



**MANUAL OF PROCEDURES
FOR PROJECTS IMPLEMENTATION
COHESION POLICY 2007 – 2013
MALTA**

GUIDE TO BENEFICIARIES

The purpose of this Manual of Procedures is solely to provide guidance to Beneficiaries. It should be interpreted in conjunction with the general principles as laid out in: Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund; Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the European Regional Development Fund; Regulation (EC) No 1081/2006 of the European Parliament and of the Council of 5 July 2006 on the European Social Fund; Council Regulation (EC) No 1084/2006 of 11 July 2006 establishing a Cohesion Fund; Commission Regulation (EC) No 1828/2006 of 8 December 2006 setting out rules for the implementation of Council Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and of Regulation (EC) No 1080/2006 of the European Parliament and of the Council on the European Regional Development Fund.

These Guidelines cannot in any way override the general principles included in the above mentioned Regulations¹ and any subsequent amendment.

¹ http://ec.europa.eu/regional_policy/sources/docoffic/official/regulation/newregl0713_en.htm

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List of Acronyms

AA	Audit Authority
AG	Accountant General
AIR	Annual Implementation Report
CA	Certifying Authority
CAN	Contract Award Notice
CBM	Central Bank of Malta
CF	Cohesion Fund
CV	Curriculum Vitae
DAS	Departmental Accounting System
DoC	Department of Contracts
DCS	Director Corporate Services
DPI	Director Programme Implementation
EAFRD	European Agricultural Fund for Rural Development
EE	Energy Efficiency
EC	European Commission
EFF	European Fisheries Fund
ESF	European Social Fund
ERDF	European Regional Development Fund
eRFS	Electronic Request for Service
EU	European Union
GCC	General Contracts Committee
IAID	Internal Audit and Investigations Directorate
IB	Intermediate Body
ISC	Invoice Status Certificate
KNDP	National Commission for Persons with a Disability
LM	Line Ministry
L.N.	Legal Notice
MA	Managing Authority
MC	Monitoring Committee for Structural Funds
MCA	Malta Communication Authority
MSDEC	Ministry for Sustainable Development, the Environment and Climate
MEDE	Ministry of Education and Employment
MEIB	Ministry for the Economy, Investment and Small Business
MEPA	Malta Environment and Planning Authority
MFIN	Ministry for Finance
MITA	Malta Information Technology Agency
MITC	Ministry for Infrastructure, Transport and Communications

MoP	Manual of Procedures for Structural Funds
MoT	Ministry of Tourism
MPSC	Ministerial Projects Steering Committee
MRA	Malta Resources Authority
NAO	National Audit Office
NCPE	National Commission for the Equality for Men and Women
NSRF	National Strategic Reference Framework
OJEU	Official Journal of the European Union
OP	Operational Programme
OTS	On the Spot Check Report
PAHRO	Public Administration HR Office
PCAB	Public Contracts Appeal Board
PL	Project Leader
PPCD	Planning and Priorities Co-ordination Division
PSC	Project Selection Committee
PSAB	Project Selection Appeals Board
RES	Renewal Energy Resources
SAMB	State Aid Monitoring Board
SC	Steering Committee
SCC	Special Contracts Committee
SFD 07-13	Structural Funds Database 2007-2013
TA	Technical Assistance
ToR	Terms of Reference
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 EU's Cohesion Policy 2007-2013.
2. The financial instruments of Cohesion Policy 2007-2013 are the Structural Funds (ERDF and ESF) and the Cohesion Fund. The objective of each of the Funds can be summarised as follows:
 - The **European Regional Development Fund (ERDF)** aims to promote investment and correct the main regional imbalances of the European Union. ERDF contributes to reducing the gap between the levels of development of the various regions and the extent to which the least favoured regions are lagging behind.
 - The **Cohesion Fund (CF)** aims to strengthen the economic and social cohesion in the Community, in the interest of promoting sustainable development, particularly in the domains of trans-European transport networks and the protection of the environment.
 - The **European Social Fund (ESF)** aims to contribute to the European Union's economic and social policy by improving employment and the possibilities of employment, encouraging a high level of employment and more and better jobs.
3. The **Structural Funds and the Cohesion Fund** are allocated according to a strategic plan drawn up by Malta. This plan is referred to as Malta's National Reference Framework Document (NSRF). It can be downloaded from <https://eufunds.gov.mt>.
4. The NSRF is complemented by two Operational Programmes which each set out the priority areas in which the Structural funds and the Cohesion Fund will be utilised. These are referred to as Operational Programme I [henceforth OPI] and Operational Programme II [henceforth OPII].
5. Operational Programme I (OP I) sets out the priorities and focus areas in which projects will be implemented through ERDF and the CF while Operational Programme II (OPII) establishes the priorities and focus areas in which projects will be implemented through ESF. Both OP I and OP II can be downloaded from <https://eufunds.gov.mt>. This manual covers both Operational Programmes.
6. In Malta the overall co-ordination and management of the Structural Funds and the Cohesion Fund falls under the direct responsibility of the Planning and Priorities Co-ordination Division (PPCD) within the Ministry for European Affairs and Implementation of the Electoral Manifesto (PPCD within MEAIM). PPCD is the designated Managing Authority for both Operational Programmes.
7. It is important to note that projects implemented through the above mentioned Funds always require both EU and National Public funds. An element of co-financing from voluntary organisations or the private sector may also be applicable in the case of projects implemented by these organisations.
8. The main Regulations which lay down the general provisions for the 2007-2013 programming period are:
 - I. Council Regulation (EC) No. 1083/2006 of 11 July 2006 as amended by Council Regulation (EC) No. 1989/2006 of 21 December 2006; No 1341/2008 of 18 December 2008; No 284/2009 of 7 April 2009; and by Regulation (EU) No 539/2010 of the European Parliament and of the Council of 16 June 2010 laying down general provisions on the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the Cohesion Fund (CF) and repealing Regulation (EC) No. 1260/1999;
 - II. Regulation (EC) No 1080/2006 of the European Parliament and of the Council of 5 July 2006 on the ERDF as amended by Commission Regulation (EC) No 397/2009 of the European Parliament and of the Council of 6 May 2009; (EC) No 846/2009 of 1 September 2009; and by Regulation (EU) No 437/2010 of the European Parliament and of the Council of 19 May 2010 amending Regulation (EC) No 1080/2006;
 - III. Regulation (EC) No 1081/2006 of the European Parliament and of the Council of 5 July 2006 on the ESF as amended by Commission Regulation (EC) No 396/2009 of the European Parliament and of the Council of 6 May 2009 and repealing Regulation (EC) No. 1784/1999;
 - IV. Regulation (EC) No 1084/2006 of the European Parliament and of the Council of 5 July 2006 on the Cohesion Fund repealing Regulation (EC) No. 1783/1999 and Regulation (EC) No. 1164/94 respectively; and
 - V. Commission Regulation (EC) No. 1828/2006 of 8 December 2006 as amended by Commission Regulation (EC) No 846/2009 of 1 September 2009 and Commission Regulation (EU) No 832/2010 of 17 September 2010 setting out rules for the implementation of Council Regulation (EC) No. 1083/2006 laying down general provisions on the ERDF, the ESF and the Cohesion Fund and of Regulation (EC) No. 1080/2006 of the European Parliament and of the Council on

the ERDF and of Regulation (EC) No. 1084/2006 of the European Parliament and of the Council on the Cohesion Fund.

- VI. Beneficiaries should note that this list is not exhaustive and is subject to change according to any changes initiated by the European Commission.
9. This MoP provides guidance for projects co-financed through OPI and OP II. In the case of the Aid Schemes managed by Intermediate Bodies further guidance notes will be issued in relation to the implementation of aid schemes for businesses under Article 107 of the Treaty².
 10. In the case of projects which will involve a call for applications to the general public or segments thereof, such is the case of scholarships for students and energy schemes for households further guidance is also issued by the organisation responsible to manage these projects. Such guidance may supersede some of the provision within the MoP and the National Eligibility Rules.
 11. 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 Managing Authority.
 12. This is a revision of the MoP (version 5) to simplify guidance being provided in the implementation of the SF/CF projects.

² The Treaty of the Functioning of the EU, 2009; which can be downloaded from: <http://eur-lex.europa.eu/oj/direct-access.html>

2. Roles, Responsibilities & Channels of Communication

2.1 Managing Authority (MA)

The Planning & Priorities Co-ordination Division within the Ministry responsible for EU funds. Under the principle of shared management, the Managing Authority within MEIAM retains overall responsibility for the funds and therefore any implementation queries, concerns as well as requests for further information that the 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.

Contact Details at MA:

Tel. no.: (+356) 2200 1142/3

Fax no.: (+356) 2200 1141

Email: info.ppcd@gov.mt

2.2 Certifying Authority

The EU Paying Authority Directorate within the Ministry for Finance (MFIN) will act as the Certifying Authority for ERDF, CF & ESF in terms of Article 61 of the General Regulation.

The CA is entirely responsible for the certification process as well as providing Government with information (and compile relevant reports) on requests for interim payments, funds received, debtors' ledger status and related issues and transferring funds to the MFIN Revenue Vote following receipt of Funds from the Commission in terms of Article 76 of Regulation (EC) 1083/2006.

Contact Details at NCPE:

Tel. no.: (+356) 2599 8266

Fax no.: (+356) 2599 8418

Email: payingauthority.mfin@gov.mt

2.3 Audit Authority

The Internal Audit & Investigations Department (IAID) is the designated Audit Authority under Article 62 of the General Regulation. 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 IAID can be contacted on:

Tel. no.: (+356) 2123 7737

Fax no.: (+356) 2123 7681

Email: info.iaid@gov.mt

2.4 Intermediate Body (IB)

Intermediate Bodies are public organisations identified by the Member State that carry out some functions on behalf of the Managing Authority. In Malta, IBs are public bodies charged with the implementation of aid schemes under Article 107 of the Treaty. In this case, the Beneficiaries are the enterprises receiving aid under the scheme.

There are three IBs under the ERDF³ and one IB under the ESF⁴. There are no IBs for the Cohesion Fund. In the case of aid schemes specific guidance notes are issued by the relevant Intermediate Body. Requests for information concerning the IBs can be sent to the Managing Authority.

2.5 Line Ministry (LM)

1. In most cases the Director Programme Implementation (DPI) and/or the Director for EU Affairs is responsible for the Line Ministry function. The DPI has to ensure 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.
2. The Line Ministry 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 MA and other horizontal stakeholders; processing of the second stage of the payment process (including SFD input) and submission to Treasury once documentation is correct; monitoring of projects falling within the Ministry's portfolio, including the endorsement of the Project Progress Reports; and following up on any issues arising from management checks and audits.
3. Voluntary Organisations will process payment through the Director Programme Implementation within the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties, whilst Local Councils through the Ministry for Justice, Culture and Local Government⁵.
4. The list of the Directors can be found on:
<https://www.gov.mt/en/Government/Government%20of%20Malta/Ministries%20and%20Entities/Pages/Ministries-and-Entities.aspx> under the contact details of each respective Ministry

2.6 Beneficiary

1. The Beneficiary is the organisation responsible for the implementation of the project. The Beneficiary has signed a grant agreement with the Managing Authority and the project must be implemented in line with this Agreement. The Beneficiary is responsible to implement the operation in line with the relevant terms and conditions of the Grant Agreement signed with the Managing Authority as well as this MoP. The Beneficiary shall always be guided by the principles of good governance and sound financial management.
2. The Grant Agreement signed between the Managing Authority and the 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 terms and conditions of the said agreement and any requests for changes shall be notified to the desk officer within the MA (and or Intermediate Body in the case of aid schemes) within good time to allow for an assessment by the MA (or the IB as the case may be) of the request and its relevant approval (or rejection). Approvals are sent to the Beneficiary in writing and these are then generally followed up in an addendum. 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 reduction of administrative burden, an addendum may incorporate several changes that have taken place over a span of time. No unilateral changes (from the Beneficiary) to the Grant Agreement shall be accepted by the MA.
3. In the case of Aid Schemes under Article 107 of the Treaty, the Beneficiary is the undertaking (enterprise) implementing a project awarded by the Intermediate Body. In this case, the Beneficiary has signed a Grant Agreement with the Intermediate Body and the Beneficiary shall ensure that the project is implemented in accordance with the terms of the said agreement and guidance issued by the IB. The Beneficiary shall always be guided by the principles of good governance and sound financial management.
4. The list of Beneficiaries can be obtained from the PPCD website <https://eufunds.gov.mt/> or by sending an e-mail to info.ppcd@gov.mt.

³ Malta Enterprise (MEIB), Ministry responsible for Tourism) and Department for Social Welfare Services (MFSS)

⁴ Employment and Training Corporation (ETC)

⁵ For further information on the Payment Process, refer to Chapter 5 of this MoP and to the Manual issued by Treasury.

2.7 Department of Contracts (DoC) ⁶

1. The Department of Contracts (DoC) within MFIN is responsible for the administration of the procurement procedures as laid down in the Public Procurement Regulations 2010 (L.N.296 of 2010, repealing L.N177 of 2005 and corresponding amendments), which came into force on 1st June 2010. The DoC provides guidance and advice to Beneficiaries on all issues pertaining to public contracts. Within the legislation, the DoC is known as the Central Government Authority whereas the agency procuring the goods/services/works is known as the Contracting Authority.
2. The DoC ensures 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 Department of Contracts are outlined in Article 6 of L.N.296/2010.
4. It is the responsibility of ALL Beneficiaries (even those not falling within the direct remit of the DoC such as voluntary organisations, local councils and other Schedule 3 of L.N. 296 of 2010 and any amendment entities) to seek the advice of the DoC on procurement issues.

Contact Details at DoC are:

Tel. no.: (+356) 2122 0212

Fax no.: (+356) 2124 7681

Website: www.contracts.gov.mt

etenders.gov.mt

Email: info.contracts@gov.mt

2.7.1 Departmental Adjudication Boards

1. Departmental Adjudication Boards are boards or committees appointed by contracting authorities with the purpose of evaluating departmental tenders received and for making recommendations thereon.
2. Taking into account the principle proportionality, it is recommended that Departmental Adjudication Boards use templates and procedures available on the DoC website (with applicable amendments that have to be undertaken by the relevant contracting authority) and consult the DoC where further information on the procedure is required. It is also highly recommended that the Boards refer to the Manual for Evaluation Committees, issued by the DoC and available at: <https://secure2.gov.mt/EPROCUREMENT/templates> under Manual for Evaluation Committees”.

2.7.2 Departmental Contracts Committee

For the purpose of EU funding implementation, this refers to the Committee set up in terms of Regulation 9(1)(b) of the Public Procurement Regulations with the purpose of making definite recommendations for the award of public contracts whose value is less than €47,000.

