

Asylum, Migration and Integration Fund and Internal Security Fund 2014–2020



MANUAL OF PROCEDURES

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Asylum, Migration and Integration Fund
Internal Security Fund
2014-2020

Sustainable Management of Internal Security and Migration Flows



Funds and Programmes Division
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The purpose of this Manual of Procedures is solely to provide guidance to beneficiaries. It should be read in conjunction with the European Union Regulations including the following and any subsequent amendments:

1. REGULATION (EU) NO 513/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for police cooperation, preventing and combating crime, and crisis management and repealing Council Decision 2007/125/JHA
2. REGULATION (EU) NO 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crises management.
3. REGULATION (EU) 2022/585 of the European Parliament and of the Council of 6th April 2022 amending Regulation, (EU) No 516/2014 establishing the Asylum, Migration and Integration Fund and (EU) 2021/1147 establishing the Asylum, Migration and Integration Fund
4. REGULATION (EU) NO 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC; and
5. REGULATION (EU) NO 516/2014 of the European Parliament and of the Council of 16 April 2014 establishing the Asylum, Migration and Integration Fund; and
6. COMMISSION DELEGATED REGULATION (EU) NO 1042/2014 of 25 July 2014 supplementing Regulation (EU) No 514/2014 with regard to the designation and management and control responsibilities of Responsible Authorities and with regard to status and obligations of Audit Authorities; and
7. COMMISSION DELEGATED REGULATION (EU) NO 1048/2014 laying down information and publicity measures for the public and information measures for beneficiaries pursuant to Regulation (EU) No 514/2014 of the European Parliament and of the Council laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument of financial support for police cooperation, preventing and combating crime, and crises management.
8. COMMISSION IMPLEMENTING REGULATION (EU) No 1049/2014 of 30 July 2014 on technical characteristics of information and publicity measures pursuant to Regulation (EU) No 514/2014 of the European Parliament and of the Council laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, prevention and combating crime and crisis management.
9. COMMISSION IMPLEMENTING REGULATION (EU) 2015/840 of 29 May 2015 on controls carried out by Responsible Authorities pursuant to Regulation (EU) No 514/2014 of the European Parliament and of the Council laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police

cooperation, preventing and combating crime, and crisis management.

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

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List of Abbreviations

AA	Audit Authority
AG	Accountant General
AIR	Annual Implementation Report
AMIF	Asylum, Migration and Integration Fund
CBM	Central Bank of Malta
DAS	Departmental Accounting System
DCS	Director (Corporate Services)
DoC	Department of Contracts
DPDPI	Director (Policy Development and Programme Implementation)
ETC	Employment and Training Corporation
ERA	Environment Resources Authority
EU	European Union
FCU	Financial Control Unit
FPD	Funds and Programmes Division
GCC	General Contracts Committee
IAID	Internal Audit and Investigations Department
IB	Intermediate Body
ICT	Information and Communication Technology
IMCC	Inter-Ministerial Co-ordination Committees
ISC	Invoice Status Certificate
ISF	Internal Security Fund
LM	Line Ministry
LPO	Local Purchase Order
MC	Monitoring Committee for the Asylum, Migration and Integration Fund and the Internal Security Fund
MEFL	Ministry for the Economy, European Funds and Lands
PA	Planning Authority
MFIN	Ministry for Finance
MITA	Malta Information Technology Agency
MSIS	Migration and Security Information System
NAO	National Audit Office
NCPD	National Commission for Persons with Disability
NCPE	National Commission for the Promotion of Equality
NGO	Non-Governmental Organisation

OJEU	Official Journal of the European Union
OLAF	European Anti-Fraud Office
OPM	Office of the Prime Minister
PA	Partnership Agreement
PCRB	Public Contracts Review Board
PL	Project Leader
PPCD	Planning and Priorities Co-ordination Division
PPR	Project Progress Report
PSAB	Project Selection Appeals Board
PSC	Project Selection Committee
RA	Responsible Authority
SAMB	State Aid Monitoring Board
SCC	Special Contracts Committee
TA	Technical Assistance
VAT	Value Added Tax

1. Introduction

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 Asylum, Migration and Integration Fund and the Internal Security Fund 2014-2020 (AMIF & ISF).
2. The Asylum, Migration and Integration Fund (AMIF) for the period between 2014 – 2020 was set up with the general objective of contributing to the efficient management of migration flows and to the implementation, strengthening and development of the common policy on asylum, subsidiary protection and temporary protection and the common immigration policy, while fully respecting the rights and principles enshrined in the Charter of Fundamental Rights of the European Union.
3. As part and parcel to the general objective outlined above, the Fund will contribute to four common specific objectives, that is:
 4.
 - a) the strengthening and development of all aspects of the Common European Asylum System, including its external dimension;
 - b) to support legal migration to the Member States in accordance with their economic and social needs, such as labour market needs, while safeguarding the integrity of the immigration systems of Member States, and to promote the effective integration of third-country nationals;
 - c) enhance fair and effective return strategies in the Member States which contribute to combating illegal immigration, with an emphasis on sustainability of return and effective readmission in the countries of origin and transit;
 - d) and enhance solidarity and responsibility-sharing between the Member States, in particular towards those most affected by migration and asylum flows, through practical cooperation.
5. The Internal Security Fund (external borders and visa) has the general objective of contributing to ensuring a high level of security in the Union.
6. Within this general objective, the Instrument shall contribute — in accordance with the priorities identified in relevant Union strategies, policy cycles, programmes, threat and risk assessments — to the following specific objectives:
7. The Internal Security Funds (for police cooperation, preventing and combating crime, and crisis management), the general objective of the Instrument shall be to contribute to ensuring a high level of security in the Union.
8. Within this general objective, the Instrument shall contribute — in accordance with the priorities identified in relevant Union strategies, policy cycles, programmes, threat and risk assessments — to the following specific objectives:

- (a) crime prevention, combating cross-border, serious and organised crime including terrorism, and reinforcing coordination and cooperation between law enforcement authorities and other national authorities of Member States, including with Europol or other relevant Union bodies, and with relevant third countries and international organisations;
- (b) enhancing the capacity of Member States and the Union for managing effectively security-related risks and crises, and preparing for and protecting people and critical infrastructure against terrorist attacks and other security-related incidents.

9. The Programmes may be downloaded from:

[AMIF: https://fondi.eu/programme/asylum-migration-and-integration-fund-2014-2020/](https://fondi.eu/programme/asylum-migration-and-integration-fund-2014-2020/)

[ISF: https://fondi.eu/programme/internal-security-fund-2014-2020/](https://fondi.eu/programme/internal-security-fund-2014-2020/)

- 10. In Malta the overall co-ordination and management of the AMIF/ISF falls under the direct responsibility of the Funds and Programmes Division (FPD) within the Ministry for Economy, European Funds and Lands (MEFL). FPD is the designated responsible authority (RA) for the Programming Period 2014 - 2020.
- 11. It is important to note that projects implemented through the AMIF/ ISF National Programmes always require both EU and beneficiary funds. An element of co-financing from non-governmental organisations or the private sector is always applicable in the case of projects implemented by those organisations.
- 12. The main Regulations which lay down the general provisions for the 2014-2020 programming period are those listed in page 2 of this MoP.

Users of this MoP should note that this list is not exhaustive and is subject to change according to any amendments initiated by the European Commission.
- 13. This MoP is subject to regular revisions and changes. Should there be changes to the MoP, an updated version of the MoP will be placed on the website of the responsible authority. Beneficiaries are reminded to check the FPD's website from time to time in order to identify any updates carried out to project implementation guidelines and documents.

2. Roles, Responsibilities and Channels of Communication

2.1 Responsible Authority (RA)

The Funds and Programmes Division within the Ministry for the Economy, European Funds and Lands (MEFL) is designated¹ as the responsible authority (RA) responsible for the AMIF & ISF Programmes, in accordance with Article 25 of Regulation (EU) N^o 514/2014. Under the principle of shared management, the RA retains overall responsibility for the funds and therefore any implementation queries, concerns as well as requests for further information that a beneficiary, stakeholder or the general public feel have not been addressed in a comprehensive manner at the appropriate level, should be brought to the immediate attention of the RA.

The general functions of the responsible authority are set down in Article 27 of Regulation (EU) N^o 514/2014. In addition, the responsible authority shall also perform the functions set down in article 4 of Commission Delegated Regulation (EU) N^o 1042/2014².

RA contact details:

Telephone: (+356) 2555 2634

Email: fpd.mefl@gov.mt

2.2 Financial Control Unit (FCU)

The Financial Control Unit (FCU) is a horizontal unit within the body entrusted with the management, coordination and control of European and other funds which acts as an oversight function to the respective Managing Authority. To ensure compliance with the principle of separation of functions, the FCU carries out the internal control function on the verifications of expenditures carried out by the MA.

This Unit is mainly responsible to:

- prepare checklists and procedures together with the provision of relevant training
- undertake checks on the quality of verifications carried out by the Managing Authority
- provide advice to the Managing Authority particularly on any corrective action needed and the existence of irregularity instances
- act as a coordinating body with the Audit Authority

2.3 Audit Authority

The Internal Audit and Investigations Department (IAID) is the designated³ audit authority under Article 25 of the Regulation (EU) N^o 514/2014. The IAID is the executive branch of the Internal Audit Investigations Board (IAIB) within the Office of the Prime Minister and is regulated by the Internal Audit and Financial Investigations Act 2003 (Chapter 461, Laws of Malta).

The functions of the audit authority are set down in Article 29 of Regulation (EU) N^o 514/2014.

IAID contact details:

Telephone: (+356) 2123 7737

Email: info.iaid@gov.mt

2.4 Line Ministry (LM)

1. In most cases the Director (Policy Development and Programme Implementation) (DPDPI) and / or the Director (EU Affairs) or any Director appointed by the respective Ministry, responsible for the line ministry function.
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

¹ FPD was designated as the RA for AMIF and ISF on 7th December 2015.

² Commission Delegated Regulation (EU) No 1042/2014 of 25 July 2014 supplementing Regulation (EU) No 514/2014 with regard to the designation and management and control responsibilities of Responsible Authorities and with regard to status and obligations of Audit Authorities.

³ Approved by the Principal Permanent Secretary on 24 January 2014

programming stage; supporting agencies at the moment of submission of proposals; providing support to beneficiaries during implementation – including liaison with the RA and other horizontal stakeholders; monitoring of projects falling within the ministry's portfolio, including the endorsement of the Project Progress Reports; and following up any issues arising from management checks and audits.

3. 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.

2.5 Beneficiary

1. A beneficiary is an organisation responsible for the implementation of a project. A beneficiary has signed a Grant Agreement with the RA and its project must be implemented in line with that Agreement. A beneficiary is responsible to implement the operation in line with the relevant terms and conditions of the Grant Agreement signed with the RA as well as the provisions of this MoP. A beneficiary shall always be guided by the principles of good governance and sound financial management.
2. A Grant Agreement signed between the RA and a beneficiary gives the relevant details on the objective, targets and financial allocation of the respective project. A Grant Agreement binds that beneficiary to implement the project in accordance with the terms and conditions set out therein and any requests for changes shall be notified to the desk officer at the RA in good time to allow for its assessment and determination by the RA. Such request should be endorsed by the legal representative of the organisation and also by the permanent secretary (the latter if applicable)⁴. A decision is transmitted to a beneficiary in writing and, in case of an approval this is then generally followed up by means of an addendum. Although the RA shall approve all changes in writing, there is no need to sign an addendum each time there is a change. In the spirit of proportionality and also to reduce administrative burden, an addendum may cover several changes that would have already been approved by the RA over a span of time. No unilateral changes (by a beneficiary) to a Grant Agreement shall be accepted by the RA.
3. Where applicable the Beneficiary is to submit the original Financial Identification Form (Annex 2) to the RA prior to the first payment. The Financial Identification Form of service providers, if applicable, shall be provided before submitting the claim for payment (see below for further details on the payment process). Details provided in this form will be utilised to transfer payments to the Beneficiary / service provider during implementation. The Beneficiary is solely responsible for the correctness of these forms. If incorrect bank details are provided, neither the RA nor Treasury shall be liable in any way for payments transferred to incorrect bank accounts.

2.5.1 Implementation with a Partner Organisation

In cases where the project is being implemented by more than one entity/organisation, the Partner Organisation/s shall be indicated at the application stage. The entity leading the project (Lead Beneficiary) shall be responsible for the actual implementation of the project. The Lead Beneficiary shall ensure that the Partner/s is/are capable of carrying out the relevant role/s and commitment/s in relation to the project.

⁴ Refer to Circular 4/2018 on *Addendum to the Grant Agreement in connection with projects implemented under AMIF and ISF*.

A Declaration by Partner Organisation/s (Annex 3) shall be drawn up, by the partner/s to the project, indicating the tasks and contributions to the project. This Declaration has to be submitted to the RA at application stage and eventually must also be attached to the GA.

2.6 Department of Contracts (DoC)⁵

1. The Department of Contracts (DoC) within MFIN is responsible for administration of the procurement procedures as laid down in the Public Procurement Regulations 2016 (LN 352 of 2016 and as subsequently amended) or replaced. The DoC provides guidance and advice to beneficiaries on all issues pertaining to public procurement. In the Legal Notice, the DoC is defined as the Central Government Authority whereas an agency procuring the goods/services/works is defined as a Contracting Authority.
2. The DoC 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 12 of LN 352/2016.
4. It is the responsibility of ALL beneficiaries (even those not falling within the direct remit of the DoC such as NGO, local councils and other LN 352/2016 Schedule 3 entities) to obtain the advice of the DoC on procurement-related matters.

DoC contact details:

Telephone: (+356) 2122 0212

Fax: (+356) 2124 7681

Website: www.contracts.gov.mt
etenders.gov.mt

Email: info.contracts@gov.mt

2.6.1 Departmental Tender Evaluation Committee

1. A Departmental Tender Evaluation Committee is a committee appointed by a Contracting Authority with the purpose of evaluating departmental tender offers received and making recommendations thereon.
2. In keeping with the principle of proportionality, it is recommended that Departmental Adjudication Boards use templates and procedures available on the DoC website (with applicable amendments that have to be made by the relevant Contracting Authority) and consult the DoC should further information on the procedure be required.
3. It is also highly recommended that Boards refer to the Manual for Evaluation Committees, issued by the DoC and available at: <http://contracts.gov.mt/en/Resources/Documents/Manual%20for%20Evaluation%20Committees.pdf>

⁵ The Department of Contracts is involved in tenders whose value (excluding VAT) exceeds € 144,000.

2.6.2 Departmental Contracts Committee

In line with paragraph 79 of LN 352/2016, there shall be in each Ministry a Ministerial Procurement Unit which shall fall under the office of the Permanent Secretary responsible for that Ministry, or under another person in an equivalent post, being so delegated by the Minister responsible for that Ministry.

For the purpose of EU funding implementation, this refers to the Committee set up in terms of Regulation 352/2016 para. 73 of the Public Procurement Regulations with the purpose of making definite recommendations for the award of public contracts whose value does not exceed €144,000⁶.

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

2.6.3 General Contracts Committee (GCC)

- i. The role of the General Contracts Committee (GCC) is, amongst other, to advise on matters relating to public contracts and procurement, to open tenders, to evaluate the recommendations submitted by tender evaluation committees and to make definite recommendations for the award of contracts and to approve justified deviations from the original conditions of a contract when and as required by Public Procurement Regulations.
- ii. Therefore, beneficiaries are reminded to take into consideration the role of the GCC in the tender adjudication and variation approval processes in their tendering, contracting and disbursement time-planning.
- iii. Information on the GCC can be obtained from the Department of Contracts.

2.6.4 Special Contracts Committee (SCC)

- i. A Special Contracts Committee (SCC) is appointed whenever the Prime Minister determines that the adjudication of a tender requires special expertise, skills or other specialist knowledge. A SCC will remain in operation throughout the adjudication process of a tender or else until the Director of Contracts declares that the adjudication of the public contract is withdrawn.
- ii. Information on the SCC can be obtained from the Department of Contracts.

2.6.5 Public Contracts Review Board (PCRB)

- i. The Public Contracts Review Board (PCRB)⁷ is an independent and autonomous board (composed of a chairman and two members) appointed by the Prime Minister for a period of three years⁸. The PCRB is responsible for determining complaints lodged by aggrieved bidders on all tenders issued by the DoC, all departmental tenders, and all tenders issued by Schedule 3 entities.
- ii. The PCRB can be contacted by writing to:

⁶ Refer to Contracts Circular No 01/2018. In case a Ministerial Procurement Unit is set up, the DCC approval shall be sought for contracts awarded up to € 250,000.

⁷ As per L.N 352 of 2016, Public Procurement Regulations, 2016 and Contracts Circular No.19/2016

⁸ Members may be re-appointed.

