alert any of the horizontal stakeholders, if and when required, of any issues that could affect the timely implementation of the project. DPDPIs are also responsible for endorsing the Project Progress Reports before these are submitted to the MA.

Monitoring by beneficiary

A beneficiary, through the appointed Project Leader, has the responsibility of ensuring effective monitoring of the project. The responsibility of a beneficiary extends beyond the achievement of outputs and entails a financial monitoring (and forecasting) function as well as monitoring of physical implementation on the ground to ensure attainment of results. It is up to the beneficiary organisation to choose the most appropriate tool to ensure effective and timely monitoring of a project, however continuous monitoring by the beneficiary must be well documented, dated and signed. Examples of such actions may include on-site visit reports, reports of coursework done (in the case of training), annual report by trainers endorsed by the Project Leader (in the case of training), reconciliations prior to payments, controls over timesheets, minutes of meetings etc.

8.1.2 Monitoring of results - use of indicators

1. Monitoring of EU funds is facilitated through the use of indicators making it possible to measure the progress in relation to the baseline situation and the achievement of targets for each project, Priority Area and the RDP as a whole.
2. There are three sets of indicators:
 - Output indicators: such indicators capture the physical output or product activity undertaken i.e. what is directly obtained in exchange for public expenditure;
 - Result indicators: these indicators measure the immediate benefits of the intervention / set of interventions for beneficiaries;
 - Impact indicators: these capture the longer-term effects of the programme on a national level.
3. The output and result indicators are described and quantified at the Priority Area level and are based on the main focus areas of each Priority and under which most of the interventions of each Priority are likely to occur or can be grouped. The targets established for the output and result indicators will be achieved at programme level by the end of the programming period. These two sets of indicators contribute towards the attainment of the impact indicators (specific and/or overall).
4. In order to achieve the indicators at programme level, a bottom up approach is adopted whereby each project selected for funding through the EAFRD will have an established set of output and / or result and / or impact indicators established in the Grant Agreement. The beneficiary of each project will work towards the attainment of the indicators set out in the respective Grant Agreement, which will ultimately contribute towards the attainment of the indicators set at RDP level under the relevant Priority Area.
5. The indicators of each project shall be monitored mainly through the EAFRD Database, the Project Progress Reports and the Bilateral Briefs. However, additional surveys and / or research activities may be undertaken (by beneficiaries and / or the MA) in the case of certain result indicators.
6. Beneficiaries and Project Leaders are responsible for collecting, and verifying the data with regard to the indicators in the agreed project. It is important to note that monitoring of indicators is a condition of the grant and failure to attain the agreed targets could lead to recovery of funds on the project and loss of funds for Malta.

8.1.3 EAFRD Database (IACS)

Day-to-day monitoring is based on a bottom-up approach. Informally, the MA is in touch with beneficiaries and Project Leaders on a regular basis, however most of the effective monitoring is done from information uploaded or inputted into the management information system (EAFRD Database) by all stakeholders, including ARPA.

8.2 Reporting requirements for a beneficiary

There are different levels of reporting:

- Project Progress Reports prepared by beneficiaries periodically (by beneficiary) to the Annual Implementation Report and ex-post report prepared by the MA²⁴;
- Bilateral Briefs prepared by beneficiaries to serve as a basis for discussion at bilateral meetings;
- Regular updates through the EAFRD Database;
- Project Closure Report which is prepared by beneficiaries at the end of the project when requested by the MA.

8.2.1 Project Progress Report

1. A beneficiary prepares a Project Progress Report as and when requested by the MA, normally in the lead up to a bilateral meeting. The report is compiled on a specifically designed template and is intended to give a

²⁴ Beneficiaries /Project Leader may be requested to submit ad hoc progress reports for internal use of the MA or by any of the monitoring structures.

snapshot on progress (physical and financial) and any risks or issues needing mitigation and / or resolution. The report may be used for the meetings of the MPSC mentioned at section 7.1.1 above but that is at the discretion of the ministry.

2. The co-ordinating unit (DPDPI) within a LM (where applicable) shall validate the report before it is submitted to the MA. The ministry / MA may suggest changes to the report.
3. It is important that beneficiary and ministry make sure that any data is validated as errors in the data could result in recoveries on the project.

8.2.2 Bilateral Brief

Where requested, a beneficiary prepares a Bilateral Brief prior to each bilateral meeting that the MA may organise (refer to section 7.1.1 above). The brief is compiled on a specifically designed template and is intended to serve as a basis for discussion, highlighting issues arising from the Project Progress Reports and / or from the day-to-day monitoring conducted through the EAFRD Database. The MA may request one document that covers obligations under 7.2.1 and 7.2.2.

8.2.3 Project Closure Report

1. Upon completion of a project, the beneficiary may be requested to compile a Project Closure Report. Where applicable, the report must be reviewed by the respective Director (Policy Development and Programme Implementation) and endorsed by the Permanent Secretary (in the case of public sector projects). In the case of projects implemented by Local Councils, the report must also be signed by the Executive Secretary and the Mayor. In the case of NGOs, the report should be also signed by the legal representative of the organisation and the person responsible for the organisation's finances.
2. Where requested, the report is to be submitted in original to the MA.

8.3 Article 71 of Regulation (EU) N° 1303/2013

3. In accordance with Article 71, modifications to any operation shall be brought to the attention of the MA.
4. The ARPA shall be monitoring the obligations under Article 71 annually for each concluded project, in conjunction with the annual monitoring of indicators and other monitoring obligations as deemed relevant. In addition the ARPA (on sample basis) shall undertake on-site visits to check the durability of the co-financed operations.

8.4 Evaluation

In terms of paragraph 1 of Article 54 of Regulation (EU) N° 1303/2013, the aim of evaluation is to improve the quality of the design and implementation the programme, as well as to assess its effectiveness, efficiency and impact in relation to its targets.

Evaluation exercises may be undertaken by a number of stakeholders, including the MA and the EC. For its part, the MA may undertake evaluations for a number of reasons, including to assess how support from the EAFRD has contributed to the objectives for each Priority in a more systematic and holistic manner and also in cases where the monitoring system reveals deviations from the objectives set out in an RDP.

To this end, the MA shall draw up an evaluation plan that is consistent with the monitoring system. The MA will organise evaluations and related activities on the basis of the evaluation plan.

Evaluations of an operational nature shall be utilised to provide support to the monitoring and implementation system. All beneficiaries (and other relevant stakeholders) shall co-operate fully with the MA and the EC (and their delegated contractors) on evaluation exercises. The MA shall inform beneficiaries (in advance) of any such exercise and beneficiaries are to make sure that they retain in file any information and feedback provided during an evaluation exercise (through an interview, in writing or through any other medium following consultation with the MA).

Beneficiaries shall inform the MA if approached by an evaluator directly in order to ensure full co-ordination of the exercise and avoid duplication of effort and ensure efficient use of resources.

8.5 Performance Reserve

6 % of the resources allocated to measures financed under shared management in accordance with Regulation (EU) N° 508/2014 constitute the performance reserve established in the Partnership Agreement and the RDP and allocated to the Union priorities of the RDP in accordance with Article 22 of Regulation (EU) No. 1303/2013.

Projects subject to the Performance Reserve must reach the targets set in their respective Grant Agreement by **31 December 2018**. Beneficiaries will have to bear any and all financial repercussions of failure to reach the applicable targets.

9. Audit, control and risk management

Introduction

This section is concerned with financial control procedures applied for EAFRD co-financed expenditure. The framework for proper financial management, control and audit is set out in Regulation (EU) N^o. 1303/2013 and Regulation (EU) N^o. 1306/2013.