2.8 Accountant General (AG)/Treasury

1. The Accountant General (AG) is also referred to as the Director General (Treasury). The AG heads the Treasury Department within MFIN. Within the context of implementation of OP I & II, the Treasury is responsible for:
 - i. Receiving requests for payment/reimbursements (from the Line Ministry) to contractors and Beneficiaries (as the case may be);
 - ii. Carrying out relevant checks, particularly that the expenditure and supporting documentation are correct and in line with national Financial Regulations; and
 - iii. Effecting payments/reimbursements to contractors and Beneficiaries in respect of expenditure incurred for approved projects.

⁶ The Department of Contracts is involved in tenders where costs (excluding VAT) are above Euro 47,000

Contact Details at Treasury are:

Tel. no.: (+356) 2596 7131/ 183

Fax no.: (+356) 2596 7208

Email: eufmu@gov.mt

2.9 Contractor

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

2.10 Monitoring Committee

A Monitoring Committee (MC) has been established for each OP in line with Article 63 of Council Regulation 1083/2006. The Committee has its own terms of reference (in line with Article 65 of the same Regulation) and is chaired by the Principal Permanent Secretary (or his representative). Each Committee comprises Government representatives, social and economic partners, representatives of the civil society, the European Commission and the European Investment Bank. The Monitoring Committees for each OP are charged with overseeing the implementation of both Operational Programmes in Malta.

2.11 Ministerial Projects Steering Committee⁷

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

2.12 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 Cohesion Policy 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 voluntary organisations) as the external auditor of Government.

Contact Details at NAO are:

Tel. no.: (+356) 2205 5555

Fax no.: (+356) 2123 8918

Email: nao.malta@gov.mt

2.13 Channels of Communication

The following lines of communication shall be adhered to:

1. Only the MA, the CA and the AA (in their respective roles, through the official channels) shall directly

⁷ This is referred to in the Operational Programme as Project Steering Committee

- communicate with the European Commission on issues pertaining to Cohesion Policy 2007-2013.
2. As secretariat to the MC, it is only the MA that will communicate with the MC on issues pertaining to Cohesion Policy 2007-2013. Members should send their comments to the MA for distribution.
 3. In terms of project implementation, the MA will communicate with the Beneficiary and (in the case of public sector projects) the Line Ministry (Director Programme Implementation) on issues pertaining to the project. In the case of public sector projects, communication between the Beneficiary and the MA shall be copied to the Line Ministry.
 4. It is the responsibility of the Beneficiary to consult the relevant national authorities on issues pertaining to the project being implemented by that Beneficiary (e.g. DoC on procurement; Treasury on payments; MEPA on planning and environmental permits; SAMB on state aid; KNPD and NCPE on equal opportunities; the VAT department on issues related to VAT).
 5. The Beneficiary and the Line Ministry shall ensure continuous communication with the relevant stakeholders to guarantee that the payment process is moving ahead accordingly and within acceptable timeframes.
 6. Any changes to the implementation (including changes in Project Leader and/or contact persons) shall be communicated immediately to the desk officers and Head of Programme within the MA. The relevant template in Chapter 11 is to be filled in. The MA shall also inform Beneficiaries/IBs of changes in desk officers assigned to the project.
 7. Any other queries pertaining to implementation in general can be addressed to the MA.
 8. Beneficiaries, Line Ministries and Heads of Organisations should note in particular that they should inform the MA immediately in the case of SFD 07-13 users who are transferred to another organisation or have left the project. This information should be sent to the SFD Unit, the OP Unit, the respective Information Management Unit and the Line Ministry (where applicable). It is the responsibility of the Beneficiary to inform the stakeholders accordingly. An electronic Request for Service (ERFS) must be raised by the user's entity through the respective Information Management Unit (or equivalent) in order to deactivate the account, before the account is closed.
 9. SFD07-13 users should note that trainers on the system have been appointed within their organisation or the Ministry. Those users requiring assistance in using the database management system, including payment processing, should consult the tutorials uploaded on PPCD website⁸ and contact the respective SFD Trainers within the organisation or the Ministry. Where users do not know who the respective trainer(s) is/are, they should contact the Head of the organisation or the OP Unit. Any SFD 07-13 queries should be channelled through the respective trainer(s) in line with MA Circular 05/2010.

⁸ <https://eufunds.gov.mt/en/Operational%20Programmes/Structural%20Funds%20Database/Pages/Tutorials.aspx>

3. Compliance with Community Policies: Public Procurement, State Aid, Equal Opportunities and Sustainable Development

3.1 Introduction

The 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 in the General Regulation under Articles 16 and 17 respectively and shall be incorporated into Cohesion Policy projects.

3.2 Public Procurement

All Beneficiaries should ensure that any procurement for projects co-funded by the Structural Funds and Cohesion Fund is carried out in line with the principles of non-discrimination, equality of treatment, transparency, mutual recognition, proportionality and good governance. Public entities are to ensure that procurement is carried out in line with the Public Procurement Regulations applicable at the time of implementation. In this regard, it is highly recommended that Beneficiaries ensure compliance with requirements imposed by DoC through the relevant Circulars which are regularly published on <https://contracts.gov.mt/en/Circulars/Pages/Circulars.aspx>.

Other agencies not governed by the said Public Procurement Regulations are to ensure that they follow the spirit of the Regulations and respect the thresholds therein, particularly with regard to publication of the tender dossier.

The Head of the Beneficiary organization (or its legal representative) is responsible to ensure that all contracting procedures are carried out in a spirit of good governance, fairness, transparency and non-discrimination between economic operators and in line with the Public Procurement Regulations.

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 ensure that bids are administratively, technically and financially compliant with the tender conditions.

Private Beneficiaries are to follow any guidance on procurement as recommended by the MA and/or IB.

Failure to comply with the Public Procurement Regulations could lead to the recovery of funds. The European Commission 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 Cohesion Policy Funds⁹. Should such irregularities be detected by the Commission 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.

3.3 State Aid Requirements

3.3.1 General Notes for Project Proponents

1. EU State Aid rules apply to projects which involve any direct (or indirect) financial support from the public sector to commercial enterprises or organizations carrying out an economic activity or if in some way the assistance involved distorts trade or threatens to distort competition within the Community.
2. Project applicants have a duty to ensure compliance with State Aid rules and applicants are encouraged to hold discussions with the State Aid Monitoring Board (SAMB) prior to submission of a project application proposal.
3. Should the nature of the project change during its life-time and/or after completion, thereby introducing the possibility of State Aid, the Beneficiary shall report this change to the Managing Authority without delay. Failure to report such change may result in loss of funds to the Beneficiary.
4. Beneficiaries should note that other changes involving State Aid implications could also result in recoveries being imposed on the project.

⁹ 'Commission Decision of 19.12.2013 on the setting out and approval of the guidelines for determining financial corrections to be made by the Commission to expenditure financed by the Union under shared management, for non-compliance with the rules on public procurement'

3.3.2 State Aid Schemes (under Article 107 of the Treaty)

1. Under both Operational Programme I and Operational Programme II, State Aid can be granted under a scheme designed and implemented by one of the Intermediate Bodies. In this regard it is the responsibility of the Intermediate Body to notify the State Aid to the SAMB and ensure that there is approval for the State Aid to be granted.
2. The Intermediate Body has the responsibility to monitor aid based on the information supplied by the Beneficiary and report on the aid in line with the covenant established between the Intermediate Body and the Managing Authority. Beneficiaries of Aid Schemes may refer to the relevant Intermediate Body or to the State Aid Monitoring Board for further information.

Contact Details at State Aid Monitoring Board (SAMB)

Executive Secretary - State Aid Monitoring Board

Tel. no.: (+356) 2125 2757

Email: yana.haber@gov.mt

3.4 Equal Opportunities

1. Equal Opportunities is a cross-cutting theme and all efforts should be made by the Beneficiary to include this element within the project and the effort undertaken needs to go beyond legislation obligations. In accordance with Article 16 of the General Regulation, 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 Cohesion Policy 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 (NCPD) 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 Cohesion Policy. Beneficiaries should ensure that any advertising and/or marketing activities undertaken within the project are free from stereotyping or any form of discrimination.

Contact Details at NCPE:

Tel. no.: (+356) 2590 3850

Email: equality@gov.mt

Contact Details at NCPD:

Tel. no.: (+356) 22788555

Email: helpdesk@knpd.org

3.5 Sustainable Development

3.5.1 General Sustainable Development

1. Article 17 of the General Regulation stipulates that the objectives of the Funds shall be pursued in the framework of sustainable development. 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 the project.
2. Beneficiaries must ensure that the project is structured in such a manner that sustainable development issues are mainstreamed throughout the project's aims and operations.
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.

3.5.2 Environmental Sustainability

1. Beneficiaries should ensure that a project is structured in such a way so as to ensure that environmental sustainability is mainstreamed in the project's aims and throughout its life-time.
2. Carbon neutrality is an important element for projects co-financed under Operational Programme I. 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 energy efficient/renewable energy sources measures within the project.

3.6 Environment and Planning

As explained above, Project Leaders must ensure that Planning Regulations and obligations are followed and that environmental issues are taken into consideration throughout the project 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 within the Malta Environment and Planning Authority may provide advice on the environmental and planning permits.

Contact Person at MEPA [Planning and Environment] is:

Perit Victor Sladden
Email: victor.sladden@mepa.org.mt
Tel: 2200 1071

3.7 Innovation, Trans-national & Interregional Co-operation

1. In addition to the above mentioned horizontal priorities, projects co-financed by ESF under Operational Programme II shall make an effort to take into consideration the horizontal principles of innovation & trans-nationality.
2. Article 3(5) of Regulation 1081/2006 establishes that ESF shall support the promotion and mainstreaming of innovative activities and the purpose of innovative activities is to underpin reforms in relevant policy areas and delivery by providing evidence, experience and guidance on effective alternatives or improvements of current practices. Malta has opted to include *innovation* as a cross-cutting theme across Priority Axes within OP II and it is also part of the selection criterion for projects that are funded under OP II. Any projects that meet the principle of innovation and fit within the defined innovative actions under the respective Priority Axis, will gain additional marks during the project selection process.
3. To complement the principle of innovation, Article 3(6) of Regulation 1081/2006 establishes that ESF shall support trans-national and interregional actions. The objective is to contribute to the economic and social cohesion by improving strategy and delivery of employment, education, vocational training, social inclusion, equality and capacity building policies through *collaboration* across national borders. Malta believes that there is a lot to gain from the experience of other regions and has decided to allocate specific marks in the selection process for transnational and interregional co-operation which is implemented as a supporting action to projects which are innovative in nature.
4. Beneficiaries implementing trans-national and interregional co-operation projects need to demonstrate that their project will explore the application of solutions being utilised in other Member States in relevant policy areas, to the local scenario. In this regard Beneficiaries shall seek to ensure that partners do have the necessary expertise in the area of *co-operation and*, when claiming funds from the project, the capacity to adhere to the national eligibility rules.
5. Beneficiaries of Trans-national and interregional co-operation can implement their project/s through sharing of information, experiences, results, good practices and through the development of complementary approaches and co-ordinated or joint actions.

4. Contracting

4.1 Introduction

1. Beneficiaries should note that EU Funds are public funds and EU Funded projects are subject to audits by various National and EU auditing 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 Department of Contracts (DoC). **The MA insists that advice should be sought from the DoC on ALL ISSUES pertaining to contracting.**
3. When preparing the tender dossier, the Beneficiary must refer to the Public Procurement Regulations 2010 (L.N.296 of 2010) or any subsequent amendments. **Beneficiaries not bound by the Public Procurement Regulations. Voluntary organisations and non-public organisations are encouraged to follow the spirit of the Regulations. In any case the principles of transparency, fair competition and good governance should always apply.**
4. In accordance with **Contracts Circular No. 13/2010** tenders of EU projects with an estimated value of €47,000 (exc. VAT) or higher shall continue to be vetted, published and awarded by the Department of Contracts.
5. The relevant tendering templates are available from the Department of Contracts and beneficiaries should consult the Department of contract for such template. 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, time consuming and expensive 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.
6. Local Councils and other Schedule 3 entities (refer to L.N. 296 of 2010 or subsequent amendments/regulation), shall ensure that tenders issued for Cohesion Policy projects follow the principles as outlined within such regulation. With regard to documentation checklist (i.e. which documents will be required for the purpose of controls), Local Councils should refer to the MA's Administrative verifications template for Local Council, under section 6.2.2
7. Voluntary organisations and non-public organisations that are not bound by the public procurement regulations, shall ensure that when implementing Cohesion Policy projects, they are guided by the spirit of the same regulations and the principles of non-discrimination, equality of treatment, transparency, mutual recognition, proportionality, open competition, sound financial management and good governance. With regard to a documentation checklist (i.e. which documents will be required for the purpose of controls), these organisations should refer to the MA's administrative verifications template for VOs, under section 6.2.2.

4.2 General Principles

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

The following principles must be observed for all contracts.

General Issues :

1. Beneficiaries are to ensure that contracting is in line with the approved project proposal and reflected in the Grant Agreement.
2. Tenders are initiated by the Beneficiary organisation as the Contracting Authority. The Beneficiary organisation is also responsible for the management of the contract.
3. Beneficiaries are to ensure consistency and compliance with Cohesion Policy publicity requirements when drafting or using tender and contract templates (issued by the Department of Contracts or your Department/Ministry as Departmental Calls for Tenders), and when issuing adverts relating to Structural and Cohesion Funds published on Government Gazette and on any other publications¹⁰.

¹⁰ Refer to Visual Identity Guidelines, issued by the MA and uploaded on <https://eufunds.gov.mt/en/Operational%20Programmes/Publicity/Pages/Cohesion-Policy-2007-2013.aspx>

4. Tenders must be evaluated by an evaluation committee. It is highly recommended that the Boards refer to the Manual for Evaluation Committees, issued by the DoC.
5. Selection and Award criteria must be stipulated in advance and tenders are to be evaluated only on those pre-established criteria. No other criteria can be used for the evaluation of the tender. Experience cannot be used as an award criteria.
6. The tender dossier must stipulate all items in sufficient detail in order to determine eligibility of costs under Cohesion Policy.
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 costs), 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 paid out of the EU funds, should be settled in a separate contractual arrangement.
8. When preparing the tender dossier, the Beneficiary must observe the EU requirements in particular equal opportunities and sustainable development. In executing the contract, the Beneficiary must ensure that the contractor observes EU & national legislation in relation to environment and equal opportunities and may recommend ways in which these requirements are met.
9. It is important to ensure transparency and fair competition e.g. request for quotes from different bidders and comparable quotations to choose the best option.
10. The Beneficiary should seek to consolidate the number of tenders. In the first instance, this reduces administrative burden. Moreover, unjustifiable splitting of tenders is not in line with Public Procurement Regulations and the EU Directives on Public Procurement.
11. EU Official Journal publication is compulsory for tenders exceeding certain thresholds and depending on the classification of the beneficiary as a Contracting Authority as defined in LN 296 of 2010 or subsequent amendment/regulation. These thresholds may change from time to time. It is advisable that the Beneficiary regularly consults the EU Directives on public procurement¹¹, and contacts the DoC for possible revisions to the thresholds.