The Secretary
Public Contracts Review Board
c/o Department of Contracts
Notre Dame Ravelin
Floriana

PCRB contact details:

Secretary
Public Contracts Review Board
Telephone: (+356) 2123 9095
E-mail: carmel.c.falzon@gov.mt

2.6.6 Departmental Adjudication Boards

- i. Departmental Adjudication Boards are boards or committees appointed by contracting authorities with the purpose of evaluating offers received in response to departmental tenders and for making recommendations thereon.
- ii. Taking into account the principle of proportionality, it is recommended that Departmental Adjudication Boards use templates and procedures available on the DoC website (with applicable amendments that have to be 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 Standard Operating Procedures/Guidelines for Tender Evaluation Committees, issued by the DoC and available at <http://contracts.gov.mt/en/Resources/Pages/Resources.aspx>

2.7 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 the AMIF/ISF National Programmes, 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;
 - iii. Effecting payments / reimbursements to contractors and beneficiaries in respect of expenditure incurred for approved projects.
 - iv. And any other business as outlined in the Manual of Procedures of the EU Funds Management within the Treasury Department⁹

⁹ Version 1 October 2014 and any other subsequent amendments

Treasury contact details:

Telephone: (+356) 2596 7131/ 183

Fax: (+356) 2596 7208

Email: eufmu@gov.mt

2.8 Contractor

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

2.9 Monitoring Committee

In terms of Articles 12(4) of Regulation (EU) N^o 514/2014, a Monitoring Committee (MC) charged with supporting the implementation of the AMIF / ISF National Programmes in Malta has been established. The MC has its own terms of reference and is chaired by the Permanent Secretary (MEAE) (or his / her representative), or his delegate, or the RA in his absence.

The Committee comprises stakeholders from all the relevant sectors. Representatives from stakeholders and or civil society will also be appointed to the MC. The members of the MC will meet to be kept abreast of all the developments that would be undertaken by the Programmes in the field of asylum and migration and internal security.

Representatives of the above stakeholders shall be delegated to be part of the Monitoring Committee by the respective stakeholders through transparent processes. The list of the members of the Monitoring Committee shall be published and each member of the Monitoring Committee shall have a right to provide his/her views.

2.10 National Audit Office (NAO)

1. The National Audit Office is the external auditor of the Government of Malta and is completely independent of the executive arm of the Government.
2. Since projects co-financed through the AMIF & ISF Programmes 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 NGO) as the external auditor of Government.

NAO contact details:

Telephone: (+356) 2205 5555

Fax: (+356) 2205 5077

Email: nao.malta@gov.mt

2.11 Channels of communication

The following lines of communication shall be adhered to:

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

communicate with the European Commission on issues pertaining to the AMIF/ ISF 2014-2020.

2. As secretariat to the MC, it is only the RA that will communicate with the MC on issues pertaining to the AMIF/ISF Programmes 2014-2020. Members should send their comments to the RA for distribution.
3. In terms of project implementation, the RA will communicate with beneficiaries and, in the case of public sector projects, the line ministry [i.e. Director (Policy Development and Programme Implementation)] on issues pertaining to projects. In the case of public sector projects, communication between a beneficiary and the RA shall be copied to the line ministry.
4. It is the beneficiary's responsibility to consult the relevant national authorities on issues pertaining to a project being implemented by that beneficiary (e.g. DoC on procurement; Treasury on payments; PA on planning permits, ERA on environmental permits; SAMB on State aid; NCPD and NCPE on equal opportunities; the VAT Department on issues related to VAT).
5. Beneficiaries and line ministries shall ensure continuous communication with the relevant stakeholders to guarantee that the payment process is progressing accordingly and within acceptable timeframes.
6. Changes in project leader and / or contact persons shall be notified immediately to the RA. The relevant template as referred to in Chapter 12 is to be filled in. The RA shall also inform beneficiaries of changes in desk officers assigned to projects.
7. Any other queries pertaining to implementation in general may be addressed to the RA.
8. Beneficiaries and Heads of Organisations should note in particular that they should inform the RA immediately in case of data users within the Migration and Security Information System (MSIS) who are transferred to another organisation or have left the project. This information should be sent to the MSIS ICT Unit, the RA, and the respective Information Management Unit. It is a beneficiary's responsibility to inform the stakeholders accordingly.
9. The MSIS Database 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 user manual for beneficiaries uploaded on the EU Funds website¹⁰ and contact the respective MSIS Database trainers within the organisation or the ministry. Where users do not know who the respective trainers are, they should contact the Head of their organisation or the RA. Any MSIS Database queries should be channelled through the respective trainer(s).

¹⁰

https://fondi.eu/important_documentat/amif-isf/

3. Compliance with Community Policies: Public Procurement, State Aid, Non-Discrimination and Sustainable Development

3.1 Introduction

A beneficiary shall ensure coherence with National rules and Community policies, in particular (although not exclusively) public procurement, State aid, environment, equal opportunities and sustainable development.

3.2 Public procurement

All beneficiaries should ensure that any procurement for projects co-funded by the AMIF / ISF programmes are carried out in line with the principles of non-discrimination, equality of treatment, transparency, mutual recognition, proportionality and good governance. Public entities (including local councils) are to ensure that procurement is carried out in line with the Public Procurement Regulations applicable at the time of implementation. In addition, it is highly recommended that beneficiaries ensure compliance with requirements set by DoC through the relevant Procurement Policy Notes which are regularly published on

<http://contracts.gov.mt/en/ProcurementPolicyNotes/Pages/ProcurementPolicyNotes.aspx>.

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

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.

Other beneficiaries not governed by the said Public Procurement Regulations (e.g. private sector beneficiaries, International Organisations, Voluntary Organisations and NGOs) are urged to follow the spirit of the Regulations and any guidance on procurement as set out in circulars issued by the RA¹¹.

Failure to comply with the RA Guidelines could lead to a 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 EU funds¹². 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 contract value) may be applied.

3.3 State aid requirements

1. In general, EU State aid rules apply to projects which involve any direct (or indirect) financial support from the public sector to commercial enterprises or organisations carrying out an economic activity or if in some way the assistance involved distorts trade or threatens to distort competition within the Community.

¹¹ <https://fondi.eu/important-documentation/reference-documents/circulars/2014-2020-programming-period/amif-isf-circulars/>

¹² 'Commission Decision of 19 December 2013 C(2013)9527 final 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'

2. State aid rules are applicable to all Union Objectives of the AMIF/ISF National Programmes provided that the operations under them fall outside Article 42 of the Treaty on the functioning of the EU.
3. Project applicants have a duty to ensure compliance with State aid rules and applicants are encouraged to consult the State Aid Monitoring Board (SAMB) prior to submission of a project application.
4. Should the nature of the project change during its life-time and/or after completion, thereby raising the possibility of State aid, a beneficiary should inform the State Aid Monitoring Board and provide SAMB clearance to the RA without delay. Failure to report such change (or in case State Aid is detected), loss/recovery of funds may result to that beneficiary.

State Aid Monitoring Board (SAMB) contact details:

Executive Secretary, State Aid Monitoring Board

Telephone: (+356) 2125 2757

Email: sambnotif@gov.mt

3.4 Non discrimination

1. Non-Discrimination is a cross-cutting theme and all efforts should be made by a beneficiary to include this element within the project and the effort undertaken needs to go beyond legal obligations. As outlined in article 45 of the Maltese Constitution the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, place of origin, political opinions, colour, creed, sex, sexual orientation or gender identity whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description. The projects have therefore the obligation not to exercise any form of discrimination as defined above. In this regard, advice from the National Commission for Persons with Disability (NCPD) and the National Commission for the Promotion of Equality (NCPE) on non-discrimination is recommended in order to determine how to integrate non-discrimination in a project co-financed through the AMIF/ISF National Programmes. Beneficiaries should ensure that any advertising and/or marketing activities undertaken within the project are free from stereotyping or any form of discrimination.
2. Apart from this as outlined in the Preamble to the AMIF Regulation (EU) No 516/2014, eligible actions should take account of the human rights-based approach to the protection of migrants, refugees and asylum seekers and should, in particular, ensure that special attention is paid to, and a dedicated response is provided for, the specific situation of vulnerable persons, in particular women, unaccompanied minors and other minors at risk.

NCPE contact details: Telephone: (+356) 2276 8200

Email: equality@gov.mt

CRPD contact details: Telephone: (+356) 2226 7600

Email: helpdesk@crpd.org.mt

CRPD Gozo contact details:

Telephone: (+356) 2155 6002

Email: maryrose.attard@crpd.org.mt

3.5 Environment and planning

Project leaders must ensure that planning regulations and obligations are adhered to and that environmental issues are taken into consideration throughout a project's life cycle. Projects should be structured to ensure minimum environmental damage and maximum benefits. Project leaders should also factor in timeframes stipulated by national law and procedures needed to obtain planning permits in order to ensure an adequate project implementation timeframe. Officials at the Planning Authority (PA) and Environment Resources Authority (ERA) may provide advice on environmental and planning permitting.

PA Contact Person:

Perit Victor Sladden

Telephone: (+356) 2290 0000

Email: customercare@pa.org.mt

ERA Contact Person:

Prof. Victor Axiak

Telephone: (+356) 2292 3500

info@era.org.mt

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 audit bodies. Funds *must be contracted* in a transparent and competitive manner. In this regard beneficiaries must be guided by the principles of non-discrimination, equality of treatment, transparency, mutual recognition, proportionality, open competition, sound financial management and good governance.
2. It is important to note that the following points are only guidelines *which are* not intended to substitute in any way the relevant regulations or guidance issued by the Department of Contracts (DoC). **The MA emphasises that advice should be sought from the DoC on ALL ISSUES pertaining to contracting.**
3. When preparing a tender dossier, a beneficiary must refer to the Public Procurement Regulations (LN 352/2016) and any subsequent amendments. Schedule 3 **beneficiaries, NGOs and non-public organisations that are not bound by the Public Procurement Regulations, are encouraged to follow the spirit of the Regulations and any guidance as set out in circulars issued by the RA/FCU¹⁴. In any case the principles of transparency, fair competition and good governance should always apply.** Local Councils must adhere to the provisions of the Public Procurement Regulations.
4. The relevant tendering templates are available from the Department of Contracts and beneficiaries should consult the Department of Contracts about such templates. All beneficiaries are encouraged to use the procurement templates issued by the DoC when carrying out procurement in relation to EU funded projects and to consult the DoC on any procurement issue. Given that tender drafting is a very complex, laborious and costly process, it is highly recommended that beneficiaries check with the DoC whether there are any changes (administrative or legal) planned in the near future PRIOR to the commencement of the drafting of the tender so that there is no unnecessary waste of resources and time.
5. As per RA circular 08/2018¹⁵, beneficiaries opting for direct payment, have to inform the RA with the agreed contract value/financial terms, upon which the LPO will be issued. The LPO will then be updated upon receipt of invoice, if necessary.

4.2 General principles

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

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

¹⁴ <https://fondi.eu/important-documentation/reference-documents/circulars/2014-2020-programming-period/amif-isf-circulars/>

¹⁵ and any subsequent amendments made to it

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 a beneficiary organisation as the Contracting Authority. A beneficiary organisation is also responsible for the management of the contract.
3. Beneficiaries are to ensure consistency and compliance with AMIF/ISF National Programmes publicity requirements when drafting or using tender and contract templates (issued by the Department of Contracts or the department / ministry as Departmental Calls for Tenders), and when issuing adverts relating to AMIF/ISF published in the Malta Government Gazette and any other publications¹⁶.
4. Tenders must be evaluated by an Evaluation Committee. It is highly recommended that Committees refer to the Manual for Evaluation Committees, issued by the DoC.
5. Selection and award criteria must be specified in advance and tenders are to be evaluated exclusively on the basis of those pre-established criteria. No other criteria can be used for the evaluation of the tender. Experience cannot be used as an award criterion.
6. The tender dossier must describe all items in sufficient detail in order to determine eligibility of costs under the AMIF/ISF.
7. Items which are not included in the approved project proposal and Grant Agreement should either not be included in the same tender / lot of the eligible items or be clearly identifiable (also in terms of cost), ideally by having a separate lot within the same tender for the ineligible items. This is particularly important for beneficiaries issuing works tenders. In addition, extra works which are not to be paid out of the EU funds should be settled in a separate contractual arrangement.
8. When preparing the tender dossier, a beneficiary must observe the EU horizontal requirements, in particular equal opportunities and sustainable development. In executing the contract, a beneficiary must ensure that the contractor observes EU and national environmental and equal opportunities legislation and may recommend ways in which those requirements are met.
9. It is important to ensure transparency and fair competition, for example by requesting comparable quotations from several potential providers to enable the selection of the most cost effective technically compliant option.
10. A beneficiary should seek to consolidate the number of tenders. In the first instance, this reduces administrative burden. Moreover, artificial splitting of tenders is not in line with Public Procurement Regulations and the EU Directives on Public Procurement.
11. Publication in the EU Official Journal is mandatory for tenders exceeding certain thresholds and depending on the classification of a beneficiary as a Contracting Authority as defined in LN 352/16 and subsequent amendments. The thresholds are subject to change from time to time. It is advisable that a beneficiary regularly consults the EU Directives on Public Procurement¹⁷, and contacts the DoC with regards to possible revisions of the thresholds.

¹⁶ Refer to Visual Identity Guidelines, issued by the RA and uploaded on: <https://fondi.eu/visual-identity-guidelines-2021-2027/http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0024&from=EN>.

Contract requirements:

1. Contracts should comply with the publicity requirements as set out in the visual identity guidelines issued by the RA.
2. Beneficiaries should insert contract details, including the financial component in the Migration and Security Information System 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 unless the RA approves otherwise following a justified and reasonable request submitted by the Beneficiary. Payments from the RA will be in Euro. Where invoices are submitted to the RA with a different currency of the duly approved cases, the monthly accounting euro conversion rate published electronically by the Commission¹⁸ is to be applied. In cases where reimbursement of costs is requested, the euro conversion rate¹⁹ of the date when payment was actually made is to be used whereas in cases where direct payment is effected by Treasury, the monthly exchange rates published by the Commission, will be utilised for the month during which payment of the invoice will be affected by the RA. Losses on exchange rate are not eligible costs under the Funds. In cases where the exchange rate is higher than that utilised at date of invoice, the amount of the invoice will prevail.
2. Beneficiaries are advised to prepare a payment schedule which must be included in the special conditions section of the tender dossier and which should generally be consistent with what has been agreed in the Grant Agreement²⁰.
3. A contractor shall issue an invoice according to the conditions stipulated in the respective contract and deliver it to the beneficiary implementing the project.
4. **Financial Identification Form (TRS 9):** Whenever a beneficiary receives an invoice for the first time from a contractor prior to first payment and in case of direct payment, the Treasury requests that beneficiary to provide a [Financial Identification Form \(TRS 9\)](#) filled in by the contractor. By means of this form, the Treasury will have the necessary information on the contractor enabling the proper execution of bank credit transfers. This form needs to be sent to RA/Treasury prior to insertion of invoice in the Migration and Security Information System.
5. It is important for beneficiaries to note that should a contractor's financial details change during the execution of a contract, the beneficiary is to inform the Treasury in order to ensure that contractor fills in a new Financial Identification Form (TRS 9) and submits it to the Treasury to insert that contractor's new details.
6. The Treasury will issue payment against the details of the latest TRS 9 Form.
7. Invoices should be addressed to the beneficiary and / or project leader. Contractors are to note that invoices must be issued by the company that was awarded the contract. Payments are to be made via bank credit transfers only.

¹⁸ An exception to the type of exchange rate to be applied can only be granted if authorized by the RA.

¹⁹ In instances where other exchange rates are used, the lower value between the two types of exchange rates shall be reimbursed.

²⁰ When deciding on the payment schedule, Beneficiaries should be guided (where possible) by the disbursement schedule in the Grant Agreement signed with the RA

8. Beneficiaries are advised to consult the eligibility rules in particularly article 2.5.

Bank guarantees and retention money:

1. Safeguards such as bank guarantees must be put in place to enable recovery of funds in the case of misspent advance or pre-financing payments. Subject to the applicable threshold stipulated in the Public Procurement Regulations, a pre-financing guarantee to cover the full amount of the pre-financing payment shall be issued by the contractor.
2. Where applicable, safeguards such as bank guarantees should be inserted in the tender dossier to recover funds in case of advance payments and/or termination of contract.
3. It is important to note that beneficiaries ARE NOT TO RETAIN MONEY AT THE END OF A CONTRACT. Retention money during the implementation of a contract is allowed, however all money should be released upon completion of a contract. In this regard if beneficiaries feel the need to have some money retained for specific safeguards, they are to insert a clause in the tender dossier and in the contract whereby a contractor would be paid all funds due upon completion of its contract (i.e. at provisional acceptance stage) but against a bank guarantee (to be renewed until final acceptance stage) of an amount equivalent to the value of the retention money. For EU co-financed projects, this guarantee is NOT OPTIONAL, so if there is a need for retention money, it must be included as a condition in the special conditions within the tender document. This is necessary to safeguard public funds. Further advice should be sought from the DoC.
4. Apart from the retention guarantee, the performance guarantee must be kept valid until final acceptance²¹.
5. Where VAT is an eligible cost, bank guarantees concerning EU co-financed projects must also cover the VAT element.