9.1 Management verifications (first level of control)

1. In line with paragraphs 4(a) and 5 of Article 125 of Regulation(EU) N^o. 1303/2013, ARPA has an obligation to carry out verifications in respect of each claim for payment (refer also Chapter 5 of this MoP). The verifications carried out by the ARPA are **documentary checks** (desk-based or at beneficiary's premises) to make sure that expenditure has been carried out in line with the Grant Agreement, that the relevant procedures have been followed and that operations and expenditure comply with EU and national rules. These are management checks, **not** audits. Checks may also be carried out via the EAFRD Database.
2. The ARPA also carries out **on-the-spot checks** focusing on the physical deliverables of the project. The ARPA may use external expertise to support it during checks of a project's physical implementation. Beneficiaries should refer to the Physical Checks Template (Annex 8) used by the ARPA to address all the necessary requirements.
3. Documentary and physical verification checks may be carried out throughout a project's lifetime. The ARPA shall inform a beneficiary that an administrative/physical check will take place at least one day in advance. The on-the-spot check is carried out in the presence of the beneficiary.
4. **The beneficiary shall make sure that the Project Leader and any other relevant officials are present for the checks and that the relevant documentation is readily available.**
5. Finally, beneficiaries are to note that the ARPA checks are not intended to offer any comfort or guarantees with regard to audits, but they are merely management verifications in line with the relevant regulation.

9.1.1 Follow-up action to the management verifications

1. Following an on-the-spot check, the ARPA may send the draft report (outlining findings and follow-up / recommendations²⁵) to the beneficiary for signature / comments.
2. Any follow-up action required by the beneficiary (as identified by the ARPA) will need to be undertaken within a stipulated deadline. Failure to do so may result in the ARPA taking action against the beneficiary.

9.2 Systems audits and audits on operations (second level of control)

1. Systems audits and audits on operations are carried out by local and international audit institutions. The Internal Audit and Investigations Department (IAID) is the designated audit authority in terms of Article 123 of Regulation (EU) N^o. 1303/2013 and it is the main entity responsible for system audits and audits on operations. The audits are carried out on an on-going basis throughout the programme period and thereafter up to three years following the closure of the RDP.
2. **Systems audits** are carried out in accordance with paragraph 1 of Article 127 of Regulation (EU) N^o. 1303/2013 in order to verify the effective functioning of the management and control systems of the RDP. Systems audits may be carried out on the main implementing bodies and other horizontal stakeholders, as well as on cross-cutting issues by undertaking audits on operations.
3. **Audits on operations** are carried out on the basis of an appropriate sample to verify expenditure declarations to the EC in accordance with paragraph 1 of Article 127 of Regulation (EU) N^o. 1303/2013. The audit authority may decide to audit a complementary sample of operations in order to guarantee coverage of different types of operations, beneficiaries and Union priorities.
4. Audit on an operation usually includes:

²⁵ Where applicable.

- reconciliation between the expenditure claimed and the supporting documents; and
 - verification of the execution of the operation, the eligibility of the expenditure, the provision of co-financing and compliance with relevant EU and national legislation, including, where applicable, public procurement, state aid, non-discrimination and the environment.
5. The audit authority will inform a beneficiary to be audited at least one week in advance.
 6. The beneficiary must make certain that all relevant documentation is made available to the auditors. The Project Leader should make sure that the necessary support is provided to the auditors in carrying out their work.
 7. Beneficiaries should note that other organisations including the IAID, National Audit Office (NAO) as well as the EC and the European Court of Auditors may undertake audits on the projects. Other organisations such as the SAMB or the VAT Department may carry out checks on the project in order to certify that projects are being implemented in accordance with State aid or VAT legislation.

9.3 National Audit Office

1. As the external auditor to the Government of Malta, the National Audit Office (NAO) may carry out audits on projects co-financed through the EAFRD. The NAO may carry out audits on projects which are implemented by public entities and agencies as well as the private sector or projects implemented by NGOs.
2. A beneficiary is to notify the MA in good time when it receives an announcement regarding an audit on a project co-funded under the EAFRD. The ARPA, on its part, will seek to support the beneficiary in the process.
3. Beneficiaries and other stakeholders (whether public or not) shall grant the NAO full access to project documentation.

9.4 EU audit missions

1. Officials from the EC and the European Court of Auditors (or their representatives) may carry out audits on both systems and operations co-funded by the EAFRD.
2. EU auditors generally inform their Maltese counterparts in advance of a mission. In cases where they are informed directly by the EC, beneficiaries shall inform the ARPA to ensure full co-ordination and support.
3. The ARPA usually co-ordinates the timetable for an audit mission and informs stakeholders accordingly. The MA supports at all necessary levels.
4. Beneficiaries and other stakeholders (whether public or not) shall grant the EU auditors (and / or their delegated contractors) full access to project documentation.

9.5 Preparing for audit visits (applicable to all audits)

1. In general, auditors will want to spend a few days examining documentation held by a beneficiary organisation, the ARPA, MA, the DoC as well as the CB. Auditors may also ask to be taken on the site of a project.
2. As part of their preparation for an audit mission, beneficiaries should:
 - Make sure that all persons involved in the implementation of the project being audited, are available during the audit mission. Priority must be given to the audit by all those involved in the project being audited. It is important that such persons are appropriately briefed by the Project Leader on the scope of the audit mission. The ARPA will also support the Project Leader in this regard.
 - Make sure that all project documentation is made available and filed in accordance with the chapter on retention of documents (Chapter 12 of this MoP) to facilitate easy access to the necessary documentation during the audit.
 - Provide a meeting room for the audit mission.
 - Make sure that photocopying facilities are readily available in view of the fact that auditors may ask for copies of documents that are on file. The beneficiary will take note of any copies of documentation that is handed to the auditors and may be requested by the ARPA to submit this list to it upon completion of the audit.

- Make sure that the actual site where the project is being implemented is in accordance with the conditions stipulated in the Grant Agreement, particularly in relation to EU publicity requirements. The technical supervisor should also be available for site visits. It is important to note that auditors may give no prior notice with regard to site visits and may request an ad-hoc site visit at short notice.
3. As a general rule, in addition to documents available on the EAFRD Database, auditors will seek to examine the following documentation during an audit visit²⁶:
- a. **Project documentation:**
 - Copy of application submitted;
 - Project rating / ranking sheet²⁷;
 - Grant Agreement signed between MA and beneficiary;
 - Addenda to the Grant Agreement and letter/s stipulating any modifications to the project;
 - Feasibility studies and technical studies (where applicable).
 - b. **Tendering and contracting**
 - Tender document launched on the market;
 - Advertisement of the tender (also in the Official Journal where applicable);
 - List of respondents to the publication of the tender;
 - The tender opening report;
 - Any clarifications requested during the adjudication of the tender;
 - The evaluation report and relevant documentation such as minutes of meeting/s of the evaluation committee;
 - Copy of the publication of the adjudication of the tender (and the Contract Award Notice where applicable);
 - Contract drawn up and signed by the DoC / beneficiary²⁸ and the contractor;
 - Any subsequent addenda to contract;
 - Documentation related to approved variations;
 - Any other relevant documents related to contracts (including employment contracts²⁹) connected with the project.
 - c. **Other Community policies**
 - All relevant documentation concerning other Community policies, including State aid, non-discrimination and sustainable development.
 - d. **Payments**
 - Commitments;
 - Invoices
 - Debit Advices;
 - Receipts obtained from the contractors;
 - Certification of works by technical supervisor, acceptance certificates / reports for supplies and services.
 - e. **Information and publicity**
 - Photos or recordings evidencing information activities or publicity undertaken in relation to the project (where applicable);
 - Original adverts, brochures, leaflets or any other publicity material and promotional items produced through the project;
 - Copies of handouts, documents, attendance sheets, certificates, agendas and other publications displaying EU information and publicity requirements.
 - Copies of press articles (where applicable);
 - Verification of compliance with compulsory EU information and publicity requirements during on site visits (such as billboards, posters, permanent plaques and identification stickers or plaques on physical items / equipment).

²⁶ This is only an indicative (not exhaustive) list of documents which auditors may ask to review. Other documents which should be part of sound financial management and therefore part-and-parcel of a beneficiary's obligations are not necessarily listed here.

²⁷ These documents will be retained by the MA and will be provided to the CB by the MA.