Contract requirements:

1. The contract should comply with the publicity requirements as set out in the Visual Identity Guidelines issued by the MA.
2. Beneficiaries should insert the contract details, including the financial component in the SFD 07-13 as soon as the contract is awarded, to ensure data accuracy in the system.

Currency and payment schedule:

1. All tenders must be issued in Euro and all contracts must be signed in Euro.
2. Payments will be in Euro. In case of payment not in Euro, their Euro equivalent will generally be calculated on the basis of the exchange rate of the actual payment.
3. The Beneficiary is advised to prepare a payment schedule which must be included in the special conditions of the tender dossier and which should generally be consistent with what has been agreed in the Grant Agreement¹².
4. The Contractor shall issue the invoice according to the stipulated conditions in the contract and deliver the invoice to the Beneficiary implementing the project.
5. **Financial Identification Form (TRS 9)** - Whenever the Beneficiary receives an invoice for the first time from a Contractor, the Treasury asks the Beneficiary to provide a [Financial Identification Form \(TRS 9\)](#) filled in by the Contractor. In this form, the Treasury will have the necessary information on the Contractor for the proper execution of the bank credit transfer. This form needs to be sent to Treasury prior to insertion of invoice in the SFD 07-13.

¹¹ http://ec.europa.eu/internal_market/publicprocurement/rules/current/index_en.htm.

¹² When deciding on the payment schedule, Beneficiaries should be guided (where possible) by the disbursement schedule in the Grant Agreement signed with the MA

6. It is important for Beneficiaries to note that should the Contractors' financial details change throughout the execution of a contract, the Beneficiary is to inform the Treasury to:
 - ✓ ensure Contractor fills in a new Financial Identification Form (TRS 9) and submits the new TRS 9 for the Treasury to insert the Contractor's new details.
7. The Treasury Department will issue payment against the details of the latest TRS 9 Form.
8. The invoice 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 made via a bank credit transfer only.
9. Contractors and Beneficiaries are advised to consult the [Guidelines for Issuing Valid Invoices and Receipts](#)¹³ in particularly article 3 –Requirements and contents of an invoice.

Bank Guarantees and Retention Money:

- Where applicable, safeguards such as bank guarantees should be inserted in the tender dossier to recover funds in the case of advance payments and/or termination of contract.
- It is important to note that Beneficiaries ARE NOT TO RETAIN MONEY AT THE END OF A CONTRACT. Retention money throughout 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 whereby the Contractor will be paid all funds due upon completion of the 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. Further advice should be sought from the DoC.

4.3 Contracting Procedure

4.3.1 Procurement procedures for Public Contracts not exceeding €47,000

1. In accordance with **Contracts Circular No. 13/2010** when the estimated value of the procurement does not exceed the €47,000 threshold Beneficiaries should refer to Part II of L.N. 296 of 2010 with specific reference to Regulation 20.
2. In the case of beneficiary choosing to 'obtain' quotations from the open market (refer to Regulation 20 [1] [a] [b]), for the purpose of good governance, three-quotations should be obtained and the cheapest of three **comparable** quotations is to be selected. Other procedures may also be applicable as approved by the competent authorities.

4.3.2 Procurement procedures for Public Contracts exceeding €47,000

1. In the case of public contracts with an estimated value exceeding €47,000, the administration of the contract depends on whether the Beneficiary is listed under Schedule 2 or 3 of the Public Procurement Regulations¹⁴. Contracts 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 the Beneficiary will issue, administer and determine the public contract/s in accordance with the provisions of the Public Procurement Regulations L.N.296/2010 or any subsequent amendments/regulation. In the case of a Beneficiary falling under Schedule 3, the same procedures apply but the process is administered by the Beneficiary organisation itself rather than the DoC.
2. The Beneficiary needs to submit the Commitment Form to DoC before launching tenders with an estimated value exceeding €47,000. Depending on the source of funding, the Beneficiary should compile the [ERDF Commitment Form](#) or the [CF Commitment Form](#) or the [ESF Commitment Form](#). It is important to note that the Commitment Form must be submitted immediately as the tender cannot be launched if the Commitment Form is not 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

¹³ Prepared by the EU Certifying Authority, May 2009.

¹⁴ Beneficiaries should consult the latest version on the website as there could be changes to the schedules from time to time. The Beneficiary is to use the one applicable at the time of launching the tender.

copy to the Assistant Director (Capital Expenditure) MFIN and a copy to the Accounting Office and Director Programme Implementation of the respective Line Ministry. This procedure is not applicable to voluntary organisations and Beneficiaries falling under Schedule 3 of the Public Procurement Regulations.

3. The DoC vets the dossier and advises the Beneficiary on any amendments, if necessary. The Beneficiary will incorporate these amendments and re-submit the tender to DoC for further vetting as early as possible.
4. Once the tender vetting is completed and approval on the final text is granted, the DoC will take the necessary steps to forward the publication forms to the Official Journal (where applicable) and also to publish the tender on the Government Gazette. Any Beneficiaries wishing to give further publicity to tenders on other media should allow for publication by the DoC prior to publishing such adverts.
5. The Beneficiary is responsible for following up matters with the DoC at any step of the contracting procedure, including evaluation of tenders; adjudication and publication of results; contracting; approval for additional costs; addenda to contracts; non compliance by Contractors with Contractual Obligations; Release of Financial Guarantees; etc.

4.4 Procurement of Equipment through Cohesion Policy Funds

1. **Documentation:** When purchasing fixed assets through Cohesion Policy funds, it is important that the item is used for the specific reasons for which it was bought 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 project file. The Project Leader should ensure that all relevant documents are handed over by the supplier and filed for ease of reference, in line with the principle of sound financial management.
2. **Inventory:** It is obligatory to keep an inventory of the fixed assets and its location in file. The Beneficiary is required to fill in an [Inventory of the fixed assets list](#) of all assets and **where possible**, the following details should be included:
 - Contract No
 - Name of supplier,
 - Serial / ID No – *Where the serial numbers are not visible, a unique inventory number should be given,*
 - Purchase/installation date,
 - Total cost or value,
 - Location of asset,
 - Asset description,
 - Quantities,
 - Whether a guarantee has been applied or not.

The Beneficiary should also list any equipment that has undergone any changes since it was procured.

The Inventory List / Fixed Asset Register of each project should be frequently updated to include the relevant details of the purchased assets. The list shall be signed and certified correct by the Project Leader and a copy of the List must be sent to both the Line Ministry and the Managing Authority. In the case of Government departments, the inventory list must be endorsed by the Director Corporate Services of the Ministry concerned, whilst in the case of Authorities, Commissions, Agencies and other bodies within the public sector the Beneficiary's Financial Section/Unit should endorse the document. When Beneficiary is a Local Council or a VO the inventory list should be signed by the executive secretary or the treasurer respectively.

In the case of public entities and voluntary organisations 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 No. 14/99 (or any subsequent amendments) which refers to the Revised Inventory Control Regulations.

3. The Beneficiary must keep in mind that:
 - When fixed assets are purchased through Cohesion Policy 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 57 of EC 1083/2006).
 - The Beneficiary is to ensure that the asset comes with the appropriate warranties.
 - If any fault results in the asset, all documentation in relation to the repair must be kept and when the asset needs to be replaced, it is important that all documentation is kept on file.

- If the asset is replaced, both the old and new serial numbers must be retained. In the case of replacing assets which were purchased with funds allocated through an aid scheme, the Beneficiary must inform the IB responsible for the aid scheme.
- If asset is faulty and/or damaged and is replaced by the supplier/Beneficiary – whether under guarantee or not, the replacement must carry out the same function and be of the same or higher specifications as the asset being replaced.
- If asset is moved, such shifts need to be reflected in the Inventory.
- The Beneficiary shall ensure that the relevant publicity¹⁵ appears on the equipment purchased as well as on the relevant documentation (proportionately should apply in the case of infrastructural project whereby the whole building or area is co-funded).

4.5 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, the Beneficiary consults the Department of Contracts (in the case of public departments, entities or local councils) and the Department of Industrial and Employment Relations (all types of beneficiaries, including public, private and voluntary organisations) to identify which procedure to apply when considering the 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, beneficiaries should follow its official channel of recruitment as long as the procedure applied follows good governance, transparent and in line with national legislation.
3. **Full-time or part-time employment, with tasks solely related to the project:** If a Beneficiary employs a person on an employment contract to work solely on a project funded through the Cohesion Policy, the Beneficiary shall ensure that the person being engaged works solely on the project and does not undertake any unrelated work within the Beneficiary organisation. The time spent on the project should also be well documented and regular task based reports should be provided.
4. **Full-time or part-time trainers/employees:** Where an individual is employed on the funded-project but also undertakes other unrelated tasks within the organisation (as part of his/her job description), the Beneficiary shall be entitled to claim only that part of the salary related to tasks carried out on the project. Before claiming staff costs, the Beneficiary should ensure 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 the formula and on different pay periods (e.g. monthly, four-weekly). These are available on demand from the Financial Control Unit within the MA. The Beneficiary should ensure 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. For staff costs related to transnational partners, the Beneficiary should refer to the eligibility rules of the relevant OP. The number of hours claimed shall be supported by timesheets fully endorsed by the project leader. The timesheets need to show time in and out (not just record of the total hours worked) and a concise description of tasks carried out. In this regard the Project Leader should ensure that he/ she is able to produce regular task-based reports on any person employed under the project.
5. If a Beneficiary employs a person through an employment contract, a clause should be inserted in the contract that the employment of this person is only for a specified period (in line with the completion of the project). The Beneficiary should always seek advice from the relevant department/entity responsible of employment procedures. The Beneficiary should always ensure compliance with national legislation and be guided by the relevant internal procedures. The Managing Authority and the European Commission 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. The Beneficiary 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, progress / performance reports and lesson/course plans [in case of trainers]) are retained in file. Further detail on document retention is available in Chapter 12.

¹⁵ Refer to the Visual Identity Guidelines and/or consult the responsible officer within the Managing Authority in case of difficulties/particular cases.

5. Financial Management and Payments

5.1 Eligibility of Costs

A set of eligibility rules is available on the MA's website¹⁶. In the case of Aid Schemes, information on the eligible costs of aid schemes is available from the respective incentive guidelines issued by the Intermediate Body (grantor of aid) and ad hoc guidance issued by the IB.

5.2 Co-financing

The financing of all projects benefiting from Cohesion Policy Funds have an element of national co-financing. The eligible cost and the co-financing arrangements (Community, national public and own resources¹⁷) are outlined in the Grant Agreement¹⁸.

5.3 Government Pre-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 Beneficiary¹⁹, the Maltese Government's annual financial estimates provide for the pre-financing of the Community share of the forecasted annual eligible expenditure of the projects. The financial estimates also provide for the Maltese co-financing share of the forecast annual eligible expenditure, as well as, an allocation for other expenditure not eligible for Community co-financing (e.g. non-eligible VAT)²⁰. The Treasury pays the relevant service/supplier/works provider from the pre-financing arrangement (the annual estimates are allocated in the Government's Departmental Accounting System) following a Request for payment raised by the Beneficiary (please refer to the **ad hoc Reimbursement Request Form** to be submitted that can be found under section 5.6/2).
3. **Public/Public Equivalent Beneficiary:** In the case of projects being implemented by other Public/ Public Equivalent Beneficiary²¹, the Maltese Government's annual financial estimates provide for the pre-financing of the EU co-financing share (85% of public eligible cost) of the forecasted annual eligible expenditure of the projects. Unless otherwise indicated, the national public co-financing share of the projects is provided for from the funds of the Beneficiary (e.g. Local Council). On receipt of invoice/s, the Beneficiary's share (together with any ineligible expenditure related to the invoice), is extracted from the respective organisation's allocation. Treasury then pays the full amount of the invoice to the service/supplier/works provider on behalf of the Beneficiary, through a Request for payment raised by the Beneficiary signed (please refer to the **ad hoc Reimbursement Request Form** to be submitted that can be found under section 5.6/2).
4. **Voluntary organisations:** In the case of voluntary organisations, the (EU and national) public share (85% of public eligible cost in most instances) for the respective accounting year is allocated in the Structural Funds Item in the DAS by Government as pre-financing. Voluntary organisations shall provide for the co-financing (15% of public eligible cost, unless otherwise stipulated in the Grant Agreement, as well as any other ineligible costs). When submitting invoices to the Line Ministry, voluntary organisations attach a cheque for the amount equivalent to the voluntary organisation share of the invoice, so that Treasury then pays the full amount to the contractor (please refer to the **ad hoc Reimbursement Request Form** to be submitted that can be found under section 5.6/2).

¹⁶ Beneficiaries should ensure that they have the latest version as the list is reviewed from time to time. Information can be obtained from the MA website <https://eufunds.gov.mt/en/Operational%20Programmes/Useful%20Links%20and%20Downloads/Pages/Useful-Links-and-Downloads.aspx>

¹⁷ Where applicable.

¹⁸ The eligible cost can vary and can also change throughout the project's lifetime (e.g. due to changes in the funding gap arising from the monitoring exercise).

¹⁹ Public Sector Beneficiaries consist of Line Ministries, Government departments, public authorities, public corporations, public agencies, public commissions, and public foundations amongst others.

²⁰ In the case of some public entities/corporations the national co-financing and ineligible costs may be sourced from the entity's own resources.

²¹ Other Public or Public Equivalent Beneficiaries include Local Councils, socio-economic partners and constituted bodies.

5.4 Reimbursement of Staff Costs

Staff costs charged to the project shall be calculated in proportion to the time spent on the project in the relevant period, sufficiently substantiated by timesheets signed by the employee and endorsed by the Project Leader. The staff costs calculator may differ from one entity to another, depending mostly on the frequency of salary payments. Beneficiaries are recommended to contact the MA in order to determine which calculator to use.

For eligibility purpose, the Beneficiary shall ensure compliance with the eligibility rules of the relevant OP. To claim the reimbursement of costs related to staff costs, beneficiaries are requested to use the ad hoc form provided by the MA (please refer to the **ad hoc Reimbursement Request Form** to be submitted that can be found under section 5.6/2)

5.5 Treatment of VAT

Beneficiaries should consult with the VAT Department for all issues pertaining to VAT.

5.6 Invoices and Confirmation (Proofs) of Payment

This section includes considerations on invoices, receipts and any other proofs of payment. It should also be read in conjunction with section 12.3 (Uploading of documents in SFD).

In accordance with Article 56(1) of EC1083/2006 (and subsequent amendments) and Article 13(2) of EC1828/2006 (and subsequent amendments), expenditure claimed for reimbursement from the Funds (i.e. in the drawdown requests from the EC) must be real.

An invoice is a request for payment while a receipt (or equivalent) is a confirmation of payment.