4.3 Contracting procedure by Organisations Subject to Public Procurement Regulations

4.3.1 Procurement procedures for public contracts with an estimated value below or equal to € 144,000

1. When the estimated value of the procurement does not exceed the €144,000 threshold, beneficiaries should consult Part III of LN 352/16 with specific reference to Regulations 100 and 101.

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

1. In the case of public contracts with an estimated value exceeding € 144,000, the administration of the contract depends on whether the beneficiary is listed under Schedule 2 or 3 of the Public Procurement Regulations²². Procurement procedures are administered through the DoC if the beneficiary is listed under Schedule 2 of the Public Procurement Regulations. If the beneficiary is a contracting authority listed under Schedule 3, then that beneficiary publishes the tender and administers and determines

²¹ Or as indicated in the conditions attached to the contract.

²² Beneficiaries should consult the latest version on the website as there could be changes to the schedules from time to time. Beneficiaries are to use the one applicable at the time of launching the tender.

public contract/s in accordance with the provisions of the Public Procurement Regulations (LN 352/2016 and any subsequent amendments).

2. The beneficiary needs to submit the AMIF or ISF Commitment Form to DoC / MPU²³ before launching tenders with an estimated value higher than € 144,000. It is important to note that the Commitment Form must be submitted immediately as no tender can be launched unless the Commitment Form is submitted to DoC. The beneficiary submits the original Commitment Form to the DoC / MPU, retains a copy for itself and submits a copy to the RA, a copy to the Assistant Director (Capital Expenditure) MFIN and a copy to the Accounting Office and Director (Policy Development and Programme Implementation) of its line ministry. It is pertinent to note that before a tender is published, the CA will also need to submit an original copy of the Tender Originator's Form, the GPP approval and priced budget estimates. Also the Civil Works form and MEPA permits for works tenders as per Contracts Circular 18/2008 are to be submitted if applicable. This procedure is not applicable to NGOs and beneficiaries falling under Schedule 3 of the Public Procurement Regulations.
3. The DoC /MPU vets the tender document and advises the beneficiary on any amendments, if necessary. The beneficiary will incorporate these amendments and re-submit the tender document to DoC /MPU as early as possible for further vetting.
4. Once the tender vetting is complete and approval on the final text is granted, the DoC / MPU will take the necessary steps to forward the publication forms to the EU Official Journal (where applicable) and also to publish the tender in the electronic procurement platform. Beneficiaries wishing to give further publicity to tenders on other media should allow for publication by the DoC / MPU prior to publishing such adverts.
5. A beneficiary is responsible for following up matters with the DoC / MPU (as applicable) at all stages of the procurement and contracting procedure including publication of clarifications during the publication period, evaluation of tenders, requests for clarifications / rectifications during evaluation, adjudication and publication of results, contracting, approval of additional costs, addenda to contracts, non-compliance with contractual obligations by contractors, release of financial guarantees, etc.

4.4 Contracting procedure by Organisations not Subject to Public Procurement Regulations, notably Non-Governmental Organisations and International Organisations

Public Procurement Regulations, EU Treaty principles and the General Financial Regulation require the use of public funds (irrespective of who is using them) to adhere to the afore-referred principles. The organisations in question are also expected to follow reliable criteria in purchasing; it should be noted that the cheapest technically compliant criterion is the preferred option as it allows a stronger and more objective basis for evaluation. The best price quality ratio (BPQR) criterion may only be ideal in cases of complex procurement requiring special technical specifications²⁴. Organisations not subject to public procurement regulations are encouraged to consult with the RA to discuss the procurement processes and methodologies that will be adopted and refer to any RA circulars and DOC Guidance Notes²⁵ which can be issued from time to time to provide such guidance.

²³ MPU will be responsible for administering tenders through open procedure up to the value of € 250,000.

²⁴ Further information regarding the use of procurement regulations by NGOs can be found in DOC Guidance Note No.4.

²⁵

For these organisations to uphold the above-mentioned principles, they need to have strong internal controls²⁶.

Organisations not subject to public procurement regulations should always ensure adequate publicity of tenders such as on local newspapers, on news portals and/or on popular websites (where necessary). Such costs, as long as they are reasonable and proportionate to the activity, can be funded through the project, if approved in the Grant Agreement. Such organisations are also encouraged to make use of their own media such as their own website.

Final beneficiaries or partners in a project are required to adopt procurement procedures in a way that ensures best value for money. They are also to follow the spirit of the 'Payments Schedule and Late Payments' (MFEI Circular 08/2012). These bodies should ensure the publication of results in procurement of a high value and must also inform successful and unsuccessful bidders of the outcome of the adjudication process. Adequate time should be allowed for appeals to be lodged. In case of an appeal, an independent appeals board which is different from the original committee shall be set up and the award of contract suspended until the appeals board communicates its decision.

NGOs / International Organisations are requested to follow RA Circulars 9/13 and 01/14 and any subsequent versions, and guidelines, on the procurement thresholds issued by the RA and FCU.

4.5 Procurement of fixed assets through the AMIF/ISF National Programmes

1. **Documentation:** When purchasing fixed assets through AMIF/ISF, it is important that the item is used for the specific reasons for which it was acquired and in accordance with the conditions in the Grant Agreement. All documentation in relation to purchase and use of fixed assets (including guarantees), has to be filed in the project file. The project leader should ensure that all relevant documents are handed over by the supplier and filed for ease of future reference, in line with the principle of sound financial management.
2. **Inventory:** Beneficiaries are obliged to keep an inventory of the fixed assets including their location in file. The beneficiary is required to fill in an **Inventory of the fixed assets list**²⁷ of all assets and **where possible**, the following details should be included:
 - Contract number
 - Name of supplier
 - Serial / ID number – *Where serial number is not visible, a unique inventory number should be assigned*
 - Date of purchase / installation
 - Total cost or value
 - Location of asset
 - Description of asset
 - Quantity
 - Whether a guarantee has been applied or not
 - Condition of inventory item: kept in a secure and clean environment.

²⁶ Internal controls are methods put in place by a company/organisation to ensure the integrity of financial and accounting information, meet operational and profitability targets and transmit management policies throughout the organisation.

²⁷ See Annex 4 and Eligibility Rule 4.10

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

The inventory list / fixed asset register of each project should be frequently updated to include the relevant details of the assets purchased. The list is to be signed and certified correct by the project leader and endorsed by Head of DCS (in case of Public entities) or Head of Accounts (in case of non-public entities) and made available to the RA upon request.

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

3. Beneficiaries must keep in mind that:

- a) When fixed assets are purchased through EU funds, it is imperative that they are kept in good working order throughout and after the project life (in line with durability clause in the Grant Agreement).
 - b) The beneficiary is to ensure that an asset comes with the appropriate warranties.
 - c) If any fault results in an asset, all documentation in relation to the repair must be kept and when that asset needs to be replaced, it is important that all documentation is kept in file.
 - d) If an asset is replaced, both the old and new serial numbers must be retained.
 - e) If an asset is faulty and / or damaged and is replaced at the supplier's or the beneficiary's expense – whether under guarantee or not – the replacement must perform the same function and be of the same or higher specifications as the asset being replaced.
 - f) Relocation of an asset needs to be reflected in the inventory.
 - g) The beneficiary shall ensure that the relevant publicity²⁸ appears on the equipment purchased as well as on the relevant documentation (proportionality should apply in the case of infrastructural project whereby the whole building or area is co-financed).
 - h) If any equipment is stolen / destroyed, the Beneficiary concerned should prepare a technical report and also report the incident to the Police, retaining a copy of the report issued by the latter. Even in this case, the beneficiary is to replace such equipment, especially if the item was stolen / destroyed through negligence. If the item was stolen / destroyed due to forced majeure (any unforeseeable exceptional situation or event beyond the parties control, which pretends either of them from fulfilling any of their obligations), the party shall inform the RA without delay stating the nature, probable duration and foreseeable effects.
4. In case of equipment purchased under ISF (borders and visas) logs of the use of the equipment purchased must be kept in order to be able to identify the percentages of use for border – control and any other usage.

4.6 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

²⁸ Refer to the Visual Identity Guidelines and/or consult the desk officer within the responsible authority in case of difficulties/particular cases.

publication, a beneficiary consults the Department of Contracts (in the case of government departments, entities or local councils) and the Department of Industrial and Employment Relations (all types of beneficiaries, including public, private and NGO) to identify which procedure to apply when considering a beneficiary's particular requirements. The option of a **contract of service** (employment) as opposed to a **contract for service** (outsourcing) may have to be applied depending, amongst others, on the nature of the service required, level of autonomy allowed, the duration and frequency of delivery, and time (office hours or not) and location of delivery requested. With regards to contracts for service, beneficiaries have to ensure that the persons delivering the service have a valid employment license issued by Identity Malta.

2. For employment contracts, a beneficiary should follow its official recruitment procedure provided that such procedure complies with the principle of good governance, is transparent and in line with national legislation.
3. **Full-time or part-time employment, with tasks solely related to the project:** Where a beneficiary engages a person on a full- or part-time employment contract to work solely on a project co-funded through EU funds, that beneficiary shall ensure that the person being engaged works solely on the project and does not undertake any unrelated work within the beneficiary organisation.
4. **Full-time or part-time trainers/employees:** Where an individual is working on a co-financed project but also undertakes other unrelated tasks within the organisation (as part of his/her job description), a beneficiary shall be entitled to claim only that part of the salary related to tasks carried out on the project²⁹. Before claiming staff costs, a beneficiary should ensure that these costs are in line with the eligibility rules. For the purposes of determining staff costs relating to the implementation of a project, as provided in article 18 of Regulation (EU) No 514/2014, the hourly rate applicable may be calculated by dividing the latest documented annual gross employment costs by 1720 hours. The eligibility of staff costs shall be determined in the Grant Agreement. The number of hours claimed must be supported by timesheets in case the number of hours worked on the project is less than 40hrs per week and these should be endorsed by the person employed on the project and the project leader. The timesheets need to show the actual hours worked on the project and a concise description of the tasks carried out.
5. If a beneficiary employs a person on an employment contract, a clause should be inserted in the contract that the employment of that person is only for a specified period (in line with the completion of the project up till the submission of the final report on the implementation of the project) and is financed through the applicable funding programme. The beneficiary concerned should always seek advice from the relevant department / entity responsible of employment procedures. A beneficiary should always ensure compliance with national legislation and be guided by the relevant internal procedures. The RA 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. Beneficiaries shall retain the necessary documentation recording the employment procedure and employment contract (including the call, selection criteria, reports of the Selection Board, evidence of publication of results, time sheets (if applicable), progress / performance reports and lesson / course plans [in case of trainers]). Further details on document retention are available in Chapter 13.

²⁹ Refer to Circular 6/2018 on the assignment/engagement of officers to a particular project

8. When claiming staff costs beneficiaries should follow the guidelines issued by Treasury under Circular TR/EUFMU/1/2012³⁰ (and that the reimbursement letter contains the tables listed in this Circular. A template of the reimbursement letter is annexed to this manual (Annex 5).

³⁰ and any subsequent amendments made to it

5. Financial Management and Payments

5.1 Eligibility of costs

A set of eligibility rules is available on the RA's website³¹.

5.2 Co-financing

The financing of all projects benefiting from EU funds may require an element of national co-financing. The eligible cost and the co-financing arrangements (EU, national public and own resources³²) are outlined in the Grant Agreement.

As per article 16 (3) of Regulation (EU) No 514/2014 the contribution from the EU budget shall not exceed 75% of the total eligible expenditure of a project. However in line with article 16(4) and 16(5) of the same Regulation³³ the contribution from the Union budget may be increased to 90% under specific actions or strategic priorities as defined in the Specific Regulations, as well as in cases where due to economic pressure on the national budget, projects would otherwise not be implemented and the objectives of the national programme would not be achieved.

In all circumstances, the RA will reimburse or pay directly only the co-financing share agreed in the Grant Agreement of the eligible cost of each invoice, receipt or claim.

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. As a general rule, the RA submits estimates on an annual basis to the Ministry of Finance for funds to be made available for the implementation of the projects.
2. **Public Sector Beneficiary:** In the case of projects being implemented by a public sector beneficiary³⁴, the Maltese Government's annual financial estimates provide for the pre-financing of the EU share of the forecast annual eligible expenditure of projects. The financial estimates also provide for the national co-financing share of the forecast annual eligible expenditure, as well as an allocation for other expenditure not eligible for EU co-financing (e.g. non-eligible VAT, where applicable)³⁵. The Treasury pays the relevant service / supplier / works provider or reimburses the beneficiary (as the case may be) from the pre-financing arrangement (the annual estimates are allocated in the

³¹ Beneficiaries should ensure that they have the latest version as the list is reviewed periodically. Information may be obtained from the RA website https://fondi.eu/wp-content/uploads/2023/01/Solidarity_Migration_Eligibility-Rules.pdf

³² Where applicable

³³ Regulation (EU) No 514/2014

³⁴ Public Sector beneficiaries consist of line ministries, government departments, public authorities, public corporations, public agencies, public commissions, and public foundations amongst others.

³⁵ In the case of some public entities/corporations the national co-financing and ineligible costs may be sourced from the entity's own resources.

Government's Departmental Accounting System) following a request for payment raised by a beneficiary (please refer to **Annex 5 Claim for Reimbursement** template to be filled in).

3. **Public Equivalent Beneficiary:** In the case of projects being implemented by public equivalent beneficiaries³⁶, the Maltese Government's annual financial estimates provide for the pre-financing of the EU co-financing share of the forecast annual eligible expenditure of the projects. Unless otherwise indicated, the national public co-financing share of projects is provided for from the beneficiary's own funds (e.g. local council³⁷). On receipt of invoice/s, the co-financing 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 that beneficiary or reimburses that beneficiary (as the case may be), through a request for payment raised by the beneficiary (please refer to **Annex 5 Claim for Reimbursement** template to be filled in).
4. **Non-Governmental Organisations / Private Beneficiary:** In the case of NGO / private beneficiaries, the public share (EU and national) for the respective accounting year is allocated in the AMIF/ISF Item in the DAS by Government as pre-financing. NGOs / private beneficiaries shall provide for the co-financing (as stipulated in the Grant Agreement, as well as any other ineligible costs). When submitting invoices, the beneficiary forwards a cheque for the amount equivalent to its share of the invoice, so that Treasury then pays the full amount to the contractor (please refer to the **Annex 5 Claim for Reimbursement** template to be filled in). Where the NGO requests a reimbursement of costs already paid, the NGO will only ask for reimbursement of 75%³⁸ of the cost.

5.4 Reimbursement of staff costs

Staff costs relating to the implementation of a project shall be in proportion to the time spent on that project in the reporting period, duly substantiated by timesheets signed by the employee and endorsed by the project leader (in case of staff not working full time on the project).

For the purposes of determining staff costs relating to the implementation of a project, the hourly rate applicable may be calculated by dividing the latest documented annual gross employment costs by 1,720 hours³⁹.

For eligibility purposes, beneficiaries shall ensure compliance with the eligibility rules of the AMIF/ISF National Programmes. To claim the reimbursement of staff costs, beneficiaries are requested to use the ad hoc form provided by the RA (please refer to **Annex 5 Claim for Reimbursement (Staff Costs)** template to be filled in).

5.5 Treatment of VAT

VAT shall be considered as an eligible cost except where it is non-recoverable under national VAT Law. VAT, which is recoverable, by whatever means, shall not be considered eligible even if it is not actually

³⁶ Public Equivalent beneficiaries include local councils.

³⁷ Local Councils may refer to the note issued by the Ministry for Justice, Culture and Local Government entitled EU-Funded Projects in Localities CV 7237 on possible financial assistance to the co-financing element in projects. Document can be downloaded from <http://localgovernment.gov.mt/en/dlg/department%20for%20local%20government/documents/eu%20related%20projects/cv%207237%20guidelines.pdf>

³⁸ Or any other co-financing rate as applicable outlined in section 5.2 above.

³⁹ As per article 18(7) of Regulation (EU) No 514/2014

recovered by the beneficiary. Reference is made to Procurement Policy Note 12 issued by the Department of Contracts, which stipulates that for tenders the VAT part shall be paid directly to the VAT Department. Beneficiaries should consult with the VAT Department for all issues concerning VAT.

5.6 Invoices and confirmation (proof) of payment

This section includes considerations on invoices, receipts and any other proof of payment. It should also be read in conjunction with section 13.3 (Records to be uploaded on the Migration and Security Information System).

In accordance with Article 17(2) of Regulation (EU) N^o 514/2014, expenditure included in the drawdown requests submitted to the EC must be real. Within the scope of the AMIF/ISF and their objectives, needed to carry out the activities covered by the project concerned, reasonable and comply with the principles of sound financial management, in particular value for money and cost-effectiveness.