²⁸ In the case of contracts administered by the beneficiary.

²⁹ Where applicable.

f. **Monitoring reports**

- Copies of the progress reports prepared by the beneficiary;
- Viewing of progress updates in the EAFRD Database;
- Record keeping of time sheets (particularly in the case of employment contracts).

g. **Others**

- Lists of participants;
- Progress / performance reports of contracted employees / trainers;
- Attendance sheets;
- Evaluation sheets;
- Inventory lists.

9.6 Follow-up to an audit mission

1. Once audit field work is complete, the auditors will normally send the draft audit report to the ARPA. Upon receipt by the ARPA of the draft audit report, the contradictory procedure will commence. As part of that procedure, the ARPA may liaise with the MA, the beneficiary (where reference is made thereto) to coordinate the replies to the auditors regarding their draft findings. Such replies shall be submitted expeditiously.
2. At the conclusion of the contradictory procedure, the auditors will send the final audit report to the ARPA for onward transmission to the beneficiary as it deems necessary and will concurrently copy it to the CB (if applicable).
3. The beneficiary is in the first instance responsible to follow up any recommendations in any audit report drawn up in accordance with paragraph 1 of Article 127 of Regulation (EU) N° 1303/2013. The LM is to make certain that the beneficiary has followed up the recommendations within the agreed time-line.
4. The MA is to make sure that remedial action on the findings and recommendations included in the final audit report is taken within the agreed time period. The action taken is to be communicated to the auditors. The audit ors reserve the right to organise follow-up audits if necessary.
5. In case of EU audits, replies will be co-ordinated by the ARPA / Certification Body / Competent Authority / MA and a consolidated reply will be given on behalf of the Member State.

9.7 Audits after closure of programme

Beneficiaries should note that projects can be audited even after project implementation. In view of this, **all project documentation must be retained by the beneficiary for at least a two (2) year period from the 31st December following the submission of the accounts in which the final expenditure of the completed Project is included. The ARPA will notify such submission dates.**

9.8 Ex-post management control

1. Beneficiaries should take note of Article 71 of Regulation (EU) N° 1303/2013. A project comprising investment in infrastructure or productive investment shall repay the contribution from the EAFRD if within five years of the final payment to the beneficiary (or ten years if the productive activity is subject to relocation outside the EU, except where the beneficiary is an SME or within the period of time set out in State aid rules, where applicable), it is subject to any of the following:
 - a) A cessation or relocation of a productive activity outside the programme area;
 - b) A change in ownership of an item of infrastructure which gives to a firm or a public body an undue advantage;
 - c) A substantial change affecting its nature, objectives or implementation conditions which would result in undermining its original objectives.
2. Beneficiaries are to inform the MA immediately of any such modifications to a project (through the CRRB). Such changes may require that financial corrections (partial or in full as applicable) be made which could result in the cancellation of all or part of the EU contribution.
3. In line with Article 61 (where applicable) a beneficiary must also monitor the revenue being generated by a project to guarantee that this is in line with the revenue indicated at application stage. Should there be any substantial deviations (as defined in the Regulation / EC guidance documents), that beneficiary must immediately inform the MA in view of the fact that such changes may also require financial adjustment /

correction to the public eligible allocation to a project. **Beneficiaries will be held responsible for failing to report such changes in a timely manner which could result in loss of funds not only to them but also to Malta.**

9.9 Risk management and risk registers

Risk management is a recently introduced management process within government departments and government entities. This process is to be applied also with respect to the management and implementation of EU funded projects.

There are five key steps necessary to effectively manage and control risks; uncontrolled risks may hamper the development of a project *and* may also effect the achievement of a project's objectives. The principal tool used for recording and managing risks is the Risk Register which incorporates identified risks rated according to their importance.

The five key steps in the process of risk management are:

i) **Identification**

The first step is to determine the 'context' within which the project is being undertaken. The implementation and objectives of a project are also to be probed; follows the identification of the inherent risks which may impact on the fulfilment of the objectives. Inherent risks can be described as the exposure arising from a specific risk before any action has been taken to manage it.

ii) **Assessment**

Once the inherent risk has been identified and understood, the next step is to assess the 'likelihood' of its occurrence and its potential 'impact' on objectives. It is to be noted at this stage that when assessing risks, reference should be made to the 'risk appetite'. Risk appetite is the management's attitude towards risk taking, which in turn dictates the amount of risk that it considers acceptable.

iii) **Addressing**

At this stage one has to prepare and implement specific management responses to the threats and opportunities identified. Ideally this, given the risk appetite, will be to reduce or remove the threats and to maximise the opportunities.

In practical terms this means identification of the controlling actions or activities that will lessen the likelihood or impact of the risk materialising or remove the risk completely. Controls identified as already established and in place are classified as 'current controls'. 'Residual risk', which has to be identified at this point, is the assessment in terms of likelihood and impact of the risk taking account the controlling actions that are already in place. Where appropriate, actions to improve control are added to strengthen the risk response.

iv) **Presenting and escalating**

The principal tool used for recording risks is the risk register; its aim is to capture, maintain and monitor information on all of the identified threats and opportunities and the associated controlling actions that have been identified. The technique used in the department / entity to present the assessments of the residual risks in summary format is a 5x5 grid (see below); this helps to visually communicate the range of severity of residual risks identified (representing a combination of likelihood and impact).

Department Impact	High	5	5	10	15	20	25
	Medium / High	4	4	8	12	16	20
	Medium	3	3	6	9	12	15
	Low / Medium	2	2	4	6	8	10
	Low	1	1	2	3	4	5
			1	2	3	4	5
			Low	Low / Medium	Medium	Medium / High	High
			Probability				

Should a risk assessment exceed the tolerance threshold after the controls have been put in place, it will be escalated to the Head of the department/entity for action.

v) **Reporting and reviewing**

All ensuing reports will be endorsed by the Project Leader and formally presented to the Head of the department / entity. Risk registers are living documents which should be updated regularly. In fact risk management is a continuous process with new risks being identified and controls in place changing the likelihood and impact assessments of the risks.

10. Reporting on irregularities and fraud

10.1 Irregularities and financial corrections

1. An **irregularity** is defined as 'any breach of EU law, or of national law relating to its application, resulting from an act or omission by an economic operator involved in the implementation of the ESI Funds, which has, or would have, the effect of prejudicing the budget of the EU by charging an unjustified item of expenditure to the budget of the EU'.³⁰
2. It is important to note that failure to apply rules and regulations can result in irregularities which, in turn, could lead to financial corrections. In certain cases, particularly in the case of public procurement, the recovery can be up to 100% of the overall contract value. In the case of systemic irregularities the recoveries can extend to other or all components of the project and possibly also other projects being implemented by the same beneficiary.
3. Irregularities can be individual or systemic in nature:
 - An *individual irregularity* is a one off error which is independent of other errors in the population or deficiencies in the systems;
 - A *systemic irregularity* is an error, repeated or not, resulting from the existence of serious deficiencies in the management and control systems for which requirements are set out in Title VIII of Regulation (EU) N^o. 1303/2013. System deficiencies are weaknesses in the management and control system.
4. The amount of the financial correction is assessed, wherever possible, on the basis of individual cases and is equal to the exact amount of expenditure wrongly charged to the EU budget. However, precisely quantified corrections are not always possible or cost effective if extensive additional verification work is needed. In such cases a flat rate correction, proportionate to the seriousness of the irregularity or the system deficiency, should be made.
5. *Quantifiable corrections* – The financial impact of an irregularity is quantifiable precisely when it is possible, on the basis of an examination of the individual irregularity, to calculate the exact amount of expenditure wrongly declared to the EC (e.g. ineligible expenditure). In such cases the financial correction should be calculated exactly.
6. *Non-quantifiable corrections* – In other cases, due to the nature of the irregularity or system deficiency, it may not be possible to quantify precisely the financial impact (e.g. non-compliance with public procurement or publicity rules). In these cases, a flat rate correction may be applied to the individual operation based on the seriousness of the irregularity or deficiency identified.
7. *Extrapolated corrections* – Where irregularities have occurred in a great number of activities throughout an operation, but it is not cost-effective to verify the regularity of such activities not included in the verified sample, the financial correction may be based on extrapolation. In this case, the results of a thorough examination of a representative sample of the individual cases concerned are extrapolated to all expenditure in the population, in accordance with generally accepted auditing standards.
8. Upon detection of systemic irregularities in a project, the MA shall immediately notify the beneficiary and relevant stakeholders (CB, , and other stakeholders as may be applicable), informing them of the immediate measures to be taken. These may include recovery of irregular amounts, suspension of payments on the project, interruption of payments on other operations managed by the same beneficiary, corrective action required to reinstate adequate management and control systems in particular so that the risk of any future recurrence is mitigated, and relevant deadlines for all action.
9. Irregular amounts, for both systemic and individual irregularities, shall be recovered **within three months of circulation of report**³¹. The periods established shall be interrupted in the case of legal proceedings or other duly motivated cases. Interest charges may apply.