1. Payment through the normal procedure (by Treasury direct to contractors)

- Where the invoice is a Tax invoice, its corresponding proof of payment (not a fiscal receipt) should be filed, but NOT uploaded in the SFD. Examples of such proofs are given in Table 1 below.
- Invoices which are not Tax invoices should be followed by a fiscal receipt (also not uploaded on SFD) within reasonable time of payment, unless the invoice quotes the EXO (exemption) number of the supplier. In order to ensure both objectives of fiscal validity and payment confirmation (as per Structural Funds regulations), a fiscal receipt must:
 - Contain reference to the invoice in question (invoice number). Payments on account without the relevant invoice number are not acceptable;
 - Be dated after the payment date; and
 - Including the name of the Beneficiary as recipient of receipt.

It is the responsibility of Beneficiaries to ensure that fiscal receipts (where applicable) are received in good time and filed in the payments section of the file.

2. Reimbursement Requests

In the case of reimbursement requests, the invoice and corresponding proof of payment should be filed and uploaded on SFD.

The reimbursement request form varies depending on the status of the Beneficiary and on the type of costs claimed. The Beneficiary should ensure that the correct form is being used as provided below:

- [Reimbursement Request Gov. Organisation \(Not Salaries\)](#)
- [Reimbursement Request Gov. Departments \(Not Salaries\)](#)
- [Reimbursement Request Voluntary Organisations \(Not Salaries\)](#)
- [Reimbursement Request Local Councils \(Not Salaries\)](#)
- [Reimbursement Request All Beneficiaries \(Indirect Costs\)](#)
- [Reimbursement Request All Beneficiaries \(Salaries\)](#)
- [Reimbursement Requests \(Staff Cost\)](#)

If the invoice presented is not a tax invoice (and does not contain an EXO number), a fiscal receipt should be presented as proof, containing:

- I. Reference to the invoice/s in question (invoice number/s). Payments on account without the relevant invoice number/s are not acceptable;
- II. A date occurring after the payment date; and
- III. Name of the Beneficiary as recipient of receipt.

Note on fiscal receipts: For the definition of a fiscal receipt and cases of exemption from obligation to issue a fiscal receipt, Beneficiaries should refer to the 'Value Added Tax Act'.

Table 1: Documents required for payment or reimbursement

Payment Procedure	Condition	Invoice Type	Proof of Payment Required	Uploading in SFD07-13	Filing
Direct payment (Condition 1)	<u>Tax</u> invoice issued by a person registered under Art 10 – for supplies other than exempt without credit supplies – to a person registered under Art 10 or Art 11 of the VAT Act who identifies himself with a VAT number on invoice.	Tax invoice	Any document proving payment (dated after payment date on the SFD07-13) (e.g. Central Bank debit advice, acknowledgement of receipt from supplier, etc)	Tax invoice only	Tax invoice and proof of payment
Direct payment (Condition 2)	Invoice issued by a person registered under Art 10 – for supplies other than exempt without credit supplies – to a non-registered person	Not a tax invoice + no EXO number	Fiscal Receipt dated after the actual payment date on the SFD07-13. <u>OR</u> Fiscal Receipt dated before the actual payment date on the SFD ²² <u>AND</u> further proof of payment (e.g. Central Bank debit advice, acknowledgement of receipt from supplier, etc)	Invoice only	Invoice and fiscal receipt (and any further proof where applicable)
Direct payment (Condition 3)	Invoice issued by a person registered under Art 10 – for supplies other than exempt without credit supplies – to a non-registered person)	Not a tax invoice + with EXO number	Any document proving payment (dated after payment date on the SFD) (e.g. Central Bank debit advice, acknowledgement of receipt from supplier, etc)	Invoice only	Invoice and proof of payment
Reimbursement request (Condition 1)	<u>Tax</u> invoice issued by a person registered under Art 10 – for supplies other than exempt without credit supplies – to a person registered under Art 10 or Art 11 of the VAT Act who identifies himself with a VAT number on invoice	Tax invoice	Any document proving payment (dated after payment date on the SFD 07-13)	Reimbursement request, tax invoice, proof of payment	Reimbursement request, tax invoice, proof of payment

²² If dated prior to the payment date, the fiscal receipt cannot be considered as sufficient proof and further proof is required. However, the same receipt remains fiscally valid, as per Thirteenth Schedule, point 2.

Reimbursement request (Condition 2)	Invoice (not a tax invoice) issued by a person registered under Art 10 – for supplies other than exempt without credit supplies – to a person registered under Art 10 or Art 11 of the VAT Act whether he identifies himself or not with a VAT number on invoice	Not a tax invoice	Fiscal Receipt dated after the actual payment date on the SFD. <u>OR</u> Fiscal Receipt dated before the actual payment date on the SFD ²³ <u>AND</u> further proof of payment (e.g. official cheque image from bank, bank transfer advice slip, bank statement, acknowledgement of receipt from supplier, etc)	Reimbursement request, invoice, fiscal receipt (<u>and</u> any further proof where applicable)	Reimbursement request, invoice, fiscal receipt (<u>and</u> any further proof where applicable)
Reimbursement request (Condition 3)	Invoice issued by a person registered under Art 10 – for supplies other than exempt without credit supplies – to a non-registered person	Not a tax invoice + no EXO number	Fiscal Receipt dated after the actual payment date on the SFD <u>OR</u> Fiscal Receipt dated before the actual payment date on the SFD ²⁴ <u>AND</u> further proof of payment (e.g. official cheque image from bank, bank transfer advice slip, bank statement, acknowledgement of receipt from supplier, etc)	Reimbursement request, invoice, fiscal receipt (<u>and</u> any further proof where applicable)	Reimbursement request, invoice, fiscal receipt (and any further proof where applicable)
Reimbursement request (Condition 4)	Invoice issued by a person registered under Art 10 – for supplies other than exempt without credit supplies – to a non-registered person	Not a tax invoice + with an EXO number	Any proof of payment dated after invoice date	Reimbursement request, invoice, proof of payment	Reimbursement request, invoice, proof of payment

²³ If dated prior to the payment date, the fiscal receipt cannot be considered as sufficient proof and further proof is required. However, the same receipt remains fiscally valid.

²⁴ If dated prior to the payment date, the fiscal receipt cannot be considered as sufficient proof and further proof is required. However, the same receipt remains fiscally valid.

5.7 Invoices Payment Process

1. Stakeholders involved in the payment process [Beneficiary, Line Ministries (DPI and Accounting Officers), Treasury and the Central Bank of Malta] are to ensure that the payment process moves in the shortest time possible since Malta will only be able to draw funds from the European Commission on the basis of payments effected to the contractors. It is the responsibility of the Project Leader to ensure that invoices and the relevant documentation are sent in time and correctly (i.e. first time round) in order not to slow down the process.
2. For further information related to the Payment process, the Beneficiaries should refer to Guidelines provided by Treasury Department.

5.7.1 Roles and responsibilities of all key players involved in payment process

Functions	Responsible Body
1. Certifying Works/Services/Goods and Invoicing	
<p>a) The SFD07-13 is the single channel through which requests for payment (invoices or reimbursement requests) related to the Cohesion Policy 2007-13 are processed for ultimate payment (or reimbursement) by Treasury.</p> <p>b) Tutorials for the processing of payments are available at: https://eufunds.gov.mt/en/Operational%20Programmes/Structural%20Funds%20Database/Pages/Tutorials.aspx.</p> <p>c) Payments under the Cohesion Policy 2007-13 are effected in a three-stage process, where:</p> <ol style="list-style-type: none"> i. The Beneficiary receives the request for payment from the Contractor (or the finance unit within the Beneficiary organisation in the case of reimbursement requests). Following vetting of the request (to ensure compliance with section 1 above) and confirmation of its adequacy, the Beneficiary generates an <i>Invoice Status Certificate (ISC)</i> in the SFD07-13. ii. The Beneficiary sends the documents to the Line Ministry (office of the Ministry's Director Programme Implementation), for the second stage; iii. The Treasury receives the documents from the LM, for the execution of payment. <p>d) To fulfil the step in point (c) above, the Beneficiary shall:</p> <ol style="list-style-type: none"> i. validate the invoice – validation implies that the data on the invoice is correct. The Beneficiary shall check the following: <ul style="list-style-type: none"> - the invoice is the original. This means that the hard original of the invoice is handed over by the Contractor to the Beneficiary. Scanned invoices sent by email or other similar computerised means (not electronic invoices as defined in the VAT Act) and printed by the Beneficiary are not acceptable; - the invoice is addressed to the Beneficiary, issued by the company/individual awarded the contract and preferably bears the relevant contract reference code.²⁵; <p>Beneficiaries are also advised to consult the Guidelines for issuing valid invoices and receipts.</p> ii. ensure that the invoice is based on and reflects the schedule of payments as stated in the respective contract (if applicable). The Beneficiary must also ensure that advance payments in subsequent interim payments are discounted as stipulated in the contract; iii. ensure that the expenditure being claimed is in line with the Grant Agreement of the project and the eligibility rules of the OP; <ol style="list-style-type: none"> i. verify the delivery of supplies (including quantities), works/ and/or services (except where the invoice refers to an advance payment) ii. confirm compliance with Community and national rules 	<p>Beneficiary</p>

²⁵ The Beneficiary is not to accept invoices that are issued by subsidiary companies and/or by one of the partners in the case of a joint venture.

<p>The Beneficiary shall then complete the checklist on the ISC which is a means of confirming that all the checks above have been carried out. It is important to note that the ISC sent to the Line Ministry and subsequently to Treasury must be the <i>final</i> and not a <i>draft</i>²⁶. A <i>final</i> ISC is only generated once the <i>Certify Work Beneficiary</i> level of the ISC is marked <i>complete</i> and the Certification Date must be the SAME as the date appearing under the <i>Payment Authorisation</i> tab in the <i>Invoices</i> section of the SFD07-13.</p> <p>The Project Leader (or delegate) shall finally sign and identify her/himself (by own rubber stamp or writing own name in blocks next to the signature) in the relevant section of the ISC. Through the certification of checklist on ISC, the Project Leader (or delegate) is confirming that all the contents of the invoice are in line with the contract, Grant Agreement and the national rules on invoicing.</p> <p>e) The Project Leader (or delegate) should then write/rubber-stamp reference to the Fund (ERDF 07-13, ESF 07-13 or Cohesion Fund 07-13), the Programme (OPI or OPII) or “Cohesion Policy 07-13” on invoice. This is a safeguard against double-funding.</p> <p>f) The Project Leader (or delegate) shall finally sign and identify her/himself (by own rubber stamp or writing own name in blocks next to the signature) in the relevant section of the ISC</p> <p>g) The Beneficiary shall scan the invoice (and any additional documentation required such as the summary certificate of the supervisor in relation to works) and upload it on the SFD (refer to Chapter 12 – Uploading of Documents section). It is important that the Beneficiary retains a copy of the invoice/reimbursement request and any supporting documentation in the project file.</p> <p>h) The Beneficiary submits the original ISC and the original invoice (and any additional documentation required), to the Line Ministry²⁷.</p> <p>Attention: Corporations, Other Public Sector & Public Equivalent Beneficiaries:</p> <p>In the case where the MT co-financing and any ineligible costs (such as VAT) are not provided for in the Cohesion Policy line items, the Treasury Department shall charge the applicable amount to the respective capital vote of the entity.</p> <p>Attention: Voluntary Organisations:</p> <p>Voluntary organisations are to attach a cheque equivalent to the value of their share (15% of public eligible cost as well as the total of any ineligible cost) on each invoice.</p>	
<p>4. Authorising Payments</p>	
<p>In the second stage of the payment process, the Line Ministry²⁸ confirms the checks carried out by the Beneficiary and signs the ISC prior to authorising payment.</p> <p>The signature on the ISC by the Line Ministry confirms that:</p> <p>a) the Beneficiary has carried out the relevant checks, has completed the ISC as required and has updated the confirmation status on the SFD;</p> <p>b) the relevant National and Community rules, including Public Procurement Regulations and Eligibility Rules, have been complied with;</p>	<p>Directorate Programme Implementation of the Line Ministry</p>

²⁶ The details on the draft may differ from the final version of the ISC as the ISC is still subject to modification at “draft” status. Whenever the LM or Treasury detect a draft version, the hard copy of the draft ISC should be returned back to the Beneficiary. The Beneficiary shall then generate the final ISC, sign it and forward to the LM and Treasury again.

²⁷ In the case of NGOs and Local Councils, these are to send the ISC to the Director Programme Implementation, OPM.

²⁸ In the case of NGOs and Local Councils, the Line Ministry function will be undertaken by the Director Programme Implementation OPM.

- c) the Beneficiary uploaded the relevant request for payment and required supporting documentation (refer to Chapter 12 –*Uploading of Documents* section);
- d) the amount being claimed corresponds to a valid contract; and
- e) the amount being claimed is arithmetically correct.

The DPI must also ensure that the ISC signed by the Beneficiary is the final version not a draft. This is recognisable from the *Certification date*. If this date is missing, then the ISC is a draft and should be rejected.

Following the certification of the first five items of the relevant LM section on the ISC, the DPI then forwards the relevant documents to the Accounting Officer of the LM to raise the commitment in the DAS (as per below). This task is carried out by the Accounting Officer but the Director Programme Implementation has the overall responsibility for the LM function of this stage of the payment process.

The DPI (or delegate) then completes the last three items of the relevant ISC section and signs and stamps/writes name on the ISC. These checks may be carried out and signed off by a delegate of the DPI, after filling the appropriate delegation of authority form (see Chapter 11).

Submission of documentation from Line Ministry to Treasury

The Line Ministry sends the Structural Funds – Purchase Order, request for payment (invoice/reimbursement request), supporting documentation and the ISC to Treasury. Treasury reserves the right to refer documents back to the relevant Line Ministry for correction.

Before transmitting the ISC to Treasury, the Line Ministry shall mark the status of the ISC as complete *Confirmation Line Ministry* in the Invoice Payment section of the SFD07-13.

In summary the Programme Implementation Directorate is responsible for:

- liaising with the Accounting Officer with regards to the preparation of the required documents related to commitments in the DAS;
- Signing the relevant checklist on the ISC ; and
- Sending (in a timely manner) all the documents to Treasury.

Please refer to the following Financial Flow Charts:

- ✓ [Financial Flow Chart – Public Sector Beneficiaries](#)
- ✓ [Financial Flow Chart - Other Public and Public Equivalent Beneficiaries](#)
- ✓ [Financial Flow Chart - Voluntary Organisations](#)

NOTE: The Beneficiary should consult Treasury for further guidance on the payment process.