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

5.6.1 Payment through the normal procedure (by Treasury direct to contractor)

1. Where an invoice is a tax invoice, its corresponding proof of payment (not a fiscal receipt) should be filed, but NOT uploaded in the Migration and Security Information System. Examples of such proofs are given in Table 1 below.
2. Invoices which are not tax invoices should be followed by a fiscal receipt (the said fiscal receipt need not be uploaded on the Migration and Security Information System in case of direct payments) within reasonable time of payment. In order to ensure both objectives of fiscal validity and payment confirmation, a fiscal receipt must:
 - a) Contain reference to the invoice in question (invoice number). Payments on account without the relevant invoice number are not acceptable;
 - b) Be dated after the payment date; and
 - c) Include the name of the recipient beneficiary.

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 project file.

Information on the documents to be uploaded on MSIS will be available in the MSIS User Manual⁴⁰.

5.6.2 Reimbursement requests

In the case of reimbursement requests, the reimbursement request shall be according to the template provided within this Manual and the invoice and corresponding proof of payment should be filed and uploaded on the Migration and Security Information System.

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:

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

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 Migration and Security Information System Database ⁴¹	Filing
Direct payment (Condition 1)	Tax invoice issued by a person registered under Article 10 – for supplies other than exempt without credit supplies – to a person registered under Article 10 or Article 11 of the VAT Act who is identified with a VAT number on invoice	Tax invoice	Any document proving payment (dated after payment date on the Migration and Security Information System. (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 Article 10 – for supplies other than exempt without credit supplies – to a non-registered person	Not a tax invoice + no EXO number	Fiscal Receipt dated on or after the actual payment date on the Migration and Security Information System.. <u>OR</u> Fiscal Receipt dated before the actual payment date on the Migration and Security Information System. ⁴² <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 Article 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 Migration and Security Information System. (e.g. Central Bank debit advice, acknowledgement of receipt from supplier, etc)	Invoice only	Invoice and proof of payment

⁴¹ Further information will be available in the MSIS Users Manual

⁴² 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, Article 2.

Payment Procedure	Condition	Invoice Type	Proof of Payment Required	Uploading in Migration, Security Information System	Filing
Reimbursement request (Condition 1)	<u>Tax</u> invoice issued by a person registered under Article 10 – for supplies other than exempt without credit supplies – to a person registered under Article 10 or Article 11 of the VAT Act who is identified with a VAT number on invoice	Tax invoice	Any document proving payment (dated after payment date on the Migration and Security Information System.	Request for payment, tax invoice, proof of payment ⁴³	Request for payment, tax invoice, proof of payment
Reimbursement request (Condition 2)	Invoice (not a tax invoice) issued by a person registered under Article 10 – for supplies other than exempt without credit supplies – to a person registered under Article 10 or Article 11 of the VAT Act whether identified with a VAT number on invoice or not	Not a tax invoice	Fiscal Receipt dated on or after the actual payment date on the Migration and Security Information System. <u>OR</u> Fiscal Receipt dated before the actual payment date on the Migration and Security Information System. ⁴⁴ <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)	Request for payment, invoice, fiscal receipt (<u>and</u> any further proof where applicable)	Request for payment, invoice, fiscal receipt (<u>and</u> any further proof where applicable)
Reimbursement request (Condition 3)	Invoice issued by a person registered under Article 10 – for supplies other than exempt without credit supplies – to a non-registered person	Not a tax invoice + no EXO number	Fiscal Receipt dated on or after the actual payment date on the Migration and Security Information System. <u>OR</u> Fiscal Receipt dated before the actual payment date on the Migration and Security Information System. ⁴⁵ <u>AND</u> further proof of payment (e.g. official cheque image	Request for payment, invoice, fiscal receipt (<u>and</u> any further proof where applicable)	Request for payment, invoice, fiscal receipt (<u>and</u> any further proof where applicable)

⁴³ Proof of payment can take the form of a fiscal receipt, a declaration of receipt of payment, in case the latter two are not available statements of bank transfers should follow.

⁴⁴ 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.

⁴⁵ 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.

			from bank/ bank transfer advice slip/ bank statement/ acknowledgement of receipt from supplier, etc)		
Reimbursement request (Condition 4)	Invoice issued by a person registered under Article 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	Request for payment, invoice, proof of payment	Request for payment, invoice, proof of payment

5.7 Invoices payment process

1. Stakeholders involved in the payment process [beneficiaries, (and Accounting Officers), Treasury and the Central Bank of Malta] are to ensure that the payment process progresses in the shortest time possible since Malta will only be able to draw down funds from the European Commission on the basis of payments effected to contractors. It is the responsibility of project leaders to ensure that invoices and supporting documentation are submitted on time and correctly (i.e. right first time) in order not to delay the process. Failure to submit the requested clarifications within 5 working days from the date of the clarification email will result in the claim being rejected.
2. For further information related to the payment process, beneficiaries should refer to guidelines provided by the Treasury as per their Manual of Procedures.

Table 2: Roles and responsibilities of all key players involved in payment process

Function	Responsible Body
1. Certification of works / services / supplies and invoicing	
<p>a) The Migration and Security Information System is the single channel through which requests for payment (invoices or reimbursement requests) related to the AMIF/ISF 2014-20 are processed for ultimate payment (or reimbursement) by Treasury.</p> <p>b) A user manual on how to process payments on MSIS is available from the following link. https://fondi.eu/important-documentation/guidance-for-beneficiaries/manual-of-procedures/</p> <p>Payments are executed in a three-stage process:</p> <ul style="list-style-type: none"> i. Beneficiary receives request for payment from contractor (or the finance unit within the beneficiary organisation in the case of reimbursement requests). Following vetting of the request (to ensure compliance with Table 1 above) and confirmation of its adequacy, beneficiary performs an online checklist and uploads the necessary supporting documents as required in the Migration and Security Information System. ii. The RA receives an email notification directing him/her to the uploaded documents and the pending authorisation. As part of this authorisation the RA has to perform an online checklist. iii. Treasury receives an email notification of the RA’s authorisation and performs an online checklist and executes the payment. <p>c) To fulfil the step at point (b) above, the beneficiary shall:</p> <ul style="list-style-type: none"> i. validate the invoice by confirming that: <ul style="list-style-type: none"> a) Invoice is addressed to beneficiary, issued by the company / individual performing the contract and preferably bears the relevant contract reference code⁴⁶; <p>Validation implies that the data on the invoice is correct. Beneficiaries are also advised to consult the guidelines (as indicated in Table 1 above) 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). Beneficiary must also ensure that advance payments and subsequent interim payments are discounted as stipulated in the contract. iii. ensure that the payment being requested is in line with the Grant Agreement of the project and the eligibility rules of the Programme. 	Beneficiary

⁴⁶ Beneficiaries are not to accept invoices issued by subsidiary companies and/or by one of the partners in the case of joint ventures.

<ul style="list-style-type: none"> iv. verify the delivery of supplies (including quantities), works / services (except where the invoice relates to an advance payment). v. confirm compliance with EU and national rules. <ul style="list-style-type: none"> d) The project leader (or delegate) should then write down / rubber-stamp reference to the Fund (AMIF/ISF 2014-2020) on invoice before uploading it on MSIS. This is to safeguard against the risk of double-funding. e) 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 Migration and Security Information System (refer to section 13.3). It is important that beneficiary retains a copy of the invoice / reimbursement request and any supporting documentation in the project file. f) Beneficiary shall then complete the online checklist , which is a means of confirming that all the checks above have been carried out. g) By means of the completion of the online checklist, 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 invoicing⁴⁷. <p>In cases where direct payments are made by Treasury, the following apply:</p> <p>Attention: Corporations, other Public Sector and Public Equivalent beneficiaries</p> <p>Where the national co-financing and any ineligible costs (such as VAT, or apportionment for national use) are not provided for in the AMIF/ISF line items, Treasury shall charge the applicable amount to the respective capital vote of the entity.</p> <p>Attention: Non-Governmental Organisations:</p> <p>Voluntary organisations are to attach a cheque equivalent to the value of their share as well as the total of any ineligible cost to each invoice.</p>	
2. Authorising payments	
<ul style="list-style-type: none"> a) In the second stage of the payment process, the RA confirms the checks carried out by beneficiary and performs its online checklist in order to authorise payment. <p>Upon completion of the online checklist, the RA confirms that:</p> <ul style="list-style-type: none"> i. beneficiary has carried out the relevant checks; ii. the relevant EU and national rules, including Public Procurement Regulations and eligibility rules, have been complied with; 	Responsible Authority

⁴⁷ Please refer to the following link:
<http://vat.gov.mt/en/VAT-Information/Guidelines-to-certain-VAT-procedures/Documents/Leaflet%20Invoicing%20Rule.pdf>

<p>iii. beneficiary has uploaded the relevant request for payment and supporting documentation (refer to section 13.3);</p> <p>iv. the payment amount being requested corresponds to a valid contract; and</p> <p>v. the payment amount being requested is arithmetically correct.</p> <p>b) Following the completion of the online checklist on the AMIF/ISF Database, the RA then notifies the Accounting Officer of MEAE to raise the commitment in the DAS (as per below). –</p>	
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3. Submission of documentation by RA to Treasury

<p>The RA scans the AMIF/ISF Purchase Order, and forwards it to Treasury. Treasury will proceed to view all documentation on the Migration and Security Information System in relation to request for payment (invoice / reimbursement request) and supporting documentation. Treasury reserves the right to ask for clarifications to the RA.</p> <p>In summary, the RA is responsible for:</p> <ol style="list-style-type: none"> 1. liaising with the Accounting Officer with regard to the preparation of the required documents related to commitments in the DAS; 2. approving or otherwise the request for payment; and 3. notify the Treasury of the transaction affected. 	<p>Responsible Authority</p>
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NOTE: Beneficiaries should consult Treasury’s Manual of Procedures for further guidance on the payment process.

5.8 Revenue-generating projects

1. In case of revenue-generating projects, beneficiaries are to be guided by the obligations emanating from Article 17 of Regulation (EU) N°514/2014, that is net revenue directly generated by a project during its implementation which has not been taken into account at the time of approval of the project shall be deducted from the eligible expenditure of the project at the latest in the final payment request submitted by the beneficiary.

5.9 Accounting system

In terms of Article 4 (k) of Commission Delegated Regulation (EU) N°1042/2014, the RA is responsible to ensure that beneficiaries involved in the implementation of operations reimbursed on the basis of eligible costs actually incurred maintain either a separate accounting system or an adequate accounting code for all transactions relating to an operation.

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

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

The RA may carry out specific checks on the above.

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

6. Drawdown of Funds from the European Commission

6.1 Grant Agreement

The Grant Agreement signed between the RA and a beneficiary gives the relevant detail on the objective, targets and financial allocation of the project. The Grant Agreement binds the beneficiary to implement the project in accordance with its terms and conditions. Any change requests shall be notified to the RA in good time to allow for their assessment and determination (approval or rejection) by the RA. Approvals are sent to a beneficiary in writing and these are then generally followed up by means of an addendum. Although the RA shall approve all changes in writing, there is no need to sign an addendum each time there is a change. In the spirit of proportionality and also to reduce administrative burden, an addendum may cover several changes that would have already been approved by the RA over a span of time. No unilateral changes by a beneficiary to the Grant Agreement shall be accepted by the RA.

It is at the RA's discretion to define the rules regarding budget overrun. However, as a general rule, overruns, of up to a maximum of 10% of the initial budgeted amount for each of the budget components identified in a project should be accepted without requiring a budget amendment, provided that the EU Contribution does not exceed the amount initially granted, that the nature and content of the budget categories have not been significantly changed and that adequate information is given. Notification of such shifts should be made to the RA in a timely manner.

6.2 Savings on a project

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

6.3 Statement of Expenditure

1. As explained in Chapter 5 of this MoP, the Government of Malta pre-finances projects. However, Malta can only submit a claim for payment from the EU when expenditure is actually incurred. Therefore, beneficiaries are to ensure that invoices are received, and payments are processed as expeditiously as possible.
2. It is important to be aware that **failure to ensure that payment procedures are initiated and processed efficiently may result in Malta losing funds.**
3. Settled invoices are stored in the Migration and Security Information System and undergo a verification process by the RA prior to the submission of claims for payment to the European Commission.
4. In accordance with Article 1 (3) of the EU Regulation 840/2015, the RA can impose an obligation on the final beneficiary, to provide an audit certificate from an independent auditor providing administrative and financial verifications of each request for reimbursement sent by the final beneficiaries. This certificate shall verify the relevance, accuracy and eligibility of the expenses, income and costs declared by the final beneficiaries.

6.3.1 The verification process

1. The verification process is an integral part of the implementation system for AMIF/ISF projects. Verification is the process whereby all payments effected by Treasury for each project benefiting from

AMIF/ISF are checked again, verified correctly at different levels and eventually submitted to the European Commission (by the RA) for reimbursement. There are different levels and this process is undertaken through the Migration and Security Information System.

- a) At **operation level**: this process is undertaken by the RA desk officers (refer to the next section for details). Once the Statement of Expenditure at project level is generated, the actual SOE, invoice list and declaration is submitted to the Senior Manager or the Director for further processing at the next level (specific objective level). In line with Article 27 of Regulation (EU) N° 514/2014 the RA undertakes verifications, which may include both on-the-spot checks and desk-based checks through the Migration and Security Information System prior to the payments being listed in a SOE to be generated. During this stage the RA may request additional clarifications and / or additional assurances from the beneficiary. Payments that are accepted in the verification process by the RA desk officers are then passed on to the Senior Manager or the Director.
- b) At **Specific Objective level**: this process is undertaken by the Senior Manager or Director. At this stage, the Senior Manager or Director, goes through the verifications made by the RA and gathers all the assurances in relation to the payments to be claimed from the administrative checks undertaken, the OTS reports and the checks undertaken by Treasury. If need be these can be further supplemented by any other check they deem necessary. Following this exercise, the seniormanager or director recommends or otherwise which payments selected originally at project level by the RA officials may be considered for reimbursement from the EC. The SOE generated at SpecificObjective level is then passed on to the FCU to carry on an SOE at Fund level.
- c) At **Fund Level**: Upon receipt of an SOE from the Senior Manager or Director, the FCU undertakes verifications based on a risk management and sampling basis. This last section would serve as the accounting function. In order to allow enough time for these checks to be under taken before the clearance of accounts as per article 44 of Regulation (EU) no. 514/2014, the FCU may accompany desk officers during an OTS but will carry out its own report. On the gathering of all the necessary assurances the FCU shall generate an SOE at Fund level which will serve as the request for payment of the annual balance.

6.3.2 Verification process at project level, Specific Objective level and Fund Level

1. 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 will be verified at project level by the RA desk officers.
2. On a quarterly basis (or at other intervals as deemed necessary), the RA shall forward and upload on the Migration, Security Information System a statement of expenditure by project to the Senior Manager or Director for their assessment and follow up at Specific Objective level.
3. The SOE at operation level will be completed by the RA desk officers, indicating the following:
 - a. Reference code;
 - b. Operation name;
 - c. Project Name
 - d. Beneficiary
 - e. SOE Number
 - f. Total verified expenditure for the report;
 - g. Declaration of the verifications carried out and co-financing ratio, EU and MLT, to the nearest 2 decimals
4. Following this the Senior Manager or Director completes the SOE at Specific Objective level on the Migration Security Information System following the attainment of the necessary assurances from the desk assessments and OTS reports prepared by the RA officials and the checks carried out by Treasury. The SOE will then be transferred to the FCU to generate an SOE at Fund Level and carry out a clearance

of accounts prior to the submission of a request for payment of the annual balance from the European Commission.

5. The FCU shall extract a sample from the SOE by objective based on risk assessment and supplemented where necessary by a random sample. The FCU shall define its sampling methodology in a Memo to be approved by the Director General (Funds and Programmes). The FCU shall compile the captured sampled invoices in a sample report and all documentation of captured sampled invoices should be subject to expenditure testing by the FCU. The FCU shall review all relevant documentation, including:
 - a. Grant Agreement
 - b. AMIF/ ISF National Programme
 - c. Preliminary and/or Final On-the-Spot Checks carried out by the RA, as soon as they are made available
 - d. Invoices and procurement falling within the random sample
 - e. Irregularities report undertaken by RA
 - f. Any audit reports, submitted by the AA.

The FCU shall ensure that, based on the testing carried out:

- every expenditure listed in the report is included as per fund and per project together with any relevant declarations provided by the RA;
- a proof of payment has been issued for every expenditure therein;
- every expenditure was actually effected within the eligible period;
- every expenditure was incurred in operations that were selected for funding and are in line with the Grant Agreement;
- every expenditure related to measures for which all State Aid has been formally approved, where relevant;
- there is compliance with all relevant National and Community rules.

6.3.3 Request for payment of the Annual Balance

In line with article 44 of Regulation (EU) no 514/2014, by 15th February of the year following the financial year, the RA shall submit to the Commission the documents and information required under Article 59(5) of Regulation (EU, Euratom) No 966/2012. The documents submitted shall serve as the request for payment of the annual balance from the EC.