10.2 Detecting and reporting irregularities

1. Article 122 of Regulation (EU) N^o. 1303/2013 regulates the reporting of irregularities.

³⁰ Article 2 (36) of Regulation (EU) N^o. 1303/2013.

³¹ MFIN Circular N^o. 3/2014 'Guidelines regarding recoveries of irregular expenditure paid by Treasury on EU Funds under shared management'.

2. There are various methods how irregularities can be detected:
 - a. **At management and control level through:**
 - Checks undertaken by stakeholders (including beneficiaries) during implementation (e.g. payment process);
 - Checks made during the management verifications (both administrative and physical) by the MA;
 - Checks made during the certification process by the CB;
 - Checks undertaken by other stakeholders in the system;
 - Audits under Article 127 of the Regulation (EU) N° 1303/2013;
 - Audits carried out by other audit bodies.
 - b. **Through other methods such as:**
 - Fiscal controls;
 - Evaluations;
 - Initial/judicial enquiry;
 - *Ex-post* checks and controls;
 - Correction of accounts (reconciliations);
 - Denunciation;
 - Grievance or complaint (anonymous or not);
 - Preventive controls;
 - Release of the guarantees;
 - Press information;
 - Parliamentary statements;
 - Situation of the operator;
 - Situation of the beneficiary;
 - EU controls.
3. Any one player (the MA, CB, , ARPA, DoC, LM, beneficiary or any other relevant entity) involved in the implementation of ESI Funds, who, at any stage of implementation and / or control procedure, becomes aware of an irregularity (whether individual or systemic), has the duty to **IMMEDIATELY** report the irregularity in accordance with the procedures specified in this chapter. The person / organisation detecting an irregularity at any stage of the implementation of the programme, shall prepare the EAFRD Irregularity Report³², giving details on the relevant irregularity, **which is then circulated among stakeholders**.
4. In the case of public sector beneficiaries, the report, signed by the person reporting the irregularity, is sent to the Director (Policy Development and Programme Implementation) of the relevant LM who counter-signs the report and forwards it immediately to the MA, copying the CB. The MA shall then circulate the report to all relevant stakeholders.
5. There might be circumstances where officials feel constrained to by-pass the normal system of reporting irregularities. Whenever this situation arises, an official is given the opportunity to report any irregularity directly to the MA (copying the CB) by filling in ESI Funds Irregularity Report (ESIFIR).
6. In the case of non-public beneficiaries (NGOs, partners), the report is sent directly to the MA (copying the CB).
7. In the case of private beneficiaries, the report is sent to the MA copying the CB.
8. The MA retains both a hard and soft copy of the irregularities reported.
9. As explained above, the CB would be in copy of irregularity reports. The CB also fulfils the role of the Anti-Fraud Co-ordinating Service (AFCOS) Malta. In this framework, AFCOS (Malta) reports irregularities to OLAF (The European Anti-Fraud Office) using the Irregularities Management System, if the irregularities are within certain parameters. These parameters are described in Article 122(2) of Regulation (EU) N° 1303/2013.

10.3 Content of an Irregularity Report

The template of the ESI Funds Irregularity Report includes the following details:

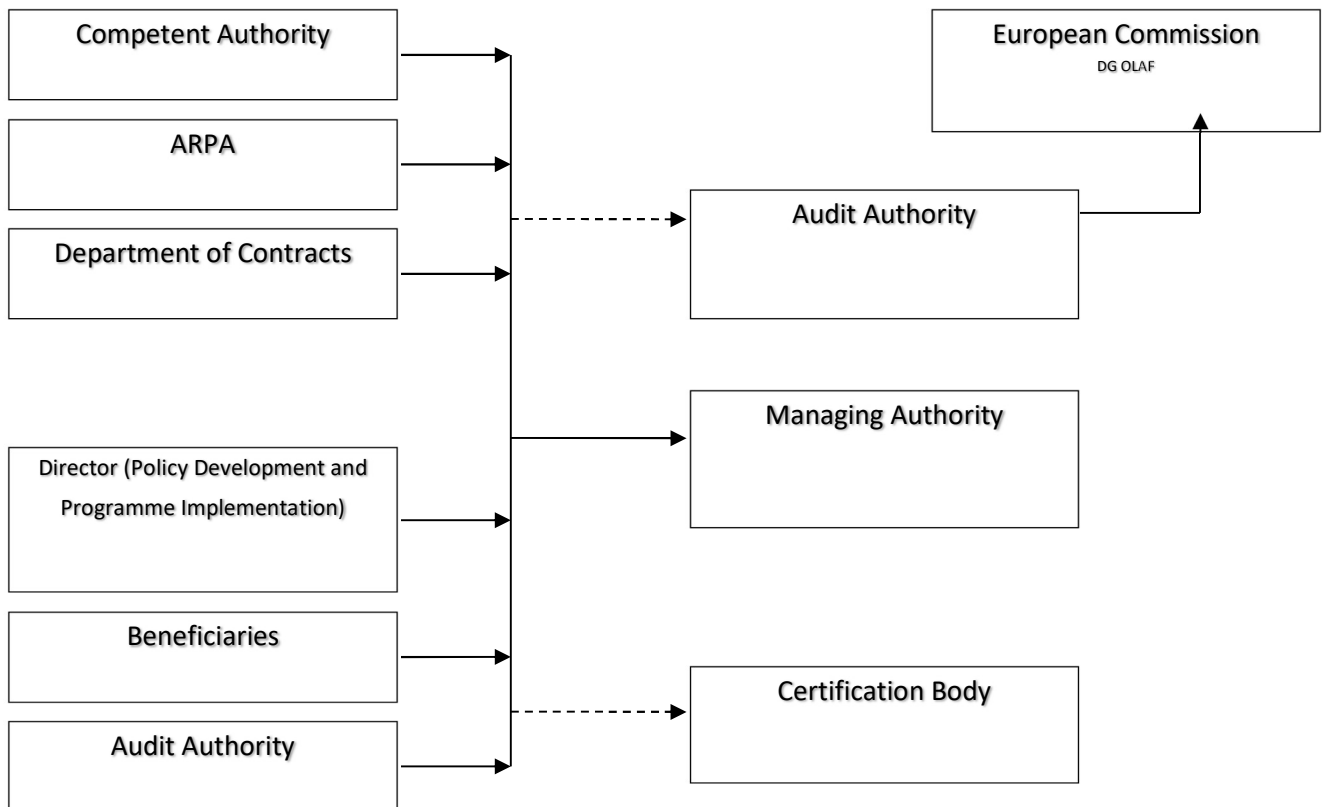
- General information on the Fund, Priority Area and project affected by the irregularity;
- The date and source of the information when the irregularity was detected;
- The organisation detecting the irregularity;
- The total recoverable amount and its distribution between the different sources of funding;

³² Refer to Annex 16.