5.8 Revenue-generating projects

1. In case of revenue-generating projects the beneficiaries are to be guided by the obligations emanating from Article 55 of Council Regulation No.1083 of 2006 (and subsequent amendments). A revenue-generating project is defined as “any operation involving:
 - i. *an investment in infrastructure the use of which is subject to charges borne directly by users; or*
 - ii. *any operation involving the sale or rent of land or buildings; or*
 - iii. *any other provision of services against payment”.*
2. Article 55 only applies to relevant operations which are co-financed by the ERDF or Cohesion Fund. However any revenue (e.g. fees) generated from ESF projects is to be reported to the MA. The procedure for the treatment of revenues is laid down in the **Eligibility Rules of both OPs**.
3. In the relevant cases, the Beneficiary is asked to prepare a financial feasibility (FF) study and / or a Cost Benefit Analysis (CBA) as the case may be, to determine the funding gap. Beneficiaries may be required to update the relevant study as guided by the MA in particular in cases where there are new revenue streams.

5.9 Accounting System

1. In accordance with Article 60(d) of Council Regulation EC1083/2006, the Managing Authority (or Intermediate Bodies, as applicable) is entrusted with the function of ensuring that:

[...] beneficiaries and bodies involved in the implementation of operations maintain either a separate accounting system or an adequate accounting code for all transactions relating to the operation without prejudice to national accounting rules.
2. Beneficiaries and other bodies involved in the implementation of operations (under ERDF, Cohesion Fund and ESF) maintain either a separate accounting system or adequate accounting code for all transactions relating to the operation. It is therefore the responsibility of the Beneficiary to ensure that all transactions related to each co-financed operation are recorded either:
 - i. in a fully-dedicated separate accounting system; or
 - ii. through the assignment of a specific accounting code in the existing system (easily identifiable and retrievable, as well as auditable).

In addition, the Beneficiary should ensure that the annual auditor's certificate to the financial statements for each financial year for the full duration of the project, and for the year following the last reimbursement received by the beneficiary are in file.

The MA will carry out specific checks on the above.

In this regard, in order to ensure compliance with the obligation to maintain a separate accounting the MA has issued specific guidance downloadable from <https://eufunds.gov.mt> for Intermediate Bodies²⁹, Government Entities³⁰, Local Councils³¹ and Voluntary organisations³² respectively.

²⁹ MA 04/2010/IB (v.2)

³⁰ MA 04/2010/GE

³¹ MA 04/2010/LC

³² MA 04/2010/NGO

6. Drawdown of Funds from the European Commission

6.1 Grant Agreement

The Grant Agreement signed between the Managing Authority and the 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 terms and conditions of the said agreement and any requests for changes shall be notified to the desk officer within the MA (and or Intermediate Body in the case of aid schemes) within good time to allow for an assessment by the MA (or the IB as the case may be) of the request and its relevant approval (or rejection). Approvals are sent to the Beneficiary in writing and these are then generally followed up in an addendum. 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 reduction of administrative burden, an addendum may incorporate several changes that have taken place over a span of time. No unilateral changes (from the Beneficiary) to the Grant Agreement shall be accepted by the MA.

6.2 Savings to the Project

1. It is important to note that as a general rule any savings to a project go back to the Priority Axis of the OP under which the project is co-financed. In this regard, the Beneficiary is to inform the MA of any potential savings or savings registered on the project. **Beneficiaries will be held responsible for any loss of funds to Malta resulting from failure to report savings (or even possibility of savings) to the project in a timely manner.**
2. The Beneficiary cannot utilise any savings arising in one or another component of the project without prior authorization or subsequent endorsement from the MA. As a general rule, if the Beneficiary needs to utilise savings, it should submit a request to the MA to utilise these savings, providing the relevant justification.

6.3 Statement of Expenditure

1. As explained in Chapter 5 of this MoP, the Maltese Government pre-finances projects. However, Malta can only submit a claim for reimbursement from the EU when expenditure is actually incurred. Therefore, Beneficiaries and Line Ministries are to ensure that invoices are received and payments are processed in the shortest time possible.
2. It is important to note that **failure to ensure that payment procedures are initiated and processed efficiently may result in Malta losing funds.**
3. The paid invoices are stored in the SFD and undergo a verification process by the MA / IB. Once a substantial amount of expenditure is incurred, the MA will, at least three times a year, initiate the verification process for the submission of requests for reimbursement from the Commission. The MA prepares a timetable with established dates for the different stakeholders involved in the process and this is circulated to Public Beneficiaries, IBs, Line Ministry and Treasury. However, this does not preclude the MA from carrying out its verifications earlier and prior to initiation of the verification process. The CA is informed by the MA on the dates it will be forwarding the relevant SOE documents for certification.

6.3.1 The Verification Process

1. The verification process is an integral part of the implementation system of Cohesion Policy projects. Verification is the process whereby all payments effected by Treasury for each project benefiting from Cohesion Policy Funds are checked again, verified correct at different levels and are eventually submitted to the European Commission (by the CA) for reimbursement. There are various levels and this process is undertaken through the SFD:
 - a) **At Project level** this process is undertaken by the Beneficiary (refer to the next section for details). Once the Statement of Expenditure at project level is generated³³, the actual SOE invoice list and declaration (fully signed hard copy) is submitted to the MA for further processing at the next level (Priority Axis level).
 - b) **At Priority Axis level** this process is undertaken by the MA. In line with Article 13(2) of EC1828/2006, the MA undertakes documentary checks (which may include both on-site checks and desk-based checks through SFD07-13) on payments listed in the SOE generated by the Beneficiary for each project. During this stage the MA may ask for additional clarifications and/or additional assurances from the Beneficiary. Those payments that are accepted in the verification process by the MA are then passed on (by the MA) to the CA. At this stage, the MA recommends which payments selected originally at project level) may be considered for reimbursement from the EC.

³³ SFD Tutorial 'How to generate a Statement of Expenditure by project'
<https://eufunds.gov.mt/en/Operational%20Programmes/Useful%20Links%20and%20Downloads/Pages/Useful-Links-and-Downloads.aspx>

In the case of Aid Schemes under Article 107 of the Treaty, the verification process is undertaken by the IB for the whole scheme and forwarded to the MA for onward transmission to the CA to include it in the certification process. The MA shall undertake its own sample checks and may ask the IB for additional clarifications at this stage.

- c) Upon receipt of the SOE from the MA, the CA undertakes the certification process. The CA may also ask for clarifications during this process.

6.3.2 Verification Process at Project Level

1. For the purpose of this MoP, the focus is on the verification process undertaken by public Beneficiaries or Intermediate Bodies at Project Level.
2. Only payments that have been processed correctly (in line with Chapter 5) and against which there are no pending follow-up issues (including suspicion of irregularity) by any of the stakeholders in the system should be verified by the Beneficiary or IB.
3. When undertaking the verification process, the Beneficiary or IB must undertake a review of any relevant pending payments not included in previous SOEs. Beneficiaries/IBs may utilise the *ad hoc* checklist which is **only** a guidance of issues that the Beneficiary/IB should check prior to verifying the payments in the Statement of Expenditure at Project Level. The checklists below responds to the status of the Beneficiary (i.e. whether public or not). The Beneficiary should refer to the relevant Administrative Verification Template, as well as the Appendix on verification of Invoices template and the Follow up Administrative Verification template. All forms can be found in the links below:
 - I. [Administrative Verification Template \(Documentary On-the-Spot Check Report\) Schedule 2 Organisations](#)
 - II. [Administrative Verification Template \(Documentary On-the-Spot Check Report\) Schedule 3 Organisations \(except Local Councils\)](#)
 - III. [Administrative Verification Template \(Documentary On-the-Spot Check Report\) Local Councils](#)
 - IV. [Administrative Verification Template \(Documentary On-the-Spot Check Report\) Voluntary Organisations](#)
 - V. [\(Appendix to a,b,c,d\) Verification of Invoices Template \(Desk-based Checks\)](#)
 - VI. [Follow up Administrative Verification Template](#)
4. Once the Beneficiary/IB undertakes the review exercise and is satisfied that all expenditure incurred is in line with the Grant Agreement and contract and in compliance with the established Cohesion Policy procedures, the Beneficiary/IB can generate the Statement of Expenditure by Project (including all relevant payments pertaining to that project) through the Structural Funds Database 2007-13. It is important that the Beneficiary/IB generates the SOE within the stipulated deadline as set out in the timetable issued by the MA (see para. 2 of section 6.2 above).
5. It is important to note that the SOE is prepared for every project or scheme separately.
6. Once the SOE is generated through the SFD 07-13, the project leader prints and signs the SOE together with the Declaration and a pdf scanned copy of the SOE is uploaded on the SFD 07-13. The Beneficiary should refer to SFD tutorial '*How to generate a Statement of Expenditure (SOE) by Project*'³⁴ It is important that the Beneficiary/IB ensures that all necessary documents (*as per section 12.3 of this MoP*) have been uploaded on the SFD prior to submitting the SOE and Declaration to the MA.
7. The Beneficiary/IB sends the signed original SOE by Project and the Declaration to the MA for the 2nd stage of the verification process.
8. It is important to note that should the MA require any clarifications on expenditure included in the SOE, the MA submits (via an email) a request for clarification to the Beneficiary/IB. The latter must reply immediately to the MA's request in view of the tight deadlines within which the verification process is completed. The Beneficiary must note that the above does not preclude the MA from carrying out its verifications earlier and prior to initiation of the verification process. If the MA is satisfied with the Beneficiary's reply, the MA will proceed with the verification process. If the MA is not satisfied with the Beneficiary's reply, the MA may either request additional information or notify the CA for further action.

³⁴ Uploaded in:
<https://eufunds.gov.mt/en/Operational%20Programmes/Structural%20Funds%20Database/Documents/Tutorials/How%20to%20generate%20an%20SOE%20by%20Project%20v.4.pdf>

6.3 The Certification Process

The Certifying Authority has the overall responsibility for the certification process. Once the verification process is concluded, the SOE (together with any relevant comments) are sent to the CA for further processing. The CA undertakes its own checks of the relevant documentation and may also ask for clarifications. The CA may reject part of the SOE in which case the relevant information will be uploaded in the SFD 07-13 by the CA. It is important for Beneficiaries to reply immediately to any requests for clarification from the CA in order not to delay the certification process and the drawdown of funds from the Commission. The Project Leader shall ensure that any documentation submitted by the CA is filed in the appropriate manner (in the project file) in order to ensure a full audit trail of the certification process. The Beneficiary should follow the guidance provided in the table 'Documents to be retained'.

7. Monitoring, Reporting and Evaluation

7.1 Monitoring

Articles 63-68 of the General Regulation 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 Managing Authority has the overall responsibility for monitoring at Programme level. However, the monitoring and reporting systems rely 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 that will support the monitoring process.

7.1.1 Monitoring Structures and Tools

1. There are different levels of monitoring namely:

i. Monitoring Committee

Malta has set up a Monitoring Committee (MC) in terms of Article 63 of the General Regulation. The main task of the Monitoring Committee is to **monitor the OP at the strategic level** thus ensuring that the objectives and targets at Programme level are being met. The Committee is chaired by the Permanent Secretary responsible of funds and its members include representatives of Ministries as well as Partner Organisation, the Civil Society, the European Commission and the EIB (as appropriate). The Committee meets at regular intervals, but generally around twice a year. The objectives are both to monitor targets as well as facilitate implementation and the timely and effective absorption of the Funds. The secretariat to the MC is provided by the MA and any queries regarding the OP can be sent to the MA on the contact address provided under Chapter 2 of this MoP.

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

This is a monitoring structure **at ministerial level** which provides an effective mechanism to track progress of projects falling within the portfolio of the particular Line Ministry³⁵. The Committee is chaired by the Permanent Secretary of the Ministry (or his/her representative). The objectives of this committee are both to monitor targets as well as facilitate implementation and the timely and effective absorption of the Funds. In this regard the Project Leader is required to compile progress reports bi-annually (refer to Section 7.2.1) through a structured template that will be provided by the MA.

iii. Bilateral Meetings (all projects)

From time to time the MA may organise bilateral meetings with Beneficiaries (including voluntary organisations and Local Councils) and/or IBs to discuss issues arising from the progress (monitoring) reports and/or from the day-to-day monitoring conducted through the SFD07-13. Specific meetings are held with those projects deemed to have specific issues which could put at risk the timely implementation of the project and the programme.

iv. Line Ministries

Directors Programme Implementation, as the co-ordinating unit within the line Ministries, are responsible for monitoring of projects and to alert any of the horizontal stakeholders, if and when required, of any issues that could effect the timely implementation of the project. The **DPIs** are also responsible for endorsing the Project Progress Reports before these are submitted to the MA.

v. Monitoring by the Beneficiary

The **Beneficiary, through the appointed project leader**, has the responsibility of ensuring effective monitoring of the project. The responsibility of the Beneficiary extends beyond the achievement of outputs but entails also 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 the project, however continuous monitoring activities by the Beneficiary must be well documented, dated and signed. Such activities may take the form of on-site visit reports, reports of coursework done (in the case of training),

³⁵ Part of recommendation of the mid-term update on the SPD04-06.

annual report by teachers/trainers endorsed by the project leader (in the case of training), reconciliations prior to payments, controls over timesheets, minutes of meetings etc.

7.1.2 *Monitoring of Results - Use of Indicators*

1. Monitoring of Cohesion Policy Funds is facilitated through the use of indicators making it possible to measure the progress in relation to the baseline situation and the achievements of targets of each project, Priority Axis and the OP 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/group of interventions for beneficiaries;
 - Impact indicators: - these capture the longer-term effects of the programme on a national level.
3. In both OP I & II, the result and output indicators are described and quantified at the Priority Axis level and are based on the main focus areas of each Axes and under which most of the interventions of each Axis 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) of the respective OP.
4. In order to achieve the indicators at programme level, a bottom up approach is adopted whereby each project selected for funding through Cohesion Policy, 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 OP level under the relevant Axis.
5. The indicators of each project shall be monitored mainly through the Structural Funds Database (SFD 07-13) and the Project Progress Report. However, additional surveys and/or research activities may be undertaken (by the Beneficiary and/or the MA) in the case of certain result indicators.
6. The Beneficiary and the project leader 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.

7.1.3 *Structural Fund Database 2007-13*

1. Day-to-day monitoring is based on a bottom-up approach. Informally, the MA is in touch with Project Leaders almost on a daily basis, however most of the effective monitoring is done from information uploaded or inputted into the Management Information System (SFD 07-13) by all stakeholders which include both the Beneficiary as well as horizontal stakeholders.
2. Once an organisation becomes a Beneficiary, it will be asked to nominate the various officials that shall have access to the SFD. Heads of organisations should inform the MA immediately of any changes in this regard (e.g. persons no longer working on the project). The Beneficiary organisation shall bear all responsibility for the misuse of data in cases where it fails to inform the MA's SFD Unit and the relevant desk officer of such changes.
3. The SFD 07-13 Tutorials and guidance notes are available on the Ministry website and provides information to the officers in using the information system, and should be considered as an integral part of this MoP. It should be noted that CDRT offers specific training courses on the use of SFD07-13. Information can be obtained from the CDRT website.