6.4 The Audit process

The Audit Authority in line with article 29 of Regulation (EU) No 514/2014 shall carry out an audit on an appropriate sample of the expenditure included in the annual accounts.

7. Monitoring, Reporting and Evaluation

7.1 Monitoring

Article 4 of Commission Delegated Regulation (EU) N^o 1042/2014 lists as one of the tasks of the RA the monitoring of projects. Monitoring is an on-going process of examining the progress of interventions and expenditure to ensure the attainment of programmed results. The responsible authority has the overall responsibility for monitoring at programme level. However, the monitoring and reporting systems are based on a bottom up approach and it is important that all players in the system give their input in a timely manner. The implementation system foresees a number of tools and structures to support the monitoring process.

7.1.1 Monitoring structures and tools

There are different levels of monitoring, namely:

Monitoring committee

Malta has set up a monitoring committee (MC) in terms of Article 12 of Regulation (EU) N^o 514/2014. Its main function is to support in the implementation of the programmes. The committee is chaired by the Permanent Secretary responsible for EU funds or his or her delegate and its members include representatives of ministries as well as partner organisations, civil society and the European Commission in an advisory capacity. The MC is convened at least once a year. One of its functions is to examine all issues that affect the implementation of the programme and shall also examine the activities and outputs related to the evaluation plan of the programme. The secretariat to the MC is provided by the RA and any queries regarding the Programmes can be sent to the RA on the contact address provided at chapter 2 of this MoP.

Bilateral meetings (all projects)

From time to time the RA may organise bilateral meetings with beneficiaries (including NGO and local councils) to discuss issues arising from the progress (monitoring) reports and / or from the day-to-day monitoring conducted through the Migration and Security Information System. *Ad hoc* meetings are held with those projects deemed to have specific issues which could put at risk their timely implementation. In this regard project leaders are required to compile information for the Bilateral Briefs (refer to section 7.2.2) using a structured template that will be provided by the RA. The requested information is to be submitted to the RA within 5 working days before the date of the bilateral meeting.

Line ministries

As the co-ordinating units in the line ministries, Directors (Policy Development and Programme Implementation) are responsible for monitoring of projects being implemented by the respective ministry and to alert any of the horizontal stakeholders, if and when required, of any issues that could affect the timely implementation of the project. DPDPs are also responsible for endorsing the Project Progress Reports before these are submitted to the RA.

Monitoring by beneficiary

A beneficiary, through the appointed project leader, has the responsibility of ensuring effective monitoring of the project. The responsibility of a beneficiary extends beyond the achievement of outputs and entails a financial monitoring function as well as monitoring of physical implementation on the ground to ensure attainment of results. It is up to the beneficiary organisation to choose the most appropriate tool to ensure effective and timely monitoring of a project, however continuous monitoring by the beneficiary must be well documented, dated and signed.

7.1.2 *Monitoring of results - use of indicators*

1. Monitoring of EU funds is facilitated through the use of indicators making it possible to measure the progress in relation to the baseline situation and the achievement of targets for each project, Specific objectives and the common and programme specific indicators outlined in the Programmes.
2. There are two sets of indicators:
 - Common Indicators are general indicators emerging from the Regulations
 - Programme Specific Indicators which are country specific indicators linked to the national objectives.
3. The common and programme specific indicators are described and quantified in the AMIF/ ISF National Programmes and are based on the main focus areas of each objective and under which most of the interventions of each objective are likely to occur or can be grouped. The targets established for the indicators will be achieved at programme level by the end of the programming period.
4. In order to achieve the indicators at programme level, a bottom up approach is adopted whereby each project selected for funding through the AMIF/ISF Programmes will have an established set of 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 identified at Programme level.
5. The indicators of each project shall be monitored mainly through the Migration and Security Information System, the Project Progress Reports and the Bilateral Briefs. However, additional surveys and / or research activities may be undertaken (by beneficiaries and / or the RA) in the case of certain indicators.
6. Beneficiaries and project leaders are responsible for collecting, and verifying the data with regard to the indicators in the agreed project. It is important to note that monitoring of indicators is a condition of the grant and failure to attain the agreed targets could lead to recovery of funds on the project and loss of funds for Malta.

7.1.3 *Migration and Security Information System*

1. Day-to-day monitoring is based on a bottom-up approach. Informally, the RA 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 (Migration and Security Information System) by all stakeholders, including 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 Migration and Security Information System. Heads of organisations should inform the RA immediately of any changes in this regard (e.g. persons no longer working on the project). A beneficiary organisation shall bear all responsibility for the misuse of data in cases where it fails to inform the RA or the relevant desk officer of such changes.3. The Migration and Security Information System user manual for beneficiaries is available on the EU funds website which provides information to the officers on how to use the information system. It should be considered as an integral part of this MoP. It should be noted that CDRT offers specific training courses on the use of the Migration and Security Information System. Information can be obtained from the ICT Support Officers within MEAE.

7.2 Reporting requirements for a beneficiary

There are different levels of reporting:

- Project Progress Reports prepared by beneficiaries annually. The input provided by beneficiary will be used to compile the Annual (and Final) Implementation Reports prepared by the RA⁴⁸;
- Bilateral Briefs prepared by beneficiaries to serve as a basis for discussion at bilateral meetings;
- Regular updates through the Migration and Security Information System;
- Project Closure Report which is prepared by beneficiaries at the end of the project and confirmed by the RA.

7.2.1 Project Progress Report

1. A beneficiary prepares a Project Progress Report annually based on the previous financial year. 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.
2. It is important that both the beneficiary and the ministry (if applicable) ensure that any data is validated as errors in the data could result in recoveries on the project. Deadline for submitting the PPR is set at 31st December or earlier⁴⁹ of each year.

7.2.2 Bilateral Brief

The Beneficiary in liaison with the RA desk officer prepares a Bilateral Brief prior to each bilateral meeting that the RA may organise (refer to section 7.1.1 above). The brief is compiled on a specifically designed template and is intended to serve as a basis for discussion, highlighting issues arising from the Project Progress Reports and / or from the day-to-day monitoring conducted through the Migration and Security Information System.

7.2.3 Project Closure Report

1. Upon completion of a project, the beneficiary compiles a Project Closure Report. The report must be reviewed and endorsed by the Head of the Organisation. In the case of projects implemented by local councils, the report must also be signed by the Executive Secretary and the Mayor. In the case of NGOs, the report should also be signed by the legal representative of the organisation and the person responsible for the organisation's finances. The report is to be compiled by the end date indicated in the project description after completion of all project's activities, unless otherwise approved by the RA.
2. The report is to be submitted in original to the RA.

7.3 Amendments to the Grant Agreement

1. Modifications to any operation shall be brought to the attention of the RA.
2. The RA shall be monitoring the obligations under the Grant Agreement annually for each concluded project, in conjunction with the annual monitoring of indicators and other monitoring obligations as deemed relevant. In addition the RA (on sample basis) will undertake on-site visits to check the durability of the co-financed operations.
3. The Beneficiaries have the obligation of **retaining all the documentation** of the project for a period of **at least 4 years** following the receipt of the final payment on the project by the European Commission.

⁴⁸ Beneficiaries /project leader may be requested to submit ad hoc progress reports for internal use of the RA or by any of the monitoring structures.

⁴⁹ This deadline is not applicable for year 2016 and for projects whose procurement has not yet commenced.

7.4 Evaluation

In terms of paragraph 1 of Article 57 of Regulation (EU) N° 514/2014, the RA is bound to submit to the Commission an interim evaluation report on the implementation of actions and progress towards achieving the objectives of the national programmes as well as an ex-post evaluation report on the effects of actions under the national programmes.

The Beneficiaries of AMIF or ISF may therefore be asked to provide all the necessary information from their end in order to be able to submit a complete evaluation report as described above.

8. Technical Assistance

8.1 Overview

Technical Assistance (TA) under the Internal Security Fund and the Asylum, Migration and Integration Fund may finance Programme preparatory actions, management, monitoring, evaluation, information and control measures, as well as measures aimed at strengthening the administrative capacity of the stakeholders involved in the implementation of the Internal Security Fund and the Asylum, Migration and Integration Fund. TA may take the form of procurement contracts, expert fees, costs related to salaries and/or administrative expenditure as per budget components identified in the Technical Assistance Plan⁵⁰ and is 100% financed by the EU Funds. Costs necessary for the implementation of the Programmes of the Internal Security Fund (Borders and Visa) and the Asylum, Migration and Integration Fund incurred by the RA, AA, delegated bodies as well other horizontal bodies involved in the implementation of the Programme (assisting in the tasks listed in section 13.2 hereunder), are eligible for support under technical assistance within the limits specified in the relevant Articles⁵¹ of the Basic Acts. Each recipient of Technical Assistance support shall be responsible for ensuring that the activity is undertaken in line with the relevant rules and regulations of the Fund/Programme, including public procurement. The RA shall undertake management verifications on all actions financed under TA.

The form to be used in applying for technical assistance is Form A (Annex 18).

Technical Assistance is managed by the Responsible Authority on a demand driven basis. The Eligibility of the TA for a particular programme runs from 1st January 2014 up till 30th June 2023.

8.2 General Principles and Guidance

The following measures are the main measures eligible to be supported by Technical Assistance:

- i. expenditure relating to the preparation, selection, appraisal, management and monitoring of the programme, actions or projects;
- ii. expenditure relating to audits and on-the-spot controls of actions or projects;
- iii. expenditure relating to evaluations of the programme, actions or projects;
- iv. expenditure relating to information, dissemination and transparency in relation to the programme, actions or projects, including expenditure resulting from the application of Article 53 and expenditure on campaigns to inform and raise awareness about the programme's purpose, organised, inter alia, at a local level;
- v. expenditure on the acquisition, installation and maintenance of computerised systems for the management, monitoring and evaluation of this Regulation and the Specific Regulations;
- vi. expenditure on meetings of monitoring committees and sub-committees relating to the implementation of actions; including the costs of experts and other participants in those committees and including third-country participants, where their presence is essential to the effective implementation of programmes, actions or projects;
- vii. Expenditure for the reinforcement of the administrative capacity for the implementation of this Regulation and the Specific Regulations.

⁵⁰ <https://fondi.eu/wp-content/uploads/2023/01/Annex-20-TA-Plan-2014-2020.pdf>

⁵¹ Regulation (EU) No 515/2014 (establishing the Internal Security Fund – Borders and Visa) Article 16 and Regulation (EU) No 516/2014 (establishing the Asylum, Migration and Integration Fund) Article 23.

8.3 Technical Assistance Allocations of the Internal Security Fund (Borders and Visa) and the Asylum, Migration and Integration Fund

The TA allocations of each Fund have been entirely merged reflecting the provisions of each of the basic acts of the two Funds which stipulate that when designated authorities are common for the two Funds, the appropriations for the TA expenditure on each of the financial year concerned may be merged⁵². Thus the TA under the three Funds for a particular financial year is treated as one project. Subsequently the actual charge to the respective TA allocation is allocated between the three Funds on the basis of simple and representative apportionment formulae; the appropriations from the three Funds will be calculated on the basis of the ratio of the TA for a particular fund over the total available TA for all National Programmes.

$$\text{Percentage chargeable for a particular Fund} = \frac{\text{Amount of TA for Fund}}{\text{Total TA of the three Funds}} \times 100$$

8.4 Roles and Responsibilities in the utilisation of the TA

8.4.1 TA Management

The RA shall manage the TA on a demand driven basis. The RA shall establish a procedure for submission of requests and their approval as well as control. An officer within the RA shall be assigned the task of TA Manager. The TA manager shall be responsible for the overall co-ordination and day-to-day management of the TA. In the absence of TA Manager, such tasks will be undertaken by other RA officers. The TA Manager, works closely under the supervision of Director Funds. The TA Manager:-

- Receives applications from Applicants;
- Carries out preliminary checks of the application and following discussions with the Senior Manager makes recommendations to the Director Funds to enable the latter to take an informed decision;
- Informs the Applicant of the approval/rejection of the request/s for TA;
- Monitors budgetary allocations by components;
- Draws up the necessary reports on implementation (including interim reports);
- Liaises with Department of Corporate Services, Ministry for the Economy, EU Funds and Lands (DCS, MEFL) and co-ordinates the payment processes (whether direct payment or request for reimbursement);
- Retains documents as per Manual of Procedures for Project Implementation;
- Undertakes relevant preparations to support management verifications.
- Confirms payments at Responsible Authority level in the Migration and Security InformationSystem.

8.4.2 The Applicant

⁵² Article 20(5) of Regulation (EU) No 514/2014

Eligible Applicants for TA are those (primarily horizontal) stakeholders involved in the preparation, implementation and closure of the Programme. Potential Applicants include the RA, AA as well as any other organisation involved in the implementation of the Programmes such as the Treasury Department (delegated authority) and the Department of Contracts.

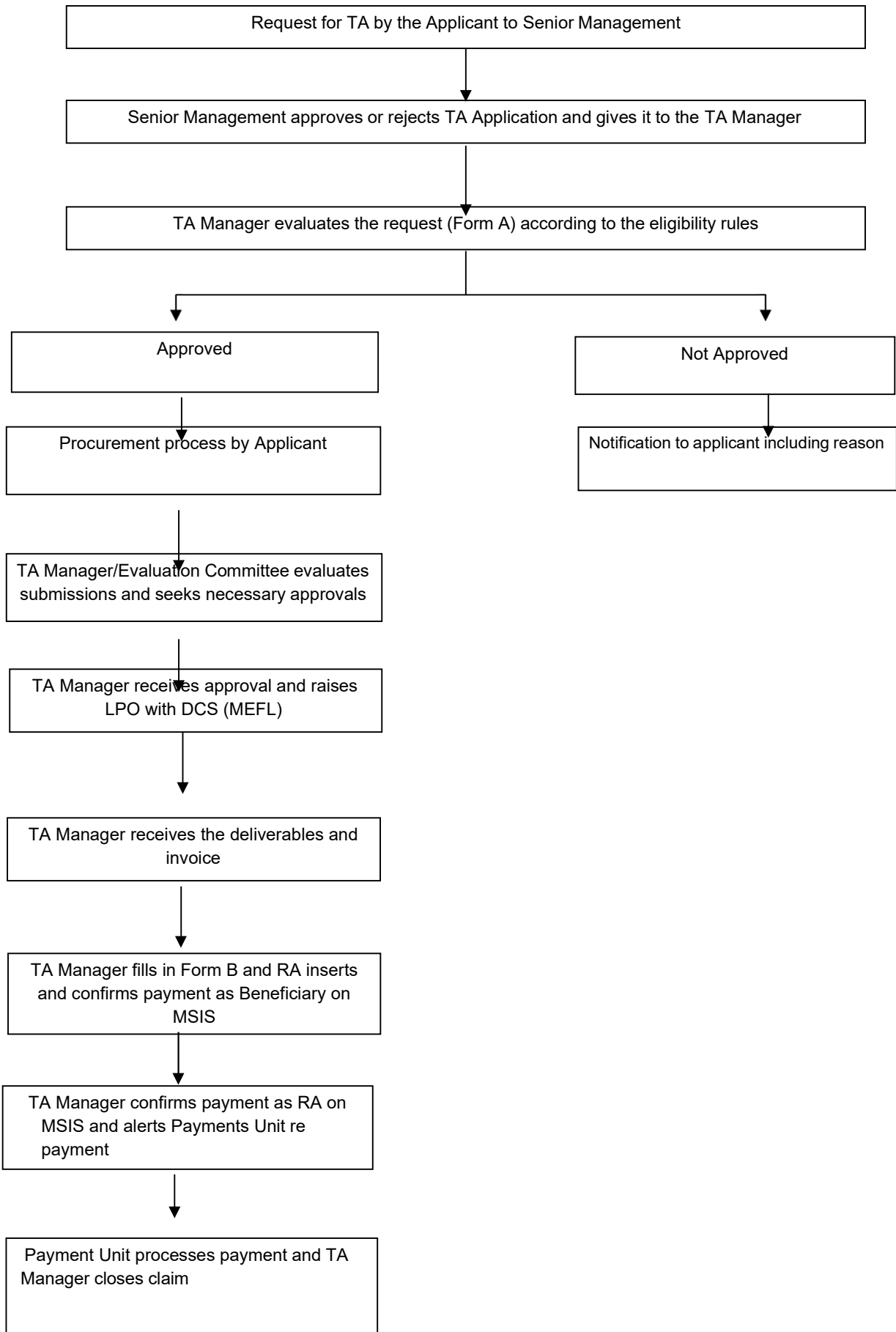
The Applicant submits a request for TA funding using Form A ensuring that this is filled in correctly and that all the necessary documentation is provided. The application is evaluated by the TA Manager. Once a request is approved, the Applicant is responsible for ensuring the right procurement process, including the drafting of the tendering documents/call for quotations/recruitment calls (as the case may be) and to implement the action, in line with the rules and regulations of the Fund / Programmes as well as in line with national rules.