- The regulation / decision / procedure which has been infringed;
- The nature and amount of the expenditure;
- Location where irregularity took place;
- The practices employed in committing the irregularity;
- Explanation of how the irregularity was quantified;
- Type of irregularity;
- Qualification of the irregularity;
- Indication on how the irregularity was detected;
- The period during which or the stage at which the irregularity was committed;
- The body or bodies involved, except in cases where such information is of no relevance in combating irregularities on account of the character of the irregularity concerned;
- The financial consequences, the suspension (if any) of payments, the procedure to be undertaken for recovery and relevant deadlines;
- Other applicable information;
- Signatures and dates of the report.

Table 1: Irregularities

Detecting Irregularities



10.4 Financial recoveries

Any irregularity that warrants a financial recovery will be addressed as necessary by the ARPA. ARPA guidelines will shed more light on such processes.

10.5 Fraud

In terms of paragraph 4 (c) Regulation (EU) N° 1303/2013, the MA and ARPA shall put in place effective and proportionate anti-fraud measures taking into account any fraud risks identified. Accordingly, the MA performs an exercise to assess the impact and likelihood of specific fraud scenarios occurring. The MA utilises a fraud risk assessment tool provided by the EC which covers the likelihood and impact of specific and commonly recognised fraud risks, focusing on these three key processes:

- Selection of beneficiaries;
- Implementation of projects by beneficiaries, focusing on public procurement and staff costs;
- Certification of expenditure by the MA and payments.

The fraud risk assessment exercise is undertaken periodically or whenever a significant alteration to the management and control system is made.

This exercise enables the MA to provide risk responses which are proportionate to the risks identified to its specific situations. However, although a well-targeted assessment of fraud risks is a requirement it cannot completely eliminate the risk of fraud occurring or remaining undetected. Additional mitigating controls are therefore called for and these are discussed further under sections 9.6 and 9.7 below.'

It is important at this point to distinguish between irregularities and fraud. Whilst irregularities involve breaches of certain conditions of funding and are often the result of genuine errors (e.g. not filling out a form correctly, or not respecting the proper tendering procedure) fraud is a deliberately committed irregularity constituting a criminal offence.

The convention drawn up on the basis of Article K.3 of the Treaty on the Functioning of the European Union, concerning the protection of the European Communities' financial interests defines fraud, in respect of expenditure, as any intentional act or omission relating to the:

- Use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of the European Communities;
- Non-disclosure of information in violation of a specific obligation, with the same effect;
- Misapplication of such funds for purposes other than those for which they were originally granted.

As from 2006 a new term i.e. suspected fraud, has been introduced. Suspected fraud means an irregularity giving rise to the initiation of administrative and/or judicial proceedings at national level in order to establish the presence of intentional behaviour, such as fraud.³³

Member States shall take all necessary measures, including legislative, regulatory and administrative measures, to protect the Union's financial interests, namely by preventing, detecting and correcting irregularities and fraud. The last three elements and 'prosecution' constitute the four key elements of the anti-fraud cycle.

The MA has a clear commitment to combat fraud and corruption both through preventive and detective control mechanisms and it is determined to transmit cases to the competent authorities for investigations and sanctions.

10.6 Preventive actions

The MA is determined to prevent fraudulent activities. For this purpose, the MA encourages all beneficiaries to put in place an effective internal control system with the aim of deterring potential fraudsters and also of maximising the commitment of staff to combat fraud.

For this purpose, beneficiaries should:

³³ Article 27c of Commission Regulation (EC) N° 1828/2006.

- Raise awareness through formal training of all staff complement involved in the management of EU funds about preventative and detective control measures as well as the specific roles and responsibilities of all stakeholders and reporting mechanisms;
- Put in place effective separation of duties, particularly with respect to financial and control units and rotate staff (when possible);
- Promote an ethical culture among staff to act honestly and with integrity to safeguard all national and Community resources;
- Make sure that staff involved in the management and implementation of EU funds is aware of possible conflict of interest or fraudulent behaviour at every stage of implementation;
- Encourage staff to report any case of suspected fraud concerning EU funds to the MA, either through their respective hierarchy or directly if necessary;
- Conduct regular verifications ensuring that staff in charge is aware of EC and national guidance on fraud indicators.

10.7 Detective actions

Effectively implemented, robust control systems can considerably reduce the risk of fraud but cannot completely eliminate it occurring or remaining undetected. That is why the systems also have to make certain that procedures are in place to detect fraud and to take appropriate measures once a suspected case of fraud is detected.

The procedure below highlights the authority levels, responsibilities for action and reporting lines established in the event of suspicion of fraud.

- When any relevant authority or beneficiary, or their members of staff, suspects that fraud has occurred, they must notify their immediate superior. If it is inappropriate to raise the matter with the immediate superior, the concern should be raised with the head of the beneficiary organisation / ministry / MA. The official with whom the report was filed must immediately relay the message to the head of the MA;
- Timeliness plays a crucial role when addressing suspected cases of fraud. Consequently, when identifying cases of potential fraud, an officer's immediate action is to alert his / her direct superior verbally. The case, which is treated with confidentiality (subject to legal obligations), is followed up by a written report so that the relevant authorities can be informed and requested to investigate further;
- The body reporting the suspected fraud must act with caution in dubious situations which might lead to fraudulent transactions. In case of detection of possible forged documents, the ARPA is advised to temporarily stop all payments addressed to the supplier / contractor in question;
- The body identifying / reporting the irregularity / suspected fraud should inform in writing the Permanent Secretary and / or head of the beneficiary organisation, and the Internal Audit and Investigations Department in terms of Article 16 of the Internal Audit and Financial Investigations Act (chapter 461 of the Laws of Malta), which states that 'If an entity has reason to suspect any irregularity and, or a suspected case of fraud of public funds, it shall refer the matter forthwith to the Director (of IAID), and shall supply to the Director all information in his possession relating thereto';
- In terms of Article 18 of the Internal Audit and Financial Investigations Act, 'whenever, and as soon as the Director firmly establishes the existence of suspected cases of irregularities and, or suspected cases of fraud concerning the responsibilities of the auditee under review, the Director shall, if he is of the opinion that the irregularity, if proved, would constitute a criminal offence immediately inform the Attorney General';
- The Attorney General will evaluate the case in question and determine whether:
 - To forward the case to the Malta Police for criminal investigation; or
 - Terminate proceedings of the case at that juncture.
- The Commissioner of Police forwards to the body reporting the case a copy of the report of the investigation including any court action to be taken by the Police.
- Where the investigation report concludes that no criminal proceedings are required (i.e. it is prima facie confirmed that the suspicion of fraud is not correct) the MA advises ARPA to proceed with payment of pending invoices;

- On the other hand, where the investigation report concludes that criminal proceedings are required (i.e. it is confirmed that the suspicion of fraud is factual) the MA recommends the withdrawal of any suspicious payments from certification already carried out.

10.8 Effective and proportionate anti-fraud measures

Article 125(4)(c) of Regulation (EU) N° 1303/2013 obliges the MA and ARPA to put in place effective and proportionate anti-fraud measures taking into account the risks identified. The MA will use a fraud risk self-assessment tool to assess the impact and likelihood of common fraud risks occurring. The tool identifies specific fraud risks in relation to three processes namely:

- i. Selection of applicants;
- ii. Implementation and verification of the operations;
- iii. Certification and payments.

For each of the specific risks, the first step is to quantify the risk that a given fraud type would occur by assessing impact and likelihood, ignoring the current mitigating internal controls (**gross risk**). The second step is to factor in the current controls in place and assess the effectiveness of these controls to mitigate the gross risk. The resulting risk (the **residual risk**) should then be assessed on whether it is tolerable or not; if it is not tolerable, additional controls would have to be introduced till the risk level is considered by the MA to be tolerable (**target risk**).

Thus the output of the fraud risk assessment identifies those specific risks with respect to which not enough is in place to reduce the combined likelihood and impact of potentially fraudulent activity to an acceptable level. The team carrying out the assessment, mostly made up of officers managing the ESI Funds; should then come up with further corresponding anti-fraud measures mostly in the form of mitigating internal controls.