7.2 **Reporting Requirements by the Beneficiary**

Different levels of reporting:

- Project Progress Reports prepared by the Beneficiary once every six months and input (by the Beneficiary) to the Annual (and Final) Implementation Report prepared by the MA³⁶;
- Regular Updates through the electronic system (SFD 07-13);

³⁶ The Beneficiary/Project Leader may be asked to submit ad hoc progress reports for internal use of the MA or by any of the monitoring structures.

- Project Closure Report which is prepared by the Beneficiary at the end of the project and confirmed by the MA.

7.2.1 Project Progress Report

1. The Beneficiary prepares a project progress report once every six months. The report is compiled on a specifically designed template and is intended to give a 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 under above, however this is at the discretion of the Ministry.
2. The co-ordinating unit (DPI) within the Line Ministries (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 the Beneficiary and Ministry ensures that any data is validated as errors in the data could result in recoveries on the project.

7.2.3 Project Closure Report

1. Upon completion of the project, the Beneficiary compiles a Project Closure Report. The report must be reviewed by the Director 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 be also signed by the Executive Secretary and the Mayor. In the case of voluntary organisations, the report should be also signed by the legal representative of the organisation and the person responsible for the organisation's finances.
2. The Original report is to be submitted to the MA.

7.3 Article 57 of Council Regulation No. 1083/2006

1. In accordance with Article 57, changes to any operation shall be brought to the attention of the MA.
2. The MA shall be monitoring the obligations under Article 57 annually for each closed project (in the form of a Beneficiary declaration), in conjunction with the annual monitoring of indicators and other monitoring obligation as deemed relevant. In addition the MA (on sample basis) will undertake on site visits to check the durability of the co-financed operations.

7.4 Evaluation

The aim of an evaluation (in accordance with Article 47(i) of the Council Regulation (EC) No 1083/2006) is to improve the quality, effectiveness and consistency of the assistance from the Funds and the strategy and implementation of OPs. Evaluation exercises may be undertaken by a number of stakeholders, including the MA and the European Commission.

The MA may undertake evaluations for a number of reasons, including to assess the *strategic* achievements of the OP in a more systematic and holistic manner and also in cases where the monitoring system reveals departures from the objectives set out in the respective OP. 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 the Beneficiary (in advance) of any such exercise and the Beneficiary is to ensure that any information and feedback provided during an evaluation exercise (through an interview or in writing or through any other medium following consultation with the MA) is retained by the Beneficiary in file.

The Beneficiary 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 resources.

8. Audit and Control

Introduction

This section is concerned with financial control procedures applied for Cohesion Policy 2007-2013 co-financed expenditure. The framework for proper financial management, control and audit is set out in the Cohesion Policy legal Framework, particularly the General Regulation (Council Regulation 1083/2006) and the Implementing Regulation (Commission Regulation 1828/2006).

8.1 Management Verifications (First Level of Control)

1. In accordance with Article 13 of the Implementing Regulation and Article 60(b) of the General Regulation, the Managing Authority (or its delegated Intermediate Body where applicable) shall carry out verifications in respect of each request for reimbursement (see also Chapter 5 of this MoP). The verifications carried out by the MA is an **administrative check** (desk-based or based at the Beneficiary's offices) to ensure that expenditure is carried out in line with the Grant Agreement/Commission Decision³⁷, that the relevant procedures have been followed and that operations and expenditure comply with Community and national rules. It should be noted that these checks are NOT audits. Checks may also be carried out via the Structural Fund Database (SFD).
2. The MA will also carry out **physical on-the-spot checks**. These checks focus on the physical deliverables of the project. In the case of ESF, on-the spot visits will be organised (while project is being implemented – e.g. during a training session) to verify the reality of expenditure. The MA may use external expertise to support it during checks of the projects' physical implementation. The Beneficiary should refer to the [Physical checks Template](#) used by the MA to address all the necessary requirements.
3. In the case of aid schemes under Article 107 of the Treaty, these administrative and physical verifications are carried out by the Intermediate Body (IB). The IB can also be supported by external technical expertise.
4. Administrative and physical verifications may be carried out throughout the project's lifetime. The MA/IB shall inform the Beneficiary that an administrative/physical check will take place at least one day in advance. The check-list template (see section 6.2.2. of this Manual) used during the visit is sent to the Beneficiary with the on the spot-check notification in order to help the Beneficiary prepare for the visit. The on-the-spot check is carried out in the presence of the Beneficiary.
5. **The Beneficiary shall ensure that the Project Leader and any other relevant officials are present for the checks and that the relevant documentation is readily available.**
6. Finally, the Beneficiary is to note that the objectives of the MA checks are not intended to offer the Beneficiary any comfort/guarantees with regard to audits, but are merely management verifications in line with the relevant regulation.

8.1.1 Follow-up Action to the Management Verifications

1. Following an on-the-spot check, the MA shall send the draft report (outlining findings and follow-up/recommendations³⁸) to the Beneficiary for signature /comments. If the Project Leader responsible for the project fails to sign the administrative check/on-the-spot check report within the stipulated deadlines, the final report may still be considered closed and the MA may upload the final report unsigned on SFD07-13 for the benefit of the relevant stakeholders.
2. Any follow-up action required by the Beneficiary (as identified by the MA) will need to be undertaken within a stipulated deadline. Failure to do so may result in the MA taking action on the beneficiary.
3. In the case of Aid Schemes under Article 107 of the Treaty, Follow-Up Checks are undertaken by the Intermediate Body managing the scheme, as necessary.

8.2 Systems Audits and Audits on Operations (Second Level of Control)

1. Systems audits and audits on operations are carried out by local and foreign audit institutions. The Internal Audit and Investigations Department (IAID) is the designated Audit Authority in terms of Article 62 of the General Regulation and Article 16 of the Implementing Regulation and it is the main entity responsible for system audits and audits on operations. The audits (obligatory by Regulation) are carried out on an on-going basis throughout the

³⁷ A Commission Decision is applicable in the case of major projects.

³⁸ Where applicable.

programming period as well as during the closure of the Operational Programme (up to three years following the closure of the Operational Programme).

2. **Systems audits** are carried out in accordance to Article 62 (1)(a) of Council Regulation No. 1083/2006 in order to verify the effective functioning of the management and control systems of the operational programmes. Systems audits may be carried out on the main implementing bodies and other horizontal stakeholders, as well as on horizontal issues by undertaking audits on Operations.
3. **Audits on operations** are carried out on operations on the basis of an appropriate sample to verify expenditure declarations to the Commission in accordance to Article 62 (1) (b) of Council Regulation No. 1083/2006. The Audit Authority may decide to audit a complementary sample of operations in order to guarantee coverage of different types of operations, beneficiaries, priority axes and intermediate bodies.
3. An audit on operation usually includes:
 - 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 of compliance with relevant EU and national legislation, including, where applicable, public procurement, state aid, equal opportunities and the environment.
5. The Audit Authority will inform the Beneficiary to be audited at least one day in advance.
6. The Beneficiary must ensure that all relevant documentation is made available to the auditors. The Project Leader should ensure that the necessary support is provided to the auditors in carrying out their work.
7. The Audit Authority will send all audit reports to the Managing Authority for onward submission to the respective auditee as it deems necessary and will copy them concurrently to the Certifying Authority.
8. The Beneficiary is in the first instance responsible to follow up any recommendations in any audit report prepared in accordance with Article 62(1) of the General Regulation (EC1083/2006, and subsequent amendments). The Line Ministry is to ensure that the Beneficiary has followed up the recommendations within the relevant time-line. The MA shall be responsible to coordinate the replies to feedback and comments provided by the Audit Authority. These replies shall be submitted within one month of the date of the draft audit report'.
9. Within a reasonable time period, the Managing Authority is to ensure that remedial action is taken on the findings and recommendations included in the final audit report. The actions taken are to be communicated to the audit authority. The Audit Authority reserves the right to organise follow-up audits if necessary.
10. Beneficiaries should note that other organisations including the National Audit Office (NAO) as well as the European Commission 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 ensure that the project is being implemented in accordance with State Aid or VAT regulations.

8.4 National Audit Office

1. As the external auditor of Government, the National Audit Office (NAO) may carry out audits on projects co-financed through Cohesion Policy. 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 voluntary organisations.
2. Beneficiaries are to notify the MA in good time when they are in receipt of an announcement regarding an audit on any project co-funded under any one of the two Programmes. The MA, 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 the project documentation.

8.5 EU Audit Missions

1. Officials from the European Commission and the European Court of Auditors carry out audits (both on systems and operations) on projects co-funded by the Structural Funds.
2. Auditors generally inform the Maltese counterparts of the mission in advance. In cases where Beneficiaries are informed directly by the EC, the Beneficiaries shall inform the MA to ensure full co-ordination and support.
3. The MA and/or the AA (as the case may be) usually co-ordinates a timetable for the audit mission and informs stakeholders accordingly.
4. Beneficiaries and other stakeholders (whether public or not) shall grant the EU auditors (and/or their delegated contractors) full access to the project documentation.

8.6 Preparing for Audit Visits (applicable to all audits)

1. In general, auditors will want to spend a few days examining documentation held by the Beneficiary organisation, the MA, the DoC, the Treasury as well as the CA. Auditors may also ask to be taken on site of the project.

2. As part of their preparation for an audit mission, Beneficiaries should:
- Ensure that all persons (including technical {possibly contracted} personnel) within the Beneficiary organisation 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 MA will also support the Project Leader in this regard.
 - Ensure that all the project documentation is made available and filed in accordance with the Retention of Documents chapter of this MoP (Chapter 12) to facilitate easy access to the necessary documentation during the audit.
 - Provide a spacious meeting room for the audit mission.
 - Ensure that photocopy 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 given to the auditors and will submit this list to the MA upon completion of the audit.
 - Ensure 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 ask the Beneficiary at short notice for an ad-hoc site visit.
3. As a general rule auditors will seek to examine the following documentation during an audit visit³⁹:
- a. Project Documentation:**
 - Copy of application submitted;
 - Signed Grant Agreement between MA and Beneficiary;
 - Addenda to the Grant Agreement and letter/s stipulating any changes to the project;
 - Commission Decision in the case of Major Projects;
 - Feasibility studies & technical studies (where applicable).
 - b. Tendering & Contracting**
 - Tender document launched on the market;
 - Advertisement of the tender (also in the Official Journal where applicable);
 - List of responses to the publication of the tender;
 - The tendering 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 {CAN} where applicable);
 - Contract drawn up and signed by the DoC/Beneficiary⁴⁰ and the Contractor;
 - Any subsequent addenda to a contract;
 - Any other relevant documents related to the contracts (including employment contracts⁴¹) of the project.
 - c. Other Community policies**
 - All relevant documentation related to other community policies, including state aid, equal opportunities and sustainable development.
 - d. Payments**
 - Copies of the SoEs of the project;
 - Copies of a sample of the invoices listed in the SoEs and the relevant ISCs (originals are retained at the Treasury).
 - Debit Advices raised through DAS;
 - Receipts obtained from the Contractors;
 - Certification of works by technical supervisor, acceptance certificates / reports for supplies, services.

³⁹ This is only an indicative (not an exhaustive) list of documents which the auditors may ask to review. Other documents which should be part of sound of financial management and therefore part-and-parcel of any Beneficiary's obligations are not necessarily listed here.

⁴⁰ In the case of contracts administered by the Beneficiary organisation.

⁴¹ Where applicable.

e. **Information and Publicity**

- Photos or recordings evidencing information activities or publicity undertaken in relation to the project;
- 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);

f. **Monitoring reports**

- Copies of the progress reports prepared by the Beneficiary;
- Viewing of progress updates in the SFD;
- Record keeping of time sheets (particularly in the case of employment contracts and or schemes).

g. **Others**

- Lists of participants;
- Selection of participants (mainly in case of ESF and related operations);
- Progress / Performance reports of contracted employees / trainers;
- Documentation related to the work of trainers (lesson notes / plans, weekly/fortnightly/ monthly⁴² progress reports by the trainers;
- Attendance sheets;
- Evaluation sheets.

8.7 Follow-up to an Audit Mission

Once the audit mission is complete, the auditors submit a report with the findings and recommendations (where necessary). If there is the need, the auditors may ask any of the stakeholders for clarification/s. In case of EC audits, the replies will be co-ordinated by the MA/AA and a co-ordinated reply will be given on behalf of the Member State.

8.8 Audits after Closure of Programme

Beneficiary should note that projects can be audited even after project implementation. In view of this, **all project documentation must be retained by the Beneficiary until at least three years after the closure of the Programme (closure date will be communicate by the MA).**

8.9 Ex-Post Management Control

1. All Beneficiaries should take note of Article 57 of the General Regulation. All grants are bound by the conditionality in this article, namely that the relevant operation co-financed by the EU grant (i.e. the project) does not, within five years from completion of the operation, undergo a substantial modification as outlined in Article 57 of the General Regulation which:
 - results either from a change in the nature of ownership of an item of infrastructure, or the cessation of a productive activity; and
 - affects the nature or the implementation conditions or gives to a firm or a public body an undue advantage.
2. All Beneficiaries are to inform the MA immediately of any such changes to the project. 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 55 the Beneficiary must also monitor the revenue being generated by the project to ensure that this is in line with the revenue indicated at application stage. Should there be any substantial deviations (as defined in the regulation/Commission guidance documents), the 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 the project.. **The Beneficiary will be held responsible for failing to report such changes in a timely manner which could result in loss of funds not only to the Beneficiary but also to Malta.**

⁴² As the case may be.

9. Reporting on Irregularities and Fraud

9.1 Irregularities & Financial Corrections

1. An **irregularity** means “any infringement of a provision of Community law resulting from an act or omission by an economic operator which has, or would have, the effect of prejudicing the general budget of the European Union by charging an unjustified item of expenditure to the general budget”⁴³.
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 of the same Beneficiary.
3. Irregularities can be of an individual nature or of a systemic 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 VI of Regulation (EC) No 1083/2006. 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, to calculate the exact amount of expenditure wrongly declared to the Commission (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. public procurement or publicity rules not complied with). In these cases, a flat rate correction may be applied to the individual operation based upon 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 establishment of systemic irregularities in any of the projects or schemes, the MA/IB shall immediately notify the Beneficiary (the MA in the case of IBs) and relevant stakeholders (AA, CA, Treasury and other stakeholders as may be applicable), informing them of the immediate measures to be taken, which 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 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**⁴⁴. The periods established shall be interrupted in the case of legal proceedings or other duly motivated cases.