8.5.1 RA as beneficiary of TA

A request for approval is drawn up in the duly completed Form A (Annex 18, signed by any staff member within the Responsible Authority and approved by the Director Funds or senior management). The TA Manager certifies⁵³ the request (Form B) according to the eligibility rules and ensures that the funds are available. The RA then proceeds to undertake the procurement and following receipt of bids/quotations, an evaluation is undertaken by the TA Manager or an Evaluation Committee according to the value of the procurement undertaken. The TA Manager then requests the LPO to DCS at MEAE and sets the order with the service provider. The TA Manager then receives the deliverables and certifies the invoices. After the invoices/ receipts are certified correct, the TA Manager is obliged to complete Form B – (Annex 19). The RA then inserts and confirms payment as Beneficiary in the Migration and Security Information System. The TA Manager then confirms payment at Responsible Authority level and alerts Treasury for continuation of the payment process. All relevant documentation is to be kept by the TA Manager.

⁵³ Not the applicant.

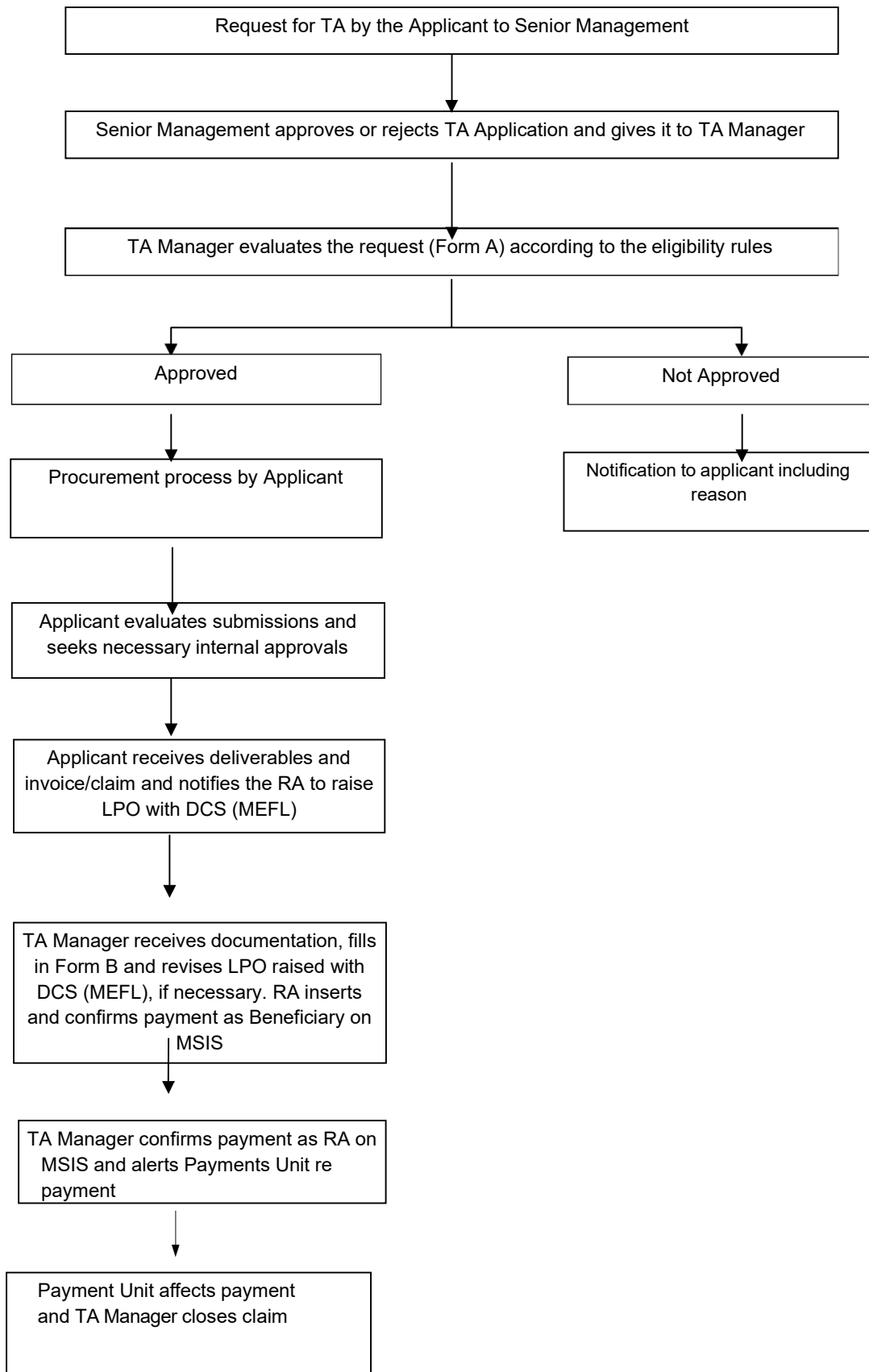
Figure 3 – Implementation/Payment Process (where the RA is applying for TA)



8.5.2 *Other Horizontal Stakeholders as Beneficiaries of TA:*

If the beneficiary of the TA is another horizontal stakeholder (other than RA), the Applicant (recipient of TA) certifies the relevant invoice/s and submits the documentation to the RA TA Manager for direct payment or asks for reimbursement of incurred costs. In case the procurement is paid by the stakeholder and a request for reimbursement will eventually be submitted to the TA Manager, the DCS within their Ministry is asked to raise an LPO on order. Once payment has been affected by the Applicant, the documentation together with proof of payment and Form B is submitted to the TA Manager. The TA Manager undertakes preliminary checks and initiates the reimbursement process in liaison with the DCS MEFL (where TA budget is located). The RA inserts and confirms payment in the Migration and Security Information System and the TA Manager confirms payment as RA. Subsequently the TA Manager alerts Treasury to affect the payment. In case of a direct payment to be affected directly from the TA funds, following procurement, a notification is to be sent to the RA so as an LPO is issued by DCS (MEFL) on the quoted amount. Once an invoice is received by the stakeholder this is forwarded to the TA Manager who would then undertake all the relevant checks, fills in the Form B and revises LPO with DCS (MEFL), if necessary. The payment is then inserted and confirmed at beneficiary level by the RA, while confirmation at RA level is undertaken by the TA Manager. The TA Manager then alerts Treasury of the payment to be affected.

Figure 4 – Implementation/Payment Process (where a stakeholder is applying for TA)



9. Audit and Control

Introduction

This section is concerned with financial control procedures applied for AMIF/ISF co-financed expenditure. The framework for proper financial management, control and audit is set out in Regulation (EU) N° 514/2014.

9.1 Management verifications (first level of control)

1. In accordance with paragraphs 1 and 2 of Article 27 of Regulation(EU) N° 514/2014, the responsible authority shall carry out verifications in respect of each claim for payment (refer also Chapter 5 of this MoP). The verifications carried out by the RA desk officers are **administrative checks**⁵⁴ (desk-based or at beneficiary's premises) to ensure that expenditure has been carried out in line with the Grant Agreement, that the relevant procedures have been followed and that operations and expenditure comply with EU and national rules. These are management checks, **not** audits. Checks may also be carried out via the Migration and Security Information System.
2. The RA desk officers and the FCU will also carry out **on-the-spot checks** at least once during the lifetime of the project, focusing on the physical deliverables of the project. The RA may use external expertise to support it during checks of a project's physical implementation. Beneficiaries should refer to the Physical Checks Templates⁵⁵ used by the RA to address all the necessary requirements.
3. Documentary and physical verification checks may be carried out throughout a project's lifetime (see section 6.3.1. of this Manual). The RA desk officers and the FCU shall inform a beneficiary that an administrative/physical check will take place at least one day in advance. The checklist template⁵⁶ to be 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. In certain occasions, however, unannounced checks may be carried out, as per article 27 of Regulation (EU) no. 514/2014.
4. **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.**
5. Finally, beneficiaries are to note that the RA checks are not intended to offer any comfort or guarantees with regard to audits, but they are merely management verifications in line with the relevant regulation.

9.1.1 Follow-up action to the management verifications

1. Following an on-the-spot check, the RA desk officer shall send the draft report (outlining findings and follow-up/recommendations⁵⁷) to the beneficiary for signature / comments. If the project leader fails to sign the administrative check / on-the-spot check report within the stipulated deadline, the final report will be considered closed and the RA may upload the final report unsigned on the Migration and Security Information System for the benefit of the relevant stakeholders.
2. Any follow-up action required by the beneficiary (as identified by the RA desk officer/ FCU) will need to be undertaken within a stipulated deadline. Failure to do so may result in the RA taking action against

⁵⁴ The RA shall have the right to access documentation/ the internal policy used to confirm the legal status of the target group, as per Circular 12/2018 for projects implemented under the AMIF programme.

⁵⁵ See Annex 10 / Annex 11 as applicable.

⁵⁶ Annex 9

⁵⁷ Where applicable

the beneficiary by either imposing administrative penalties as per relative guidance or cancelling part or total grant in serious cases.

9.1.2 Verifications undertaken by the Financial Control Unit

The Financial Control Unit within the AMIF / ISF Funds Unit was set up to provide an added level of assurance to the Head of the Responsible Authority. Through its direct reporting to the Head and also given that the Unit is independent of the verifications undertaken by the project desk officers, the nature of its function and its governance structure make it a very important aspect of the management and control structures of the Responsible Authority.

As explained in Section 6.3.2 *above*, the FCU shall extract a sample from the SOE by specific objective based on risk assessment and supplemented where necessary by a random sample. The FCU shall compile the captured sampled invoices in a sample report and all documentation of captured sampled invoices should be subject to expenditure testing by the FCU. The FCU shall review all relevant project documentation, including Grant Agreement, AMIF/ ISF National Programme, preliminary and/or final On-the-Spot Checks carried out by the RA, irregularity reports as soon as these are made available. The sampling methodology to be adopted by the FCU is laid out in a separate Memo and is also available online as per link - <http://eufunds.gov.mt/en/EU%20Funds%20Programmes/Financial%20Control%20Unit/Pages/Links-and-Downloads.aspx>.

On the gathering of all the necessary assurances, the FCU shall generate an SOE at Fund Level and carry out a clearance of accounts exercise prior to the submission of a request for payment of the annual balance from the European Commission.

The above methodology provides the necessary assurance for the FCU in addition to that provided through other ex-ante and ex-post controls to the Responsible Authority.

Additionally, the FCU staff accompany RA desk officers in the carrying out of on-the-spot-checks at least once during the lifetime of a project with the aim of providing for physical verifications and checks whilst also focusing on the achievement of outputs. Determining which OTS to undertake is based on feedback received by the RA desk officers and on desk-based checks undertaken by the FCU itself. The Financial Control Unit will also carry out separate On the Spot Checks, which will be reported directly to the Director General while also informing the desk officer in charge of the project, the Senior Manager and Director (Funds) of any recorded findings.

The methodology adopted by the FCU focuses attention to the high risk areas which could then be verified in a more detailed manner. In addition to the 100% ex-ante controls carried out by the project desk officers and the Treasury, the FCU is estimated to be covering 60% to 70% of the claims for payments received. Hence, the control sample is deemed to be a representative sample of all projects for which payments are declared in the annual accounts ascertaining there is an appropriate mix of types and sizes of projects, transactions, beneficiaries and implementing modes. Furthermore risk factors and all cost-benefit aspects of the control are being taken into account.

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

1. Systems audits and financial audits are carried out by local and international audit institutions. The Internal Audit and Investigations Department (IAID) is the designated audit authority in terms of Article 25(1)(b) of Regulation (EU) N^o 514/2014 and it is the main entity responsible for system audits and audits on operations. The audits are carried out on an on-going basis throughout the programme period and thereafter up to three years following the closure of the Programme.

2. **Systems audits** are carried out in accordance with paragraph 2 of Article 14 of Commission Delegated Regulation (EU) N^o 1042/2014 in order to verify the effective functioning of the management and control systems of the Responsible Authority to give reasonable assurance that the expenditure included in the annual accounts is legal and regular. Based on these audits, the Audit Authority shall determine whether the Responsible Authority continues to comply with the designation criteria. Systems audits may be carried out on the main implementing bodies and other horizontal stakeholders, as well as on cross-cutting issues by undertaking audits on operations.
3. **Financial audits** are carried out to provide reasonable assurance that the annual accounts give a true and fair view of the expenditure declared by the Responsible Authority.
4. Financial Audit includes:
 - reconciliation between the expenditure claimed and the supporting documents;
 - verification that the amounts withdrawn and recovered, the amounts to be recovered, and the irrecoverable amounts as at the end of the financial year, correspond to the amounts entered in the accounting system of the Responsible Authority and are supported by documented decisions of the Responsible Authority;
 - to ascertain that the Responsible Authority has performed the administrative and on-the-spot controls in compliance with Article 27 of Regulation (EU) No 514/2014.
 - verification of the execution of the operation, the eligibility of the expenditure, the provision of co-financing and compliance with relevant EU and national legislation, including, where applicable, public procurement, state aid, non-discrimination and the environment.
5. The audit authority will inform a beneficiary to be audited 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. 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 projects are being implemented in accordance with State aid or VAT legislation.

9.3 National Audit Office

1. As the external auditor to the Government of Malta, the National Audit Office (NAO) may carry out audits on projects co-financed through the AMIF/ISF. 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 NGO.
2. A beneficiary is to notify the RA in good time when it receives an announcement regarding an audit on a project co-funded under the AMIF/ISF. The RA, on its part, will seek to support the beneficiary in the process.
3. Beneficiaries and other stakeholders (whether public or not) shall grant the NAO full access to project documentation.

9.4 EU audit missions

1. Officials from the European Commission and the European Court of Auditors (or their representatives) may carry out audits on both systems and operations co-funded by the AMIF/ISF.
2. EU auditors generally inform their Maltese counterparts in advance of a mission. In cases where they are informed directly by the EC, beneficiaries shall inform the RA to ensure full co-ordination and support.

3. The RA and / or the AA (as the case may be) usually co-ordinates the timetable for an 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 project documentation.

9.5 Preparing for audit visits (applicable to all audits)

1. In general, auditors will want to spend a few days examining documentation held by a beneficiary organisation, the RA, the DoC, and the Treasury. Auditors may also ask to be taken on the site of a project.
2. As part of their preparation for an audit mission, beneficiaries should:
 - ensure that all persons involved in the implementation of the project being audited, are available during the audit mission. Priority must be given to the audit by all those involved in the project being audited. It is important that such persons are appropriately briefed by the project leader on the scope of the audit mission. The RA will also support the project leader in this regard.
 - ensure that all project documentation is made available and filed in accordance with the chapter on retention of documents (Chapter 13 of this MoP) to facilitate easy access to the necessary documentation during the audit.
 - provide a meeting room for the audit mission.
 - ensure that photocopying facilities are readily available in view of the fact that auditors may ask for copies of documents that are in file. The beneficiary will take note of any copies of documentation that is handed to the auditors and may be requested by the RA to submit this list to it 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 request an ad-hoc site visit at short notice.
3. As a general rule auditors will seek to examine the following documentation (and any other documentation uploaded in MSIS) during an audit visit⁵⁸:
 - a. **Project documentation:**
 - Copy of application submitted;
 - The approval letter
 - Project Rating/ranking sheets⁵⁹
 - Grant Agreement signed between RA and beneficiary;
 - Addenda to the Grant Agreement and letter/s stipulating any modifications to the project;
 - b. **Tendering and contracting**
 - Tender document launched on the market;
 - Advertisement of the tender (also in the Official Journal where applicable);

⁵⁸ This is only an indicative (not exhaustive) list of documents which auditors may ask to review. Other documents which should be part of sound financial management and therefore part-and-parcel of a beneficiary's obligations are not necessarily listed here. In general the auditors will be able to view the documents available on the Information System.

⁵⁹ These documents will be kept by the RA and will be provided to the AA by the RA

- Any clarifications sent by potential bidders;
- The bids received;
- The signed and dated schedule of tenders;
- Any clarifications requested during the adjudication of the tender;
- The evaluation report and relevant documentation such as minutes of meeting/s of the evaluation committee;
- Copy of the publication of the adjudication of the tender (and the Contract Award Notice where applicable);
- Contract drawn up and signed by the DoC / beneficiary⁶⁰ and the contractor;
- Any subsequent addenda to contract;
- Documentation related to approved variations;
- Any other relevant documents related to contracts (including employment contracts⁶¹) connected with the project;
- Any approvals for variations made to the contract.

c. Other Community policies

- All relevant documentation concerning other Community policies, including State aid, non-discrimination and sustainable development.

d. Payments

- Commitments;
- Sampled invoices
- CBM Debit Advices;
- Receipts obtained from the contractors;
- Certification of works by technical supervisor, acceptance certificates / reports for supplies and services.

e. Information and publicity

- Photos or recordings evidencing information activities or publicity undertaken in relation to the project (where applicable);
- Original adverts, brochures, leaflets or any other publicity material and promotional items produced through the project;
- Copies of handouts, documents, attendance sheets, certificates, agendas and other publications displaying EU information and publicity requirements.
- Copies of press articles (where applicable);
- Verification of compliance with compulsory EU information and publicity requirements during on site visits (such as billboards, posters, permanent plaques and identification stickers or plaques on physical items / equipment);

f. Monitoring reports

- Copies of the progress reports prepared by the beneficiary;
- Viewing of progress updates in the Migration and Security Information System;
- Record keeping of time sheets (particularly in the case of employment contracts).

g. Others

- Lists of participants;
- Progress / performance reports of contracted employees / trainers;

⁶⁰ In the case of contracts administered by the beneficiary

⁶¹ Where applicable

- Attendance sheets;
- Evaluation sheets;
- Inventory lists.