11. Information and communication

Introduction

Information and communication form an integral part of the programming strategy for the 2014-2020 period. Most investment beneficiaries are required to inform the public about the support obtained from the EAFRD complying with requirements in Regulation (EU) N° 1303/2013 and Implementing Regulation (EU) No 808/2014 with regard to signage, including billboards, plaques and promotional material.

This chapter deals with ESI Funds information and communication requirements to make sure that the results and achievements of the RDP and co-financed projects are communicated as widely and effectively as possible. These measures are intended to lead to increased transparency and greater awareness.³⁴ In this regard the MA has also prepared a communication plan (available online at <http://eufunds.gov.mt>).

This section is complemented by the visual identity guidelines for EAFRD. These can be downloaded from

<http://eufunds.gov.mt/en/Operational%20Programmes/Publicity/Pages/Cohesion-Policy-2014-2020.aspx>

The visual identity guidelines provide the technical specifications for the EAFRD logos and the graphical guidelines with layouts / templates for information and publicity measures.

The MA will support beneficiaries in their communication activities, providing technical guidance on information and communication measures.

11.1 Publicity and information: strategic objectives

Communication is essential at both programme and project level in order to reach the following strategic objectives³⁵:

- Ensuring transparency of and accessibility to the Funds;
- Increasing visibility and awareness of the role of the EU and the positive impact of ESI Funds on Malta and Gozo's socio-economic development and quality of life of the citizens.

These communication objectives are entrenched in a number of EU and national regulations and guidelines as outlined in section 10.2 below.

11.2 Regulatory framework

This Chapter of the MoP incorporates and builds on the following regulations and specifications:

- Regulation EU) No. 1303/2013, Article 115 and Implementing Regulation (EU) No 808/2014 ;
- The official graphical specifications of the EU emblem;
- The official graphical specifications of the national flag of Malta.

Failure to comply with the provisions of the Manual of Procedures may put the eligibility of expenditure or parts thereof at risk, as may be decided by the ARPA on financial corrections.

11.3 Role of the Managing Authority – programme level information and publicity

1. The MA has two main functions:

- a) Providing guidance, monitoring and ensuring compliance with the information and publicity regulations

³⁴ As required by Article 115 of Regulation (EU) N° 1303/2013.

³⁵ Article 115 of Regulation (EU) N° 1303/2013.

and requirements at programme and project level;

- b) Drafting and implementing the communication strategy for the EAFRD.

For further information on publicity and information at programme level, the MA may be contacted by email: fpd.mefl@gov.mt

2. Logos, useful downloads and information can be found in the publicity section of the MA's website: <https://eufunds.gov.mt/en/EU%20Funds%20Programmes/European%20Agricultural%20Fund/Pages/Links%20and%20Downloads/Publicity.aspx>
3. In line with Implementing Regulation (EU) No 808/2014, Annex III, the MA may decide that projects not falling under Annex III point 2.2 (c) of the same regulation, the obligations shall not apply to, or that the threshold shall be increased for, operations under points (a) and (b) of Article 21(1) (concerning income forgone and maintenance costs) and Articles 28 to 31, 33, 34 and 40 of Regulation (EU) No 1305/2013. The MA may also decide that this requirement shall not apply to, or that the threshold shall be increased for, other operations which do not result in an investment where, because of the nature of the operation funded, it is not possible to identify a suitable location for the poster or plaque.

11.4 Responsibility of the beneficiary – project level information and publicity

1. Beneficiaries also have responsibilities relating to publicity and information in relation to the project/s. These are:
 - a) Implementing publicity and information measures in line with the Grant Agreement, as outlined in the following sections including compliance with the visual identity guidelines;
 - b) Participating in information and publicity measures organised by the MA at programme level when required;
 - c) Reporting on information and publicity actions to the MA when required and also through the Project Progress Reports. Samples / proofs of publicity actions may also be requested for record keeping by the ARPA as part of project obligations.
 - d) Participating in publicity and information measures as well as networks and / or exchanges of experience organised at EU, national or programme level.
 - e) In line with Implementing Regulation (EU) No 808/2014, Annex III, an explanatory plaque shall be installed in the premises of the local action groups financed by LEADER.

11.5 Participation in publicity and information measures at EU or programme level

1. Beneficiaries must be aware that acceptance of funding is also acceptance of their inclusion in online or other published lists and databases of beneficiaries compiled by the ARPA and MA.³⁶ The information may include³⁷ among other things, name and details of beneficiary organisations, cost of projects, grant amounts and purpose and results of projects. Furthermore, such information may also be uploaded on websites, including those hosted by the EC and / or other EU institutions where information is collated and presented in order to show activity across Member States.
2. In the case where an approved project is withdrawn, either by the project leader's own volition, or because there was a 100% recovery of funds, the MA will remove the project from the published list mentioned in subsection 11.5.1 as it is deemed that the project is no longer a beneficiary of the Fund.
3. Beneficiaries shall, if so requested, collaborate with the MA during the organisation of events or promotional activities, including networks and exchanges of experience at both national and European level. An indicative list of these events and information and communication initiatives is outlined in the MA's communication strategy.

³⁶ Article 3.2 of Annex XII to Regulation (EU) N° 1303/2013.

³⁷ The list is indicative and not exhaustive of the information that can be published.

11.6 Implementing publicity and communication measures

Information and communication is an integral part of project implementation. However, communication is not synonymous with marketing. If the project warrants marketing activities, these should be described and budgeted separately in the project proposal. Attention is drawn to the following main points relating to communication initiatives:

1. **Principle of proportionality:** communication measures should be reasonable and in proportion to the size, objectives and results of the project.
2. **Planning and scheduling:** information and communication measures should be carefully planned at an early stage and implemented in line with the budget and project plan set out in the Grant Agreement. Project Leaders need to make certain that they include these measures in their budgets and implementation schedules. The following must also be taken into account at the planning stage:
 - a) *Consultation:* the MA recommends that beneficiaries inform and consult with the MA about all information and communication activities prior to implementation. However, the final vetting of the visual layout and artworks of information and communication measures will be beneficiary's responsibility;
 - b) *Target audience:* information and communication measures should be appropriate for the identified target groups. Where possible beneficiaries should also target the general public, particularly when informing about results of EAFRD interventions;
 - c) *Language and tone:* information and communication activities should be neutral and factual in tone to avoid being perceived as biased and / or propaganda. The language used can be either Maltese or English, though use of the former is encouraged to reach a wider audience.
3. **Tendering and procurement:** Like other co-financed project components, information and communication initiatives or items should be procured or contracted in line with national legislation on public procurement. It is also important to note that advertising and documents relating to tendering and procurement should comply with the compulsory visual identity guidelines. ARPA may apply financial penalties if plaques and any other publicity material does not follow the visibility guidelines.
4. **Copyright issues and reproduction:** Beneficiaries are advised to retain copyright of original information and communication material related to projects, including all artwork and / or concepts. The MA has the right to utilise project level information and communication material during public events, presentations or publicity at programme / national level without the obligation to compensate the beneficiary or contractor. Co-financed information and communication material cannot be used by beneficiaries for other purposes. It is important that copyright issues are clear to prospective bidders and set out in the relevant terms of reference and tender dossiers (as well as subsequent contracts).
5. **Reporting:** Beneficiaries shall report on progress relating to the implementation of information and communication actions by completing the relevant section of the Project Progress Report template.
6. **Audit and control:** Beneficiaries are advised to retain original copies of articles, news items, press releases, promotional and informative material for future checks / audits, wherever possible. Audio-visual material such as TV and radio spots, photographs, video clips, documentaries or features should also be archived and kept for audit purposes. Audio-visual material could also be made available on CD to make sure that it can be viewed by auditors and / or other officials involved in the control process.
7. **Confidentiality and data protection:** The confidentiality of participants in all projects is to be respected. Photographs or footage featuring participants can only be transmitted or reproduced for information or communication purposes if participants give their written consent. The relevant letters of consent should be retained in file by beneficiaries. Beneficiaries should make sure that such consent is received at the start of a project in order to make sure that communication material can be used.