9.2 Detecting & Reporting Irregularities

1. Article 70.1 (b) of the General Regulation and Article 28 of Regulation 1828/2006 regulate the reporting of irregularities.
2. There are various methods how irregularities can be detected:
 - a. **At Management and Control level through:**
 - Checks undertaken by stakeholders (including the Beneficiary itself) during implementation (e.g. payment process);
 - Checks made during the management verifications (both administrative and physical) by the MA/IB;

⁴³ Article 2(7) of EC1083/2006

⁴⁴ In this regard, the Beneficiary should consult MFIN Circular No 3/2014 ‘Guidelines regarding recoveries of irregular expenditure paid by Treasury on EU Funds under Shared Management’

- Checks made during the certification process by the CA;
- Checks undertaken by other stakeholders in the system; and
- Audits under Article 62 of the General Regulation and Article 16 of Regulation 1828/2006;
- 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 (unanimous 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, CA, AA, Treasury, DoC, Line Ministry, Beneficiary or any other relevant entity) involved in the implementation of Cohesion Policy Funds, who, at any stage of implementation and / or control procedure, becomes aware of an irregularity (whether one-off 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 [Cohesion Policy Funds Irregularity Report \(CPIR\)](#)⁴⁵ together with the [Financial Details Report](#) giving details on the relevant irregularity. **The MA shall then circulate the report to all relevant stakeholders.**
4. In the case of public sector Beneficiaries, the report, signed by the person reporting the irregularity, is sent to the Director Programme Implementation of the relevant Line Ministry who counter-signs the report and sends it immediately to the MA, copying the AA and the CA. The MA shall then circulate the report to all relevant stakeholders.
5. There might be circumstances where the relative officials feel constrained to by-pass the normal system of reporting irregularities. Whenever this situation arises, the official is given the opportunity to report any irregularity directly to the MA (copying the AA and CA) by filling in Cohesion Policy Funds Irregularity Report (CPIR).
6. In the case of non-public organisations Beneficiaries (Voluntary Organisations, Partners), the report is sent directly to the MA (copying the AA and CA).
7. In the case of private Beneficiaries (enterprises participating in aid schemes under Article 107 of the Treaty), the report is sent to the IB. The IB would then forward the original report to the MA copying the AA and the CA.

9.3 Content of an Irregularity Report

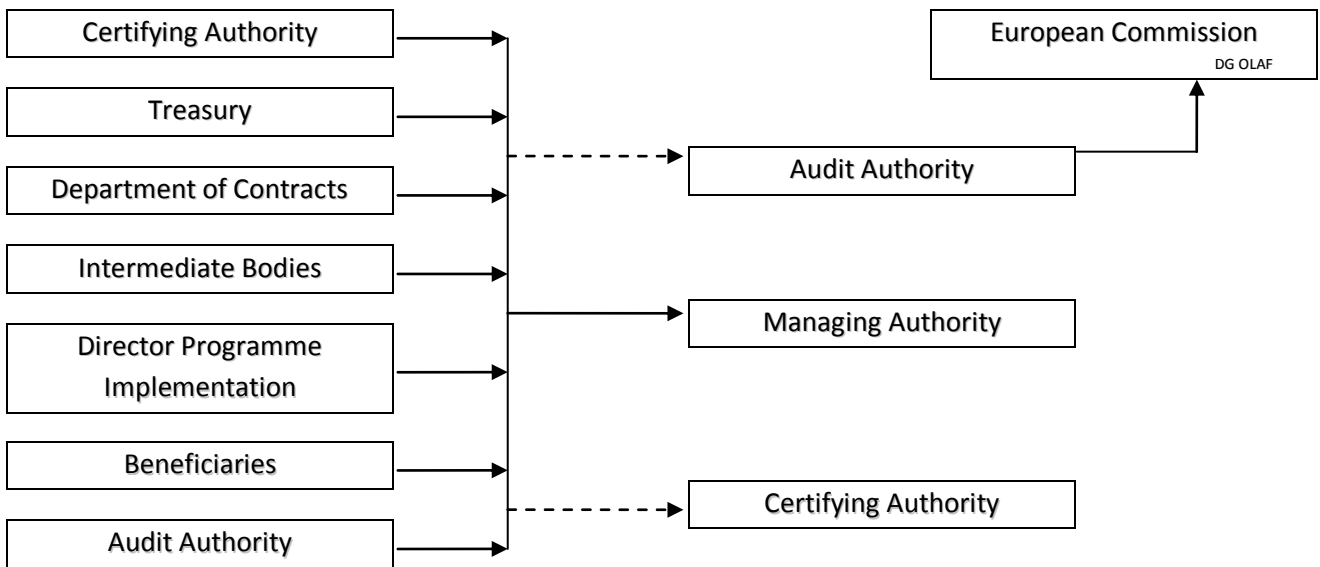
The template of the Cohesion Policy Irregularity Report includes the following details:

- General information on the OP, Fund, Priority Axis 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;
- The regulation/decision/procedure which has been infringed;
- The nature and amount of the expenditure;
- 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;
- Stage at which the irregularity took place;
- The period during which or the stage at which the irregularity was committed;
- The body/ies 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; and
- The signatures and dates of the report.

⁴⁵ Annex VIII

Table 2: Irregularities

Detecting Irregularities



9.4 Financial Recoveries

1. An irregularity that warrants a financial recovery will be specified in the relevant irregularity report as per section 9.2 of this Manual). In this case the person/organisation detecting the irregularity must ensure that recovery procedures are initiated immediately, in line with the instructions of the MA.
2. In the case of public entities, a note addressed to the head of the organisation (copying the Permanent Secretary, the Director Programme Implementation, the project leader, AA, CA and Treasury) shall be issued by the MA (or any other relevant organisation drawing up the irregularity report) specifying the amount to be recovered.
3. In the case of Local Councils, the recovery note shall be addressed to the mayor, copying the Director of Local Government, the Executive Secretary, the project leader, AA, CA and Treasury.
4. A deadline for the settlement of the recovery is set in the recovery note, which, in any case, should not exceed three calendar months from the note. Failure to settle the irregularity in a timely manner may lead to suspension of any remaining funds on the operation and/or other operations being implemented by the same Beneficiary.
5. The MA shall be responsible to ensure that all necessary procedures are established so that funds are recovered within reasonable deadlines (and as provided by MFIN Circular No 3/2014), that timeframes for corrective action are respected and that the necessary escalation procedures are followed. The MA shall set formal deadlines in the irregularity report within which all action is to be completed. Such periods shall be interrupted in the case of legal proceedings or duly motivated cases.

9.5 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 European Union, on 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;
- The misapplication of such funds for purposes other than those for which they were originally granted."

According to Article 59(2) of the Financial Regulation, 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 MA has a clear commitment to combat fraud and corruption both through preventive and detective control mechanisms, and it is determined in transmitting cases to the competent authorities for investigations and sanctions.

9.6 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 which aims at deterring potential fraudsters and also in maximising the commitment of staff to combat fraud.

For this purpose, the Beneficiary should ensure to:

- Raise awareness through formal training of all staff complement involved in the management of the EU Funds about preventative and detective controls measures as well as specific roles and responsibilities of all stakeholders and reporting mechanisms;
- Put in place an 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;
- Ensure 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 complement to report any case of suspected fraud concerning EU Funds to the Managing Authority, either through their respective hierarchy or directly if necessary;
- Conduct regular verifications ensuring that staff in charge is aware of the Commission and any national guidance on fraud indicators (as in COCOF Note 09/0003/00 of 18.2.2009 - Information Note on Fraud Indicators for ERDF, ESF and CF).

9.7 Detective Actions

As asserted by the EC, effectively implemented robust control systems can considerably reduce the fraud risk but cannot completely eliminate the risk of fraud occurring or remaining undetected. This is why the systems also have to ensure that procedures are in place to detect fraud and to take appropriate measures once a suspected case of fraud is detected.

The below procedure 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, he/she must notify his/her 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/Ministry/Managing Authority. The official with whom the report was filed must immediately relay the message to the Head of the Managing Authority.
 - Timeliness plays a crucial role when addressing suspected cases of fraud. Consequently, when identifying cases of potential fraud, the officers' immediate reaction is to alert his/her immediate superior verbally. This claim 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 asked to investigate further.
- The Body reporting the suspicion of fraud must act with caution in dubious situations which might lead to fraudulent transactions. In the case of detection of possible forged documents, the Treasury 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, and the Internal Audit and Investigations Department as per Article 16 of the Internal Audit and Financial Investigations Act (chapter 461 of the Laws of Malta), which states "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:
 - (1) To forward the case to the Malta Police for a criminal investigation; or
 - (2) 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 Managing Authority advises Treasury 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 Managing Authority recommends the withdrawal of any suspicious payments from certification already carried out.

10. Information and Publicity

Introduction

This chapter provides information on EU Cohesion Policy Information and Publicity requirements to ensure that the results and achievements of the Programmes and projects co-funded by EU Cohesion Policy are communicated as widely and effectively as possible. These measures are intended to lead to increased transparency and greater awareness.⁴⁶ In this regard the Managing Authority has also prepared a Communication Plan <https://eufunds.gov.mt/en/Operational%20Programmes/Publicity> which was approved by the European Commission on 18th January 2008

This section is complemented by the Visual Identity Guidelines for Cohesion Policy 2007-2013. These can be downloaded from <https://eufunds.gov.mt/en/Operational%20Programmes/Publicity>. The Visual Identity Guidelines provide the technical specifications for the Cohesion Policy logos and the graphical guidelines with layouts/templates for information and publicity measures.

10.1 Publicity and Information: Strategic Objectives

Communication is essential at both programme and project level in order to reach the following strategic objectives⁴⁷:

- Ensuring transparency of and accessibility to the Funds;
- Increasing visibility and awareness of the role of the European Union and the positive impact of Cohesion Policy 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 10.3 below.

10.2 The Regulatory Framework

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

- The General Regulation (EC) No. 1083/2006, Article 69;
- The Implementing Regulation (EC) No. 1828/2006, Articles 2 - 10
- The official Graphical Specifications of the EU Emblem.
- The official Graphical Specifications of the National Flag of Malta.

Failure to comply with the Manual of Procedures may put the eligibility of expenditure or parts thereof at risk.

10.3 Role of the Managing Authority [Programme Level Information and Publicity]

1. The MA (or the IB on its behalf in the case of aid schemes, as provided for in Article 107 of the Treaty) has two main functions:
 - a. Providing guidance, monitoring and ensuring compliance with the information and publicity regulations and requirements at programme and project level⁴⁸;
 - b. Drafting and implementing the Communication Plan for Cohesion Policy 2007-2013.

For further information on publicity and information at programme level, the MA's Communications Unit may be contacted by email: info.ppcd@gov.mt.

2. Logos, useful downloads and information can be found in the publicity section of its website: <https://eufunds.gov.mt/en/Operational%20Programmes/Publicity>.

⁴⁶ As required by Article 69 of EC Regulation 1083/2006.

⁴⁷ Article 69 of Council Regulation 1083/2006.

⁴⁸ In the case of aid schemes under Article 107 of the Treaty, this function is undertaken by the relevant Intermediate Body managing the scheme on behalf of the MA.

10.4 Responsibility of the Beneficiary [Project Level Information and Publicity]

1. The Beneficiary also has 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 Communications unit; and,
 - d. Participating in publicity and information measures as well as networks and /or exchanges of experience organised at EU, national or programme level.

10.5 Participation in Publicity and Information Measures at EU or Programme Level

1. The Beneficiary must be aware that acceptance of funding is also an acceptance of their inclusion in *online* or other published lists and databases of beneficiaries compiled by the MA or the IB on its behalf.⁴⁹ The information may include⁵⁰ name and details of Beneficiary organisation, cost of the project, grant amount and purpose and results of the project. This list is not exhaustive. Furthermore, this information may also be uploaded on websites, including those hosted by the Commission and / or other EU institutions where information is collated and presented in order to show activity across Member States.
2. The Beneficiary shall, if requested to do so, collaborate with the MA (and/or the IB on its behalf) 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, information and publicity initiatives is outlined in the MA's Communication Plan.

10.6 Implementing Publicity and Information Measures

Information and publicity is an integral part of project implementation. However, publicity 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 publicity initiatives:

1. **Principle of proportionality:** Publicity measures should be reasonable and in proportion to the size, objectives and results of the project.
2. **Planning and scheduling:** publicity and information 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 ensure 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 the Beneficiary informs and consults with the MA about all information and publicity activities before implementation. However, the final vetting of the visual layout and artworks of information and publicity measures will be the Beneficiary's responsibility..
 - b. *Target audience:* publicity and information measures should be appropriate for the identified target groups. Where possible the Beneficiary should also target the general public, particularly when informing about results of Cohesion Policy interventions.
 - c. *Language and tone:* publicity and information 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, publicity and information 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.
4. **Copyright issues and reproduction:** The Beneficiary is advised to retain copyright of original publicity or information material related to the project, including all artwork and/or components. The MA may require to utilise project level publicity or information material during public events, presentations or publicity at programme /

⁴⁹ EC Regulation 1828/2006, Article 6

⁵⁰ The list is indicative and not comprehensive of the information that can be published.

national level. Co-financed publicity or information material cannot be used by the Beneficiary for other purposes. It is important that copyright issues are clear to prospective Tenderers and set out in the relevant terms of reference and tender dossiers (as well as subsequent contracts).

5. **Reporting:** The Beneficiary shall report on progress relating to the implementation of information and publicity actions by filling in the publicity section of the Project Progress Report template **Audit and Control:** The Beneficiary is advised to keep 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 commercials, 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 ensure that it can be viewed by auditors and/or other officials involved in the control process.
6. **Confidentiality and data protection:** The confidentiality of participants in all projects is to be respected, especially with regard to ESF. Photographs or footage featuring participants can only be transmitted or reproduced for information or publicity purposes if participants give their written authorisation. The relevant letters of authorisation should be retained on file by the Beneficiary. Beneficiaries should ensure that such authorisation is given at the onset of the project in order to ensure that publicity material can be used.

10.7 Ensuring Compliance with Visual Identity Requirements

1. All documents, publicity and information items, publications or measures are to respect the provisions of Articles 8 and 9 of EC Regulation 1828/2006. and with national requirements. Beneficiaries can refer to the Visual Identity Guidelines for guidance, where necessary.
2. The main elements that make up the visual identity of the Cohesion Policy 2007-2013 are the following:
 - a. **The National Flag of Malta.** It is important to ensure 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/Operational%20Programmes/Publicity>
 - 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/abc/symbols/emblem/graphics1_en.htm or www.ppcd.gov.mt/publicity.⁵¹ The EU emblem is strictly compulsory for all information and publicity measures, as per Article 9 of EC 1828/2006.
 - c. **The relevant Cohesion Policy Logo,** in line with the Visual Identity Guidelines which can be downloaded from <https://eufunds.gov.mt/en/Operational%20Programmes/Publicity> A similar logo has been designed for each Fund (ERDF, ESF and the Cohesion Fund) in both Maltese and English to help establish a clear and holistic identity for the Structural Funds and the Cohesion Fund, reflecting the role played by both the EU and Malta.
 - d. **The compulsory text.** In line with Article 9 of Regulation 1828/06, apart from the EU Emblem, National Flag of Malta and the relevant Cohesion Policy Logo, it is advisable for all publicity measures to include reference to the EU's contribution to projects and the role of the programmes concerned. The text consists of the following:
 - Reference to the Operational Programme under which the funding is being provided
E.g. "*Operational Programme I – Cohesion Policy 2007-2013*"
 - The title of the relevant Operational Programme.
E.g. "*Investing in Competitiveness for a Better Quality of Life*" (compulsory).
 - Reference to the European Union
E.g. "*Project part-financed by the European Union*"
 - Name of the relevant Fund (compulsory).
 - The relevant co-financing rate.
 - The slogan: "*Investing in your future*" (compulsory).
3. These elements are to be mainly laid out as indicated in the Visual Identity Guidelines.