9.6 Follow-up to an audit mission

1. Once audit field work is complete, the auditors will send the draft audit report to the responsible authority. Upon receipt by the responsible authority of the draft audit report, the contradictory procedure will commence. As part of that procedure, the RA may liaise with the beneficiary (where reference is made thereto) to coordinate the replies to the auditors regarding their draft findings. Such replies shall be submitted to the AA expeditiously, or as agreed by the RA and AA accordingly.
2. At the conclusion of the contradictory procedure, the auditors will send the final audit report to the responsible authority for onward transmission to the beneficiary as it deems necessary and will concurrently copy it to the certifying authority (if applicable).
3. The beneficiary is in the first instance responsible to follow up any recommendations in any audit report drawn up in accordance with Article 59(5) of Regulation (EU, Euratom) No 966/2012.
4. The responsible authority is to ensure that remedial action on the findings and recommendations included in the final audit report is taken within the agreed time period or provide a reasoned or justified case where it does not agree with the findings of the auditors. . The action taken is to be communicated to the auditors. The auditors reserve the right to organise follow-up audits if necessary.
5. In case of EU audits, replies will be co-ordinated by the RA / AA and a consolidated reply will be given on behalf of the Member State.

9.7 Audits after closure of programme

Beneficiaries should note that projects can be audited even after project implementation. In view of this, **all project documentation must be retained by the beneficiary for at least four years after final payment is made by the European Commission on the project (the final payment date will be communicated by the RA).**

10. Reporting on Irregularities and Fraud

10.1 Irregularities and financial corrections

1. An irregularity is defined as in Council Regulation 2988/95 on the protection of the European Communities financial interests as ‘any infringement of a provision of Community law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure.’
2. It is important to note that failure to apply rules and regulations can result in irregularities which, in turn, could lead to financial corrections. In certain cases, particularly in the case of public procurement, the recovery can be up to 100% of the overall contract value. In the case of systemic irregularities the recoveries can extend to other or all components of the project and possibly also other projects being implemented by the same beneficiary.
3. Irregularities can be individual or systemic in nature:
 - An *individual irregularity* is a one off error which is independent of other errors in the population or deficiencies in the systems.
 - A *systemic irregularity* is an error, repeated or not, resulting from the existence of serious deficiencies in the management and control systems. System deficiencies are weaknesses in the management and control system.
4. The amount of the financial correction is assessed, wherever possible, on the basis of individual cases and is equal to the exact amount of expenditure wrongly charged to the EU budget. However, precisely quantified corrections are not always possible or cost effective if extensive additional verification work is needed. In such cases a flat rate correction, proportionate to the seriousness of the irregularity or the system deficiency, should be made.
5. *Quantifiable corrections* – The financial impact of an irregularity is quantifiable precisely when it is possible, on the basis of an examination of the individual irregularity, to calculate the exact amount of expenditure wrongly declared to the 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. non-compliance with public procurement or publicity rules). In these cases, a flat rate correction may be applied to the individual operation based on the seriousness of the irregularity or deficiency identified.
7. *Extrapolated corrections* – Where irregularities have occurred in a great number of activities throughout an operation, but it is not cost-effective to verify the regularity of such activities not included in the verified sample, the financial correction may be based on extrapolation. In this case, the results of a thorough examination of a representative sample of the individual cases concerned are extrapolated to all expenditure in the population, in accordance with generally accepted auditing standards.
8. Upon detection of systemic irregularities in a project, the RA shall immediately notify the beneficiary and relevant stakeholders (AA, Treasury and other stakeholders as may be applicable), informing them of the immediate measures to be taken. These may include recovery of irregular amounts, suspension of payments on the project, interruption of payments on other operations managed by the same beneficiary, corrective action required to reinstate adequate management and control systems and relevant deadlines for all action. The RA will then update the debtor’s ledger with the expenditure to be recovered following irregularities detected after payment has already been effected by Treasury.

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. Interest may be added to any sums not repaid in due time under the conditions laid down in Regulation (EU, Euratom) N° 966/2012. In addition, if the irregular amount is not recovered within the stipulated deadline, the respective amount can be offset from subsequent payments, if applicable.

9. Irregular amounts, for both systemic and individual irregularities, shall be recovered **within three months of circulation of report**⁶². The periods established shall be interrupted in the case of legal proceedings or other duly motivated cases. Interest charges may apply.
10. In cases where the beneficiary does not affect the payment as outlined in the irregularity report, reminders will be sent to the beneficiary following the three month recovery period outlined in point 9 above, failure to submit the recovered amount, the RA will institute legal proceedings through the Attorney General for the recovery of the amounts involved.
11. In exceptional cases where the recovery could not be made from the Beneficiary and the expenditure would have already been drawn down from the EU budget following the clearance of accounts, the Government of Malta will have to fork out the recovered amount and then will seek redress accordingly. This will apply whenever as per article 5 of Regulation EU no. 514/2014, the amounts were unduly paid as a result of fault or negligence on the part of the Government of Malta. However in cases where it is not found to be the fault or negligence of the Government of Malta then a clear report of the issues that have arisen and the justified reasons for the inability of recovering the amounts from the beneficiary will be presented to the European Commission for discussion.

10.2 Detecting and reporting irregularities

1. Article 5 of Regulation (EU) No 514/2014 regulates the reporting of irregularities and Commission Implementing Regulation (EU) 2015/840 of 29 May 2015 on controls carried out by Responsible Authorities pursuant to Regulation (EU) No 514/2014 of the European Parliament and of the Council laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management
2. There are various methods how irregularities can be detected:
 - a. **At management and control level through:**
 - Checks undertaken by stakeholders (including beneficiaries) during implementation (e.g. payment process);
 - Checks made during the management verifications (both administrative and physical) by the RA;
 - Checks undertaken by other stakeholders in the system; and
 - Audits under Article 14 of the Commission Delegated Regulation (EU) N° 1042/2014;
 - Audits carried out by other audit bodies.
 - b. **Through other methods such as:**
 - Fiscal controls;
 - Evaluations;
 - Initial/judicial enquiry;
 - *Ex-post* checks and controls;
 - Correction of accounts (reconciliations);
 - Denunciation;
 - Grievance or complaint (anonymous or not);

⁶² MFIN Circular N° 3/2014 'Guidelines regarding recoveries of irregular expenditure paid by Treasury on EU Funds under shared management'

- 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 RA, AA, Treasury, and DoC, line ministry, beneficiary or any other relevant entity) involved in the implementation of AMIF/ISF, who, at any stage of implementation and / or control procedure, becomes aware of an irregularity (whether individual or systemic), has the duty to **IMMEDIATELY** report the irregularity in accordance with the procedures specified in this chapter. The person / organisation detecting an irregularity at any stage of the implementation of the programme, shall prepare the AMIF/ISF Irregularity Report⁶³ giving details on the relevant irregularity. **The RA 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 Project Leader. The RA shall then circulate the report to all relevant stakeholders.
 5. There might be circumstances where officials feel constrained to by-pass the normal system of reporting irregularities. Whenever this situation arises, an official is given the opportunity to report any irregularity directly to the RA (by filling in AMIF/ISF Irregularity Report (IR)).
 6. In the case of non-public beneficiaries (NGO, partners), the report is sent directly to the RA.
 7. In the case of private beneficiaries, the report is sent to the RA.
 8. The beneficiary has 10 working days to appeal from the date of receipt of the Irregularity Report. Once this period elapses the beneficiary cannot contest the findings in the said report.

10.3 Content of an Irregularity Report

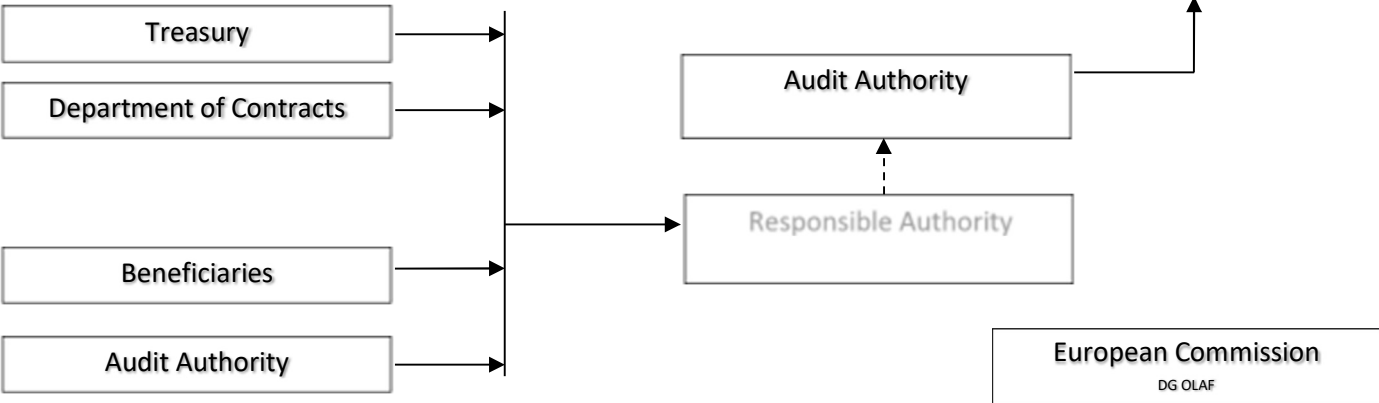
The template of the AMIF/ISF Irregularity Report includes the following details:

- General information on the Programme, Fund, National objective 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;
- The period during which or the stage at which the irregularity was committed;
- The body or bodies involved, except in cases where such information is of no relevance in combating irregularities on account of the character of the irregularity concerned;
- The financial consequences, the suspension (if any) of payments, the procedure to be undertaken for recovery and relevant deadlines;
- Other applicable information; and signatures and dates of the report

⁶³ Annex 13

Table 2: Irregularities

Detecting Irregularities



10.4 Financial Corrections

1. According to article 46 of Regulation (EU) No 514/2014 Member States shall make the financial corrections required in connection with individual or systemic irregularities detected under the national programmes.
2. Financial corrections shall consist of cancelling all or part of the contribution from the Union budget concerned.
3. The Member States shall take into account the nature and gravity of the irregularities and the financial loss to the Union budget and shall apply a proportionate correction.
4. Amounts cancelled and amounts recovered, as well as the interest thereon, if applicable, shall be reallocated to the national programme concerned, excluding the amounts resulting from irregularities identified by the Court of Auditors and the Commission services, including OLAF. After the closure of the national programme, the Member State concerned shall refund the sums recovered to the Union budget.
5. An irregularity that warrants a financial correction will be specified in the relevant irregularity report as per section 10.1 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 RA.
6. In the case of public entities, a note addressed to the project leader, (copying AA and Treasury) shall be issued by the RA (or any other relevant organisation drawing up the irregularity report) specifying the amount to be recovered.
7. In the case of local councils, the recovery note shall be addressed to the project leader, (copying AA and Treasury).
8. 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 with any interest on late payment.
9. The RA 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 N° 3/2014), that timeframes for corrective action are respected and that the necessary escalation procedures are followed. The RA 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.

10.5 Fraud

In terms of Article 21 (h) Regulation (EU) N° 514/2014, the RA shall put in place effective and proportionate anti-fraud measures taking into account any fraud risks identified. Accordingly, the RA performs an exercise to assess the impact and likelihood of specific fraud scenarios occurring.

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

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

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

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

The RA has a clear commitment to combat fraud and corruption both through preventive and detective control mechanisms and it is determined to transmit cases to the competent authorities for investigations and sanctions⁶⁴.

10.6 Preventive actions

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

For this purpose, beneficiaries should:

- raise awareness through formal training of all staff complement involved in the management of EU funds about preventative and detective control measures as well as the specific roles and responsibilities of all stakeholders and reporting mechanisms;
- put in place effective separation of duties, particularly with respect to financial and control units and rotate staff (when possible);
- promote an ethical culture among staff to act honestly and with integrity to safeguard all national and Community resources;
- 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 to report any case of suspected fraud concerning EU funds to the responsible authority, either through their respective hierarchy or directly if necessary;
- Conduct regular verifications ensuring that staff in charge is aware of European Commission and national guidance on fraud indicators.

10.7 Detective actions

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

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

- When any relevant authority or beneficiary, or their members of staff, suspects that fraud has occurred, they must notify their immediate superior. If it is inappropriate to raise the matter with the immediate superior, the concern should be raised with the head of the beneficiary organisation

⁶⁴ Refer to FCU circular on anti-fraud measures (01/2015). A risk register is also kept by the RA to identify the risks and their corresponding mitigating actions.

/ ministry / responsible authority. The official with whom the report was filed must immediately relay the message to the head of the responsible authority.

- Timeliness plays a crucial role when addressing suspected cases of fraud. Consequently, when identifying cases of potential fraud, an officer's immediate action is to alert his / her direct superior verbally. The case, which is treated with confidentiality (subject to legal obligations), is followed up by a written report so that the relevant authorities can be informed and requested to investigate further.
- The body reporting the suspected fraud must act with caution in dubious situations which might lead to fraudulent transactions. In case of detection of possible forged documents, the 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 organisation, and the Internal Audit and Investigations Department in terms of Article 16 of the Internal Audit and Financial Investigations Act (chapter 461 of the Laws of Malta), which states that 'If an entity has reason to suspect any irregularity and, or a suspected case of fraud of public funds, it shall refer the matter forthwith to the Director (of IAID), and shall supply to the Director all information in his possession relating thereto'.
- In terms of Article 18 of the Internal Audit and Financial Investigations Act, 'whenever, and as soon as the Director firmly establishes the existence of suspected cases of irregularities and, or suspected cases of fraud concerning the responsibilities of the auditee under review, the Director shall, if he is of the opinion that the irregularity, if proved, would constitute a criminal offence immediately inform the Attorney General'.
- The Attorney General will evaluate the case in question and determine whether:
 - to forward the case to the Malta Police for criminal investigation; or
 - terminate proceedings of the case at that juncture.
- The Commissioner of Police forwards to the body reporting the case a copy of the report of the investigation including any court action to be taken by the Police.
- Where the investigation report concludes that no criminal proceedings are required (i.e. it is prima facie confirmed that the suspicion of fraud is not correct) the 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 responsible authority recommends the withdrawal of any suspicious payments from certification already carried out.

11. Information and Communication

Introduction

Information and communication form an integral part of the programming strategy for the 2014-2020 period. All beneficiaries are required to inform the public about the support obtained from the AMIF/ISF complying with requirements in Commission Delegated Regulation (EU) N° 1048/2014 with regard to signage, including plaques and promotional material.

This chapter deals with AMIF/ISF Funds information and communication requirements to ensure that the results and achievements of the AMIF/ISF National Programmes and co-financed projects are communicated as widely and effectively as possible. These measures are intended to lead to increased transparency and greater awareness.⁶⁵

This section is complemented by the visual identity guidelines for AMIF/ISF. These can be downloaded from <https://fondi.eu/wp-content/uploads/2023/03/Communication-and-Visibility-Requirements-Malta-1-2.pdf> The visual identity guidelines provide the technical specifications for the MT flag and EU emblem and the compulsory text, with layouts / templates for different information and publicity measures.

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

11.1 Publicity and information: strategic objectives

Communication is essential at both programme and project level in order to reach the following objectives⁶⁶:

- Ensuring transparency of and accessibility to the Funds;
- Increasing visibility and awareness of the role of the EU and the positive impact of AMIF/ISF on migration and security measures.

These communication objectives are entrenched in a number of EU and national regulations and guidelines as outlined in section 11.2 below.

11.2 Regulatory framework

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

- Regulation (EU) N° 514/2014, Article 53;
- Commission Delegated Regulation (EU) No 1048/2014 laying down information and publicity measures for the public and information measures for beneficiaries pursuant to Regulation (EU) No 514/2014 of the European Parliament and of the Council laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument of financial support for police cooperation, preventing and combating crime, and crises management;
- Commission Implementing Regulation (EU) No. 1049/2014 laying down rules on technical characteristics of information and publicity measures pursuant to Regulation (EU) No 514/2014 of the European Parliament and of the Council laying down general provisions on the Asylum, Migration and

⁶⁵ As required by Article 1 of Commission Delegated Regulation (EU) N° 1048/2014

⁶⁶ Article 1 of Commission Delegated Regulation (EU) N° 1048/2014

Integration Fund and on the instrument for financial support for police cooperation, prevention and combating crime and crisis management

- The official graphical specifications of the EU emblem.
- The official graphical specifications of the national flag of Malta.