11.7 Ensuring compliance with visual identity requirements

1. All documents, information and communication items, publications or measures are to respect the provisions of Article 2.2 of Annex XII to Regulation (EU) N^o. 1303/2013 and of national requirements. Beneficiaries can refer to the visual identity guidelines for guidance, where necessary.
2. The main elements making up the visual identity of the EAFRD are the following:
 - a. **The national flag of Malta:** It is important to make certain that the flag is reproduced correctly, in line with the official graphical specifications for the national flag which can be downloaded from <https://eufunds.gov.mt/en/EU%20Funds%20Programmes/European%20Agricultural%20Fund/Documents/Publicity/EAFRD%20VIG%20V1.7.pdf>;

- b. **The emblem of the European Union:** The emblem must be reproduced correctly, in line with the official graphical specifications which can be downloaded from the following sites:

http://europa.eu/european-union/about-eu/symbols/flag_en

The EU emblem is strictly compulsory for all information and communication measures, as per Article 2.2 of Annex XII to Regulation (EU) N^o. 1303/2013;

- c. **The compulsory text:** Apart from the EU emblem In line with Article 2.2 of Annex XII to Regulation (EU) N^o. 1303/2013, the national flag of Malta and a reference to the EAFRD are to be included in all publicity measures, highlighting the EU's contribution to projects and the role of the programme. The text consists of the following:
- Reference to the EAFRD: 'European Agricultural Fund for Rural Development*';
 - Reference to the European Union: e.g. 'Co-funded by the European Union' or 'Part-financed by the European Union'. The term European Union shall always be spelled out in full;
 - The relevant co-financing rate;
 - The slogan: 'The European Agricultural Fund for Rural Development: Europe investing in rural areas'..

Statements marked by an asterisk are strictly compulsory, in terms of Annex III Part II of Implementing Regulation (EU) N^o. 808/2014.

3. These elements are to be mainly laid out as indicated in the visual identity guidelines. ARPA may apply financial penalties if any obligatory publicity material does not follow the visibility guidelines.

11.8 Implementing obligatory information and communication measures

Apart from ensuring that all information and communication initiatives comply with the visual identity requirements, beneficiaries shall also make sure to carry out all the mandatory information and communication measures which are necessary for the project³⁸. These mandatory activities, together with other optional information and communication measures, are outlined in further detail under the points 10.8.1 to 10.9 below.

In order to enhance visibility, beneficiaries shall seek to include the visual identity requirements in:

- All media adverts in relation to procurement, recruitment, calls or other procedures and / or events (with the exception of adverts on the Malta Government Gazette);
- All information and communication measures part-financed by the EAFRD;
- The cover pages of tender documents and contracts;
- The cover pages of all part-financed reports, studies, questionnaires, attendance sheets, certificates³⁹, power-point presentations, handouts and other documents without excluding information and communication items;
- Promotional items / giveaways financed through projects.

11.8.1 Projects involving construction / infrastructural works [Total public contribution over €500,000]

Projects receiving a total public contribution of over €500,000 and which involve construction / infrastructural works must erect a temporary billboard at a location readily visible by the public, followed by a permanent plaque at the site of works.

1. The temporary billboard must be:
 - a) Put up at or beside the construction or infrastructure site/s during the whole period of project implementation until works are complete. Once works are completed the billboard should be replaced by the compulsory explanatory plaque;
 - b) Installed in line with relevant ERA/PA or other national / local requirements, if applicable;

³⁸ As required by Article 2.2 of Annex XII to Regulation (EU) N^o. 1303/2013.

³⁹ In cases where certificates are issued by external training providers (such as University degrees; ECDL course etc.), it is recommended that a letter is attached to the certificate informing the trainee/s that the training programme or course was part-financed by EU funds.

- c) Clearly visible to passers-by and well-maintained throughout the whole period of construction;
- d) Of significant size, in proportion to the scale of the operation;
- e) Designed in such a way that at least 25% of the billboard is allocated to the:
 - i. Name and type of the project;
 - ii. Visual identity requirements.
- f) Made of a material that is weather-resistant and durable enough not to fade, crumble or succumb to vandalism. In cases where billboards are vandalised or become worn through exposure to the elements, these must be replaced by the beneficiary at its own cost.

Further detail on the technical specification of compulsory billboards, together with illustrations, can be obtained from the visual identity guidelines, <https://eufunds.gov.mt/en/EU%20Funds%20Programmes/European%20Agricultural%20Fund/Pages/Links%20and%20Downloads/Publicity.aspx>.

2. The permanent plaque must be:

- a) In place within three months of completion of the construction / infrastructural works;
- b) A location readily visible by the general public and of significant size;
- c) Designed in such a way that at least 25% of the plaque is dedicated to the:
 - i. Name and type of the project;
 - ii. Visual identity requirements.
- d) Made of a material which is weather-resistant and durable enough not to fade, crumble or succumb to vandalism. Should plaques be vandalised or become worn through exposure to the elements, these must be replaced by the beneficiary at its own cost;
- e) Well-maintained and erected in line with relevant ERA/PA or other local requirements, if applicable.

Further detail on the technical specification of permanent plaques, together with illustrations, can be obtained from the visual identity guidelines, <https://eufunds.gov.mt/en/Operational%20Programmes/Publicity>.

11.8.2 Projects involving the purchase of physical items / equipment / furniture or other objects

Beneficiaries whose projects involve the purchase of equipment or other items of any value are advised to make sure that items are identified through the affixing of stickers or plastic plaques attached to the equipment, or through a wall plaque on site. It is recommended to make certain that stickers / plastic plaques:

- a) Include the EU emblem and national flag of Malta, together with a reference to the EAFRD;
- b) Be based on the layout that can be obtained from the visual identity guidelines, which can be downloaded from <http://eufunds.gov.mt/en/EU%20Funds%20Programmes/Agricultural%20Fisheries%20Fund/Documents/EMFF%202014-2020/Technical%20characteristics%20of%20information%20and%20publicity%20measures.pdf>;
- c) Be made of a durable material;

Copies are to be retained for reporting and audit purposes, including photographs of the affixed signs.

11.8.3 Projects involving events, conferences or training

1. A beneficiary implementing an EAFRD project which includes events, conferences, training or other activities involving several participants is advised to make sure that all participants are informed of the project's source of funding. This involves the following:

Recommended specifications for events, conferences, training or other activities:

- a) Documents, including hand-outs, presentation slides, attendance sheets, certificates, agendas and other publications shall include the project title as well as the visual identity requirements mentioned above;
- b) The EU emblem and national flag of Malta shall be displayed prominently inside the venue, preferably behind or beside the speakers / trainers;

- c) Venues must be fully accessible to persons with disability both with regard to training rooms and also facilities;
 - d) Photographs and / or recordings of the event shall be taken and retained by the beneficiary for reporting and audit purposes. These photographs and / or recordings are to clearly show the visual identity requirements;
 - e) Copies of all documentation including original signed attendance sheets and forms are to be retained for reporting and audit purposes.
2. Where applicable, posters / signs shall be:
- a) Positioned at sites which are clearly visible to participants and the public, such as in or outside training rooms, reception areas, hallways and entrances;
 - b) Designed in such a way that at least 25% of the poster is dedicated to the:
 - i. Name and type of the project;
 - ii. Visual identity requirements.

Further detail on the technical specifications of compulsory posters, together with illustrations, can be obtained from the visual identity guidelines,

<http://eufunds.gov.mt/en/EU%20Funds%20Programmes/Agricultural%20Fisheries%20Fund/Documents/EMFF%202014-2020/Technical%20characteristics%20of%20information%20and%20publicity%20measures.pdf>.

11.9 Optional information and communication measures

In addition to the measures outlined above, beneficiaries may choose from a wide range of optional information and communication measures to publicise their projects as required as long as these are reasonable and in proportion to the rest of the project. When implementing information and communication measures, beneficiaries are advised to make sure that these measures comply with the requirements mentioned in this Manual and in the visual identity guidelines.