10.8 Carrying out Compulsory Information and Publicity Measures

Apart from ensuring that all information and publicity initiatives comply with the *visual identity requirements*, the Beneficiary shall also ensure to carry out all the compulsory publicity and information measures which are necessary for

⁵¹ As specified by Annex I of the Commission Regulation (EC) No. 1828/2006.

the project⁵². These compulsory activities, together with other optional information and publicity measures, are outlined in further detail under the points 10.10 – 10.14 below. A summary is provided in Table 3 below for ease of reference.

NB: *Requirements marked with an asterisk are strictly obligatory, as per EC 1828/06, Articles 8 and 9.

In order to increase visibility, the Beneficiary shall seek to include *the visual identity requirements* on:

- All adverts issued in the press (and other media) in relation to procurement, recruitment, calls or other procedures and/or events (with the exception of adverts on the Government Gazette);
- All information and publicity measures part-financed by the funds;
- The cover pages of tender documents and contracts and;
- The cover pages of all part-financed reports, studies, questionnaires, attendance sheets, certificates⁵³, power-point presentations, handouts and other documents without excluding information and publicity items.
- Promotional items/giveaways financed through the project

10.8.1 *Projects Involving Construction/Infrastructural Works* *[Total Public Contribution over €500,000]*

Projects which have a total public contribution of over €500,000 and which involve construction/infrastructural works must set up a prominent billboard, followed by a permanent explanatory plaque at the work site/s

1. The Compulsory Billboard must be:

- a. Set 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. Set up in line with relevant MEPA or other national /local requirements, if applicable;
- 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
 - i. the name and type of the project;
 - ii. the *visual identity requirements*. ;
- f. Made of a material which is weather-resistant and durable enough not to fade, crumble or succumb to vandalism. In cases whereby 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 specifications of compulsory billboards, together with illustrations, can be obtained from the Visual Identity Guidelines, <https://eufunds.gov.mt/en/Operational%20Programmes/Publicity> .

2. The Compulsory Explanatory Plaque must be:

- a. Set up within six months after completion of the construction/infrastructural works mentioned above;*
- b. Visible and of significant size, located at a part of the site which can be seen by the general public;
- c. Designed in such a way that at least 25% of the plaque is dedicated to:
 - i. the 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 MEPA or other local requirements, if applicable.

⁵² As required by Article 8, Regulation 1828/2006.

⁵³ 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 and the Beneficiary informs the trainee/s that the training programme or course was part-financed by EU funds.

Further detail on the technical specifications of compulsory plaques, together with illustrations, can be obtained from the Visual Identity Guidelines, which can be downloaded from <https://eufunds.gov.mt/en/Operational%20Programmes/Publicity>

10.8.2 *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 ensure that items are identified through the use of stickers or plastic plaque attached to the equipment, or through a wall plaque on site. It is recommended to ensure that stickers/plastic plaque:

- Include the EU emblem and National Flag of Malta, together with the compulsory text as outlined above and;
- Be based on the layout that can be obtained from the Visual Identity Guidelines, which can be downloaded from <https://eufunds.gov.mt/en/Operational%20Programmes/Publicity>
- Are made of a durable material; and
- Copies are retained for reporting and audit purposes, including photographs of the affixed signs.

10.8.3 *Projects involving events, conferences or training, including all ESF Projects*

1. A Beneficiary implementing ESF projects and ERDF or Cohesion Fund projects which include events, conferences, training, employment measures or other activities involving several participants is advised to ensure 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 flag and Malta flag 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*; and
 - e. Copies of all documentation including original signed attendance sheets and forms are to be retained for reporting and audit purposes.
2. Compulsory 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 a) the name and type of the project; b) the *visual identity requirements*.

Further detail on the technical specifications of compulsory posters, together with illustrations, can be obtained from the Visual Identity Guidelines, which can be downloaded from <https://eufunds.gov.mt/en/Operational%20Programmes/Publicity>

10.9 Optional Publicity and Information Measures

In addition to the measures mentioned above, Beneficiaries may choose from a wide range of optional publicity and information measures to publicise their projects as required as long as these are reasonable and in proportion to the rest of the project. When carrying out publicity and information measures, the Beneficiary is advised to ensure that these measures comply with the publicity requirements mentioned in this Manual and in the Visual Identity Guidelines.

10.10 Publicity and Information Measures for Programming period 2014-2020

Information and communication form an integral part of the programming strategy for the programming period 2014-20. All Beneficiaries will be required to inform the public about the support obtained from the Funds complying with the

publicity requirements as provided in the General⁵⁴ and Implementing Regulations⁵⁵, especially with regards to signage, including billboards, plaques and promotional material.

The Managing Authority will support Beneficiaries in their communication activities, providing technical guidance on information and communication measures.

⁵⁴ **Common Provision Regulation** - Regulation (EU) No 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 and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006

⁵⁵ **ERDF Regulation** - Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No 1080/2006;

ESF Regulation - Regulation (EU) No 1304/2013 of the European Parliament and of the Council of 17 December 2013 on the European Social Fund and repealing Council Regulation (EC) No 1081/2006

11. Delegation of Authority

11.1 Delegating Authority

1. The Beneficiary organisation is responsible for the entire implementation of the project.
2. The Project Leader represents the Beneficiary on all matters related to the project.
3. In cases where the Beneficiary opts for external project management, the Beneficiary is expected to explain to the Managing Authority the internal checks and balances introduced within the Beneficiary organisation to ensure that the Beneficiary retains full control and decision making rights on the project. The Beneficiary should not be represented by external project management for any meetings concerning the project.
4. In order to ensure that the 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 during the Statement of Expenditure period and the certification of works, invoices and ISCs, the project leader may delegate authority to the contact person or other officials. This option should only be exercised in exceptional circumstances, namely:
 - when the project leader is abroad, on sick leave or vacation leave; and
 - in the case of Aid Schemes, the Project Leader of Intermediate Bodies may delegate authority to selected persons to perform specific tasks for a definite period of time.
6. In the case of Aid Schemes (or any other cases approved by the MA), the IB (or Beneficiary) Project Leader may assign an open delegation of authority to a designated person/s within the Project Leader's office to:
 - i. certify an invoice/RR as correct and sign it;
 - ii. insert and confirm invoice/RR details in the SFD,
 - iii. create and sign an ISC and/or
 - iv. upload a scanned copy of the reimbursement request, invoice, proof of payment, and any other necessary supporting documentation on the SFD07-13. In such circumstances, it is the responsibility of the project leader and the Beneficiary to ensure 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 (i) to (iv) above. Multiple signatures are not permitted.

7. In circumstances where the project leader delegates duties to officers within the Beneficiary organisation, the project leader must complete the necessary delegation of authority form (see below) authorising the officer/s concerned to carry out specific tasks on its behalf.
8. It should be noted that while the function can be delegated, responsibility **remains with the project leader**.
9. The templates below must be completed and signed by both parties.
10. The provisions of this section also apply to the Line Ministry function. The DPI may delegate authority to another officer within the Directorate to certify invoices on her/his behalf. A specific or general delegation may be applied, but the ultimate responsibility remains with the DPI.

The Beneficiary should fill in the ad hoc Delegation of Authority Forms provided by the MA and sent to the MA before the delegate executes the assigned duties. Specifically, the Beneficiaries should choose the appropriate form from the below:

For ERDF Projects:

- [Delegation of Authority Form Open \(ERDF\)](#)
- [Delegation of Authority Form Restricted \(ERDF\)](#)

For ESF Projects:

- [Delegation of Authority Form Open \(ESF\)](#)
- [Delegation of Authority Form Restricted \(ESF\)](#)

For CF Projects:

- [Delegation of Authority Form Open \(CF\)](#)
- [Delegation of Authority Form Restricted \(CF\)](#)

11.2 Termination & Change of Project Leader

1. Should there be a change in the Project Leader, the current PL and the newly appointed PL should draft a letter informing the MA that the current PL will be terminating his/her project leadership (see template for the [Notification letter for the change of the Project Leader](#)). The letter should specify the name and designation of the officer who will be taking over the project leadership and the date of the effective handover.
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 Organisation⁵⁶, as per specific form. This procedure also applies for project leaders who will be retiring from their post within the Beneficiary organisation. In the case of public sector projects, the respective Line Ministry shall ensure that the above procedure has been undertaken in time and that an effective handing over has been given to the new project leader to ensure the smooth continuation of the project.
3. Beneficiaries should ensure 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, CA and AA (amongst others) even after termination of the project, mainly in the context of the Closure of the Programming period (2017) and possible *ad hoc* audits by European institutions or Maltese Authorities.

⁵⁶ 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.

12. Retention of Documents

12.1 General Remarks

All documentation related to projects shall be kept available for control and audit purposes in accordance with Article 90(1) of the General Regulation. This applies to all organisations benefiting/or involved in the management of Cohesion Policy Funds for 2007-2013.

All documents related to the projects shall be kept available for control and audit purposes up to three years after closure of the relevant Operational Programme [at least until **2020**] in accordance with Article 90(1) of the General Regulation and taking into consideration to what is provided under article 89(5) of the same regulation.

12.2 Records to be Retained

In line with Article 19 of Regulation 1828/2006, all the documents related to the project and expenditure shall be made available during audit missions. The Beneficiaries must ensure that the following are available:

- Documents relating to specific expenditure incurred, declared and payments made under the assistance and required for a sufficient audit trail including documents constituting proof of actual delivery of works/goods/services co-financed through the EU grant;
- Reports and documents relating to checks carried out through:
 - the verification of expenditure;
 - the certification of expenditure and;
 - reports on audits carried out by the Audit Authority (IAID).

The rules regarding document retention apply to all stakeholders involved in delivering and administering structural funds, including the Department of Contract, Treasury, Line Ministry etc. In this regard, in relation to procurement of Contracting Authorities who fall under Schedule 2 of LN 296 of 2010 and whose value exceed €47,000 threshold, originals of documents should be retained directly by the Department of Contracts. The Beneficiary will still be asked to maintain documents that originate from the Beneficiary's end.

1. As indicated in the Table [‘Documents to be retained’](#) Beneficiaries and other SF stakeholders are required to maintain documents in their original format while others would be required to keep copies of these originals. Copies of the original documents must be kept on commonly accepted data carriers, by a competent officer, which include:
 - ✓ Photocopies of original documents;
 - ✓ Microfiches of original documents;
 - ✓ Electronic versions of original documents on data carriers (such as hard-disks, DVDs, USB sticks);
 - ✓ Documents existing in electronic version only.
2. It is the sole responsibility of the Beneficiary organisation to ensure easy and quick access to project documentation also after the project closes. This is particularly the case when project management is contracted either outside the organisations or to persons with contracts which may terminate at the end of the project.
3. 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 the Beneficiary organisation, documents should be signed by the Project Leader (or delegate) and, in the

case of the Line Ministry, by the DPI/DCS (or delegate).

12.3 Records To Be Uploaded on SFD07-13

1. Specific Guidance on the documents to be uploaded by the MA, Intermediate Bodies (IBs), Beneficiaries and Treasury in the SFD07-13 has been provided in MA Circular 02/2010 'Documents to be uploaded in the Structural Funds Database 2007-13' and MA Circular 02/2010 '*Documents to be uploaded in the Structural Funds Database 2007-13 Aid Schemes*'. These documents are NOT intended to reduce the scope of the retention of documents outlined in this Chapter. They are only intended to ensure consistency and availability of information in the conduct of first-level desk-based controls, provide clear guidance to eliminate unnecessary duplication of work, reduce administrative burdens and mitigate the impact on SFD 07-13 hardware capacity. Beneficiaries and stakeholders are reminded that all the obligations relating to retention of documents as stipulated in Article 90 of EC1083/2006 (and subsequent amendments), the Grant Agreement and Manual of Procedures shall remain valid and effective.
2. The above cited MA circular lists the documents to be uploaded in the Structural Funds Database 2007-13, under each category of funding – Projects and Grant Schemes. Documents are to be uploaded only in Portable Document Format (PDF). Assistance on how to upload the documents on the database can be sought at the SFD07-13 tutorials website:
<https://eufunds.gov.mt/en/Operational%20Programmes/Structural%20Funds%20Database/Pages/Tutorials.aspx>

12.4 Data Protection

All Beneficiaries are being reminded to adhere to the Data Protection Act 2001 of the laws of Malta, other subsidiary legislations and the Private policy of the respective organisations. In this regard, the Beneficiaries should refer to MA Circular 03/2010 on *Data Protection Compliance* which highlights the minimum requirement when processing information of a personal nature.

12.5 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 being the one on top and Section XI being at the very end:
 - a. Original Application Form, Letter of Approval, Grant Agreement & Addenda to the Grant Agreement;
 - b. General Correspondence, mostly related to the Grant Agreement;
 - c. Payment Process (copies of invoices, fully-signed ISCs and fiscal receipts and other proofs of payment as applicable);
 - d. Verification Process (inc. Administrative and Physical On-the-Spot reports);
 - e. Certification Process (Statements of Expenditure and letters from the CA regarding rejection of invoices from the SoE);
 - f. Procurement and employment procedures;
 - g. Monitoring;
 - h. Irregularity Reports;
 - i. Project deliverables and inventory of fixed assets procured from the project;
 - j. Publicity Records;
 - k. 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. Whilst it is preferable that the Beneficiary retains a separate project file totally dedicated to matters related to the project, it is understandable that Beneficiaries 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, the 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 Department's procedures. The colour of the departmental file is the same as used by the organisation in its day-to-day business. The instructions on this file are the same as those used for other departmental files for the organisation.

12.6 Retention of Documents

Despite the fact that the purpose of this MoP is specifically focused on the requirements of the Beneficiary, for completeness sake a complete list of documents that need to be retained (in hard original or copy) by the various stakeholders involved in the implementation of Cohesion Policy funded projects can be found in the table ['Documents to be retained'](#). This will give the Beneficiary a complete picture of the requirements attached to the retention of documents process.

As a general principle, (original) documents are expected to be retained by the Entity which produces them. This is particularly important in the case of Procurement which exceeds €47,000, under which original documents are generated and filed by the Department of Contracts.

As already indicated above, the table below lists the documents that need to be physically retained in the stakeholders' files. However, stakeholders are reminded that some of these documents are uploaded in the SFD07-13, as indicated in Section 12.3 above.