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

11.3 Role of the responsible authority – programme level information and publicity

1. The RA has the main function of:

- a) Providing guidance, monitoring and ensuring compliance with the information and publicity regulations and requirements at programme and project level;

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

2. The MT flag and EU emblem and other useful downloads and information can be found in the publicity section of the RA's website: <https://fondi.eu/visual-identity-guidelines-2021-2027/>

11.4 Responsibility of the beneficiary – project level information and publicity

1. Beneficiaries also have responsibilities relating to publicity and information in relation to the project/s. These are:

- a) Implementing publicity and information measures in line with the Grant Agreement, as outlined in the following sections including compliance with the visual identity guidelines;
- b) Participating in information and publicity measures organised by the RA at programme level when required;
- c) Reporting on information and publicity actions to the RA when required and also through the Project Progress Reports. Samples / proofs of publicity actions may also be requested for record keeping by the RA; and,
- d) Participating in publicity and information measures as well as networks and / or exchanges of experience organised at EU, national or programme level

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

1. Beneficiaries must be aware that acceptance of funding is also acceptance of their inclusion in online or other published lists and databases of beneficiaries compiled by the RA.⁶⁷ The information may include⁶⁸ among other things, name and details of beneficiary organisations, cost of projects, grant amounts and purpose and results of projects. Furthermore, such information may also be uploaded on websites, including those hosted by the European Commission and / or other EU institutions where information is collated and presented in order to show activity across Member States.

⁶⁷ Article 53 of Regulation (EU) N° 514/2014

⁶⁸ The list is indicative and not exhaustive of the information that can be published.

2. Beneficiaries shall, if so requested, collaborate with the RA during the organisation of events or promotional activities, including networks and exchanges of experience at both national and European level.

11.6 Implementing publicity and communication measures

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

1. **Principle of proportionality:** communication measures should be reasonable and in proportion to the size, objectives and results of the project.
2. **Planning and scheduling:** information and communication measures should be carefully planned at an early stage and implemented in line with the budget and project plan set out in the Grant Agreement. Project leaders need to 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 RA recommends that beneficiaries inform and consult with the RA about all information and communication activities prior to implementation. However, the final vetting of the visual layout and artworks of information and communication measures will be the beneficiary's responsibility.
 - b) *Target audience:* information and communication measures should be appropriate for the identified target groups. Where possible beneficiaries should also target the general public, particularly when informing about results of AMIF/ISF interventions.
 - c) *Language and tone:* information and communication activities should be neutral and factual in tone to avoid being perceived as biased and / or propaganda. The language used can be either Maltese or English, though use of the former is encouraged to reach a wider audience.
3. **Tendering and procurement:** Like other co-financed project components, information and communication initiatives or items should be procured or contracted in line with national legislation on public procurement. It is also important to note that advertising and documents relating to tendering and procurement should comply with the compulsory visual identity guidelines.
4. **Copyright issues and reproduction:** Beneficiaries are advised to retain copyright of original information and communication material related to projects, including all artwork and / or concepts. The RA may need to utilise project level information and communication material during public events, presentations or publicity at programme / national level. Co-financed communication material cannot be used by beneficiaries for other purposes. It is important that copyright issues are clear to prospective bidders and set out in the relevant terms of reference and tender dossiers (as well as subsequent contracts).
5. **Reporting:** Beneficiaries shall report on progress relating to the implementation of information and communication actions by completing the relevant section of the Project Progress Report template.
6. **Audit and control:** Beneficiaries are advised to retain original copies of articles, news items, press releases, promotional and informative material for future checks / audits, wherever possible. Audio-visual material such as TV and radio spots, photographs, video clips, documentaries or features should also be archived and kept for audit purposes. Audio-visual material could also be made available on CD to ensure that it can be viewed by auditors and / or other officials involved in the control process.
7. **Confidentiality and data protection:** The confidentiality of participants in all projects is to be respected. Photographs or footage featuring participants can only be transmitted or reproduced for information or communication purposes if participants give their written consent. The relevant letters of consent should be retained in file by beneficiaries. Beneficiaries should ensure that such consent is given at the start of a project in order to ensure that communication material can be used.

11.7 Ensuring compliance with visual identity requirements

1. All documents, information and communication items, publications or measures are to respect the provisions of Article 1 of Commission Implementing Regulation (EU) N^o 1049/2014 and of national requirements. Beneficiaries can refer to the visual identity guidelines for guidance, where necessary.
2. The main elements making up the visual identity of the AMIF/ISF are the following:
 - a. **The Maltese Government Logo:** It is important to ensure that the logo is reproduced correctly, in line with the official graphical specifications for the national logo. To be placed on the **upper left corner** in any EU funded project. Can be downloaded from <https://fondi.eu/visual-identity-guidelines-2021-2027/>
 - b. The new unique identifier The new unique identifier for European Funds is the **FONDI.eu** logo that is placed in the **upper right corner** of the artwork / design.
 - c. **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: <https://fondi.eu/visual-identity-guidelines-2021-2027/> The EU emblem is strictly compulsory for all information and communication measures, as per Article 1 of Commission Implementing Regulation (EU) N^o 1049/2014. Must be placed at the right bottom corner of all artworks. Three variations available with different text.
The text variations are either 'Funded by the European Union' or Co-Funded by the European Union'
3. These elements are to be mainly laid out as indicated in the visual identity guidelines.

11.8 Implementing obligatory information and communication measures

Apart from ensuring that all information and communication initiatives comply with the visual identity requirements, beneficiaries shall also ensure to carry out all the mandatory information and communication measures which are necessary for the project⁶⁹. These mandatory activities, together with other optional information and communication measures, are outlined in further detail under the points 11.8 to 11.9 below.

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

- All media adverts in relation to procurement, recruitment, calls or other procedures and / or events (with the exception of adverts on the Malta Government Gazette);
- All information and communication measures part-financed by the AMIF/ISF;
- The cover pages of tender documents and contracts and;

⁶⁹ As required by Article 2 of Commission Delegated Regulation (EU) N^o 1048/2014

- The cover pages of all part-financed reports, studies, questionnaires, attendance sheets, certificates⁷⁰, power-point presentations, handouts and other documents without excluding information and communication items.
- Promotional items / giveaways financed through projects

However, visual identity requirements are not obligatory for internal documentation and communication.

11.8.1 Projects involving the purchasing of physical objects or of financing of infrastructure or construction projects [Total public contribution over €100,000]

Projects receiving a total public contribution of over €100,000 and which involve the purchasing of physical objects or of the financing of infrastructure or construction projects must affix a permanent prominent plaque.

The permanent plaque must be:

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

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

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

- a) include the EU emblem and national flag of Malta, together with a reference to the AMIF/ISF;
- b) be based on the layout that can be obtained from the visual identity guidelines
- c) be made of a durable material; and

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

11.8.3 Projects involving events, conferences or training

1. A beneficiary implementing an AMIF/ISF project which includes events, conferences, training 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:

⁷⁰ In cases where certificates are issued by external training providers (such as University degrees; ECDL course etc.), it is recommended that a letter is attached to the certificate informing the trainee/s that the training programme or course was part-financed by EU funds.

- a) documents, including hand-outs, presentation slides, attendance sheets, certificates, agendas and other publications shall include the project title as well as the visual identity requirements mentioned above;
 - b) the EU emblem and national flag of Malta shall be displayed prominently inside the venue, preferably behind or beside the speakers / trainers;
 - c) venues must be fully accessible to persons with disability both with regard to training rooms and also facilities;
 - d) photographs and / or recordings of the event shall be taken and retained by the beneficiary for reporting and audit purposes. These photographs and / or recordings are to clearly show the visual identity requirements; and
 - e) copies of all documentation including original signed attendance sheets and forms are to be retained for reporting and audit purposes.
2. Posters / signs shall be:
- a) positioned at sites which are clearly visible to participants and the public, such as in or outside training rooms, reception areas, hallways and entrances;
 - b) Designed in such a way that at least 25% of the poster is dedicated to the:
 - i. name and type of the project
 - ii. visual identity requirements

Further detail on the technical specifications of the respective visibility items, together with illustrations, can be obtained from the visual identity guidelines, which can be accessed from the following link:

<https://fondi.eu/visual-identity-guidelines-2021-2027/>

11.9 Optional information and communication measures

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

12. Delegation of Authority

12.1 Delegating authority

1. A beneficiary organisation is responsible for the entire implementation of its project.
2. A project leader represents the beneficiary on all matters related to the project.
3. Where it opts for external project management, a beneficiary is expected to explain to the responsible 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. No beneficiary should be represented by external project management at any meetings concerning the project. Further instructions, could be provided by the RA at its discretion.
4. In cases where tight deadlines are involved, such as during the end of a financial year the certification of works, invoices and confirmation certificates, a project leader may delegate authority to the contact person or other officials. This option should only be exercised when the project leader is abroad, on sick leave or vacation leave.
5. In cases approved by the RA, the project leader may assign an open delegation of authority to a designated person within the project leader's office to:
 - a) certify correct and sign invoices / reimbursement requests;
 - b) insert and confirm invoice / reimbursement request details in the Migration and Security Information System and / or;
 - c) upload scanned copies of invoices / reimbursement requests, proofs of payment and any other necessary supporting documentation on the Migration and Security Information System. 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 (a) to (c) above. Multiple signatures are not permitted.
6. Where a project leader delegates duties to officers within the beneficiary organisation, the project leader must complete the appropriate Delegation of Authority Form authorising the officer concerned to carry out specific tasks on his / her behalf. The project leader should forward the **Delegation of Authority Form⁷¹, signed by the Legal Representative of the Contracting Authority**, to the RA before the delegate starts executing the assigned duties.
7. It should be noted that while functions can be delegated, responsibility **remains with the project leader**.
8. The Delegation of Authority Form must be completed by the project leader and signed by both parties. A copy of the CV of the delegated project leader should also be attached to the form.

12.2 Termination and change of project leader

1. Should there be a change in project leader, the current PL and the newly appointed PL should draw up a letter informing the RA that the current PL will be terminating his / her project leadership (see Annex 22 – Change in Project Leader Form). The letter should specify the name and designation of the officer taking over the project leadership and the effective date of take over. This letter should also be accompanied with a copy of the CV of the new project leader.

⁷¹ Please see Annex 21 for the form template.

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 beneficiary⁷², as per specific form. This procedure also applies for project leaders who would be retiring from their post within the beneficiary organisation. In the case of public sector projects, the line ministry shall ensure that the above procedure has been undertaken in time and that an effective hand over has been given to the new project leader to ensure the smooth continuation of the project.
3. Beneficiaries should ensure that the post of the project leader remains occupied **until the end of the document retention period as indicated in chapter 13 of this manual**. Beneficiaries can be required to report to the RA, and AA (amongst others) even after termination of the project, mainly in the context of the closure of the programme period (4 years from closure of the Programme by the Commission) and possible ad hoc audits by European institutions or national authorities.

⁷² 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.

13. Retention of Documents

13.1 General remarks

In accordance with article 9 of Commission Implementing Regulation (EU) No. 2015/840, all documentation related to projects shall be kept available for control and audit purposes for at least four years following the financial year in which the final payment of the European Commission on the project was declared.

13.2 Records to be retained

1. In line with Article 31 of Regulation (EU) N° 514/2014, all the documents related to a project and expenditure shall be made available during audit missions. Beneficiaries must ensure that the following are available:
 - a) Documents relating to expenditure incurred, declared and paid under the fund,
 - b) Reports and documents relating to checks carried out through:
 - verification of expenditure;
 - certification of expenditure; and
 - audits performed by the audit authority (IAID)

The rules regarding document retention apply to all stakeholders involved in delivering and administering AMIF/ISF Funds, including the Department of Contracts, Treasury and Audit Authority. In this regard, **in relation to procurement by contracting authorities falling under Schedule 2 of LN 352/2016 and whose value exceeds the € 750,000 threshold**, originals of documents should be retained by the Department of Contracts. Beneficiaries are still required to retain copies of documents originating at their end.

2. As indicated in the below list of 'Documents to be retained', beneficiaries and other AMIF/ISF stakeholders are required to retain documents in original while others would be required to keep copies. Copies of the original documents must be kept by a competent officer on commonly accepted data carriers. They include:
 1. Photocopies of original documents;
 2. Briefs of original documents;
 3. Electronic versions of original documents on data carriers (such as hard-disks, DVDs, USB sticks);
 4. Documents existing in electronic version only.
3. It is the sole responsibility of beneficiaries to ensure easy and quick access to project documentation also after the project closes. This is particularly the case when project management is entrusted either outside the organisation or to persons on contracts that may terminate at the end of the project.
4. 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 involved in the implementation system). In the case of beneficiaries, documents should be signed by the project leader (or delegate).

13.3 Records to be uploaded on the Migration and Security Information System

1. Retention of documentation is 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 burden and mitigate the impact on Migration and Security Information System hardware capacity. Beneficiaries and stakeholders are reminded that all the obligations relating to retention of documents as stipulated in Article 9 of Commission Implementing Regulation (EU) No. 2015/840, the Grant Agreement and this Manual of Procedures remain valid and effective.

2. Information on the type of documents to be uploaded on MSIS is provided on the MSIS User Manual. Assistance on how to upload the documents on the database can be found in the User Manual for Beneficiaries.

13.4 Data Protection

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

13.5 Filing system for project related documentation

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

13.6 Retention of documents

The purpose of this MoP is specifically focused on the requirements of beneficiaries; however for the sake of completeness a full list of documents that need to be retained (in hard original or copy) by the various stakeholders involved in the implementation of AMIF/ISF funded projects can be found in the list below titled 'Documents to be retained'. This gives beneficiaries a comprehensive picture of the requirements regarding 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 €144,000, in which case original documents are generated and filed by the Department of Contracts.

As already indicated above, the table lists the documents that need to be physically retained in the stakeholders' files. However, stakeholders are reminded that some of these documents are to be also uploaded on the Migration and Security Information System, as indicated in section 13.3 above.

Documents to be retained by the Beneficiary

Project documentation:

- Copy of application submitted;
- The approval letter
- Grant Agreement signed between RA and beneficiary;
- Addenda to the Grant Agreement and letter/s stipulating any modifications to the project;

Tendering and contracting

- Tender document launched on the market;
- Advertisement of the tender (also in the Official Journal where applicable);
- Any clarifications sent by potential bidders;
- The bids received;⁷³
- The signed and dated schedule of tenders;
- Any clarifications requested during the adjudication of the tender;
- The evaluation report and relevant documentation such as minutes of meeting/s of the evaluation committee;
- Copy of the publication of the adjudication of the tender (and the Contract Award Notice where applicable);
- Contract drawn up and signed by the DoC / beneficiary⁷⁴ and the contractor;
- Any subsequent addenda to contract;
- Documentation related to approved variations;
- Any other relevant documents related to contracts (including employment contracts⁷⁵) connected with the project.

Other Community policies

- All relevant documentation concerning other Community policies, including State aid, non-discrimination and sustainable development.

Payments

- Commitments;
- Sampled invoices
- CBM Debit Advices;
- Receipts obtained from the contractors;
- Certification of works by technical supervisor, acceptance certificates / reports for supplies and services.

Information and publicity

- Photos or recordings evidencing information activities or publicity undertaken in relation to the project (where applicable);
- Original adverts, brochures, leaflets or any other publicity material and promotional items produced through the project;
- Copies of handouts, documents, attendance sheets, certificates, agendas and other publications displaying EU information and publicity requirements.
- Copies of press articles (where applicable);

⁷³ Not obligatory for tenders administered by DOC / MPU.

⁷⁴ In the case of contracts administered by the beneficiary

⁷⁵ 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);

Monitoring reports

- Copies of the progress reports prepared by the beneficiary;
- Viewing of progress updates in the Migration and Security Information System;
- Record keeping of time sheets (particularly in the case of employment contracts).

Others

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

List of Annexes:

Annex 1 – Validity Checklist

Annex 2 – Financial Identification Form

Annex 3 – Declaration by Partner Organisation

Annex 4 – Inventory Report Template

Annex 5 - Template of Reimbursement Letter for Expenditure / Salaries

Annex 6 - Project Eligibility Sheets (Part A & B)

Annex 7 – Projects Ranking Sheet

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Annex 9 – General On the Spot Check Report

Annex 10 – Fixed Assets On the Spot Check Report

Annex 11 – Projects Events Physical On the Spot Check Report

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Annex 13 – Irregularity Report Template

Annex 14 – Funds Recovery Form

Annex 15 – Project Brief Template

Annex 16 – Project Progress Report Template

Annex 17 – Final Project Report

Annex 18 – TA Form A

Annex 19 – TA Form B

Annex 20 – Technical Assistance Plan

Annex 21 – Delegation of Authority Form

Annex 22 – Change in Project Leader Form

Annex 23 – Debtors Ledger Template