12. Delegation of authority

12.1 Delegating authority

1. A beneficiary organisation is responsible for the entire implementation of its project.
2. A Project Leader represents the beneficiary on all matters related to the project.
3. Where it opts for external project management, a beneficiary is expected to explain to the MA the internal checks and balances introduced within the beneficiary organisation to make sure that the beneficiary retains full control and decision-making rights on the project. No beneficiary should be represented by external project management at any meetings concerning the project, unless otherwise approved by the MA.
4. In order to make sure that a beneficiary retains full control of the project, it is advisable to nominate a contact person, in addition to the Project Leader.
5. In cases where tight deadlines are involved, such as certification of works, invoices and ISCs, a Project Leader may delegate authority to the contact person or other officials. This option should only be exercised when the Project Leader is abroad, on sick leave or vacation leave.
6. In cases approved by the MA, the Project Leader may assign an open delegation of authority to a designated person within the Project Leader's office to:
 - a) Certify correct and sign invoices / reimbursement requests;
 - b) Insert and confirm invoice / reimbursement request details in the EAFRD Database;
 - c) Create and endorse Invoice Status Certificates; and / or
 - d) Upload scanned copies of invoices / reimbursement requests, proofs of payment and any other necessary supporting documentation on the EAFRD Database. In such circumstances, it is the responsibility of the Project Leader and the beneficiary to make sure that such delegation of authority is adequately documented, covers a definite time period and is supervised.

Only one person shall perform all actions outlined in (a) to (d) above. Multiple signatures are not permitted.

7. Where a Project Leader delegates duties to officers within the beneficiary organisation, the Project Leader must complete the appropriate Delegation of Authority Form <https://eufunds.gov.mt/en/EU%20Funds%20Programmes/European%20Agricultural%20Fund/Pages/Manual-of-Procedures.aspx> authorising the officer concerned to carry out specific tasks on his / her behalf. The Project Leader should forward the Delegation of Authority Form to the MA before the delegate starts executing the assigned duties.
8. It should be noted that while functions can be delegated, responsibility **remains with the Project Leader**.
9. The Delegation of Authority Form must be completed by the Project Leader and signed by both parties.
10. The provisions of this section also apply to the LM function. A DPDPI may delegate authority to another officer within his / her directorate to certify invoices on his / her behalf. A specific or general delegation may be applied, but the ultimate responsibility remains with the DPDPI.

12.2 Termination and change of Project Leader

1. Should there be a change in Project Leader, the current PL and the newly appointed PL should draw up a letter informing the MA that the current PL will be terminating his / her Project Leadership <https://eufunds.gov.mt/en/EU%20Funds%20Programmes/European%20Agricultural%20Fund/Pages/Manual-of-Procedures.aspx>. The letter should specify the name and designation of the officer taking over the Project Leadership and the effective date of take over.
2. Where both parties are available, the letter should be signed by both outgoing and newly appointed Project Leaders and endorsed by the Permanent Secretary / legal representative of the beneficiary⁴⁰, as per specific form. This procedure also applies for Project Leaders who would be retiring from their post within the

⁴⁰ In the case of NGOs. On the other hand, in the case of Local Councils, the change should be endorsed by the mayor and executive secretary.

beneficiary organisation. In the case of public sector projects, the LM shall make sure that the above procedure has been undertaken in time and that an effective hand over has been given to the new Project Leader to ensure the smooth continuation of the project.

3. Beneficiaries should make sure that the post of the Project Leader remains occupied **until the end of the document retention period as indicated in chapter 12 of this manual**. Beneficiaries can be required to report to the MA and CB (amongst others) even after termination of the project, mainly in the context of the closure of the programme period (3 years from closure of the Programme by the EC) and possible ad hoc audits by European institutions or national authorities.

13. Retention of documents

13.1 General remarks

All documentation related to projects shall be kept available for control and audit purposes up to at least a two (2) year period from the 31st December following the submission of the accounts in which the final expenditure of the completed Project is included. The ARPA will notify such submission dates. in accordance with Article 140 of Regulation (EU) N° 1303/2013 and/or as stipulated in the Grant Agreement. This applies to all organisations benefiting / or involved in the management of ESI Funds 2014-2020.

13.2 Records to be retained

1. In line with Article 140 of Regulation (EU) N° 1303/2013, all the documents related to a project and expenditure shall be made available during audit missions. Beneficiaries must make sure that the following are available:
 - a) Documents relating to specific expenditure incurred, declared and paid under the assistance, and required for a sufficient audit trail including documents constituting proof of actual delivery of works / supplies / services co-financed through an EU grant;
 - b) Reports and documents relating to checks carried out through:
 - Verification of expenditure;
 - Certification of expenditure;
 - Audits performed by the audit authority (IAID).

The rules regarding document retention apply to all stakeholders involved in delivering and administering ESI Funds, including MA, ARPA, the Department of Contracts, ARPA, LMs, etc. In this regard, **in relation to procurement by contracting authorities falling under Schedule 2 of LN 352/2016 and whose value exceeds the €144,000 threshold**, originals of documents should be retained by the Department of Contracts. Beneficiaries are still required to retain copies of documents originating at their end.

2. As indicated in the 'Documents to be retained' table, beneficiaries and other ESI Funds stakeholders are required to retain documents.
3. Documents must be kept by a competent officer on commonly accepted data carriers. They include:
 - a) Original documents;
 - b) Photocopies of original documents;
 - c) Microfiches of original documents;
 - d) Electronic versions of original documents on data carriers (such as hard-disks, DVDs, USB sticks);
 - e) Documents existing in electronic version only.
4. It is the sole responsibility of beneficiaries to ensure easy and quick access to project documentation also after the project closes. This is particularly the case when project management is entrusted either outside the organisation or to persons on contracts that may terminate at the end of the project.
5. Where originals are required and these cannot be kept in files, copies of original documents must be certified as true copies of originals. The person certifying such copies, is dependent on the documents being copied (i.e. which stakeholder in the implementation system). In the case of beneficiaries, documents should be signed by the Project Leader (or delegate) and, in the case of LMs, by the DPDPI / DCS (or delegate).

13.3 Records to be uploaded on the EAFRD Database

1. The ARPA and MA are responsible for uploading documentation on the EAFRD Database..
2. Documents are to be uploaded on the EAFRD Database in the available permissible formats. Assistance on how to upload the documents on the Database will be given by the ARPA and MA during the implementation of the EAFRD programme.

13.4 Data protection

All beneficiaries are reminded to adhere to the Data Protection Act, 2001, other subsidiary legislation and the internal policy of the respective organisation.

13.5 Filing system for project related documentation

1. Each standard project file should be divided into the sections identified below (with separators) and should strictly follow the same order, with section (i) on top:
 - i. Original Application Form, Letter of Approval, Grant Agreement and Addenda to the Grant Agreement;
 - ii. General Correspondence, mostly related to the Grant Agreement;
 - iii. Payment Process (copies of invoices, ISCs and fiscal receipts and other proofs of payment as applicable);
 - iv. Verification Process (including administrative and physical on-the-spot checks reports);
 - v. Certification Process;
 - vi. Procurement and Employment Procedures;
 - vii. Monitoring;
 - viii. Irregularity Reports;
 - ix. Project Deliverables and Inventory of Fixed Assets procured by Project;
 - x. Information and Communication Records;
 - xi. Training records.
2. The documents included under each of the above-mentioned sections should be filed in date order, with the most recent documents on top.
3. It is preferable that a beneficiary retains a separate file for each project, with each file wholly devoted to matters related to a single project, it is understandable that the beneficiary might already have internal filing procedures to be adhered to (e.g. in relation to procurement, human resource recruitment and selection). In order to avoid unnecessary duplication of documents and administrative burden, a beneficiary may maintain its own filing system AS LONG AS all necessary documents may be retrieved through an easy tracking system (e.g. indexing).
4. Government departmental files must be kept in line with the department's procedures.

