

WORKING GROUP ON STRUCTURAL FUNDS AUDIT PLAN

Mandate 2003-04: Carry out a parallel audit on the audit trail including the 5% check.

- **Introduction**

In 2000 the Contact Committee created a Working Group to carry out an exploratory survey on EU structural funds. A questionnaire was sent to the Supreme Audit Institutions (SAIs) to gain an understanding how these funds were controlled and managed by the various countries and to identify possible risk areas. Work was planned to coincide with the 2000-2006 funding cycle and revision of the regulations covering the funds, most notably Council Regulation 1260/1999 and Commission Regulation 438/2001. The Working Group reported its findings from this work to the Contact Committee in November 2002.

The Working Group recommended to the Contact Committee that a parallel audit should be conducted which aims to identify parts of the controls that need to be improved, and provide an overview of best practice. It was determined that the best way to achieve this was to focus the parallel audit on the application of the regulations, to ensure that all Member States implement independent checks on 5% of transactions and the establishment of appropriate audit trails for transactions. The results of the audit would be used not only for the present Member States, but also for the new Member States.

The Contact Committee at their meeting on 27 and 28 November 2002 acknowledged the Working Groups report which analysed and presented the results with a risk-based focus. They noted the proposal that the Working Group should focus their work on the area of “Audit Trail including the 5%-check” which offers the best opportunity for continuing the existing widely inclusive approach. The Contact Committee mandated the Working Group to continue accordingly and agreed:

- that the Working Group will carry out its work in such a way to provide an interim progress report to the 2003 Contact Committee.
- that the Working Group will aim to produce a final report in time for the 2004 Contact Committee.

In order to comply with the 2002 mandate the Working Group¹ at their meeting in Bonn on 16 and 17 June 2003 developed an Audit Plan, including an “Audit Trail Annex” and a “5 % Check Annex”. The Working Group herewith combined their expectation that the SAIs participating in the parallel audit will make use of the Audit Plan for the purposes of their respective national audits. In the Working Group’s opinion this would ensure certain unison in the fact finding and evaluation phase of the national audits which, in turn, is an essential condition for the comprehensive final report envisaged.

- **Focus and selection**

The essential topics of the audit are therefore the application of the regulations covering audit trails and the 5%-check.

The regulations covering the structural fund are focused at the programme level. The Working Group considered where the parallel audit should focus. As the regulation Objectives are set at a high level and are translated into different sub-objectives for each country they were concerned that any work focused at this level would not provide results which would be comparable across countries. In addition they considered focusing the parallel audit at a Fund level. However as each country has a different concentration of each Fund, the Working Group was concerned that a Fund focus would not provide a representation of activities within each country. It was therefore agreed that the audit should be focused at the programme level. A programme can be chosen from any of the Objectives one, two or three as defined by Article 1 of Council Regulation 1260/1999.

¹ Denmark, Finland, Germany, Italy, Netherlands, Portugal, Spain, Sweden, United Kingdom, ECA (with observer-status)

Sufficient audit work and sampling should be conducted by SAIs in order for them to form a conclusion on the effectiveness of the application of the regulations within these two topic areas, being the audit trails and the 5% sample check.

Within the programmes selected for sample the Working Group recommend that an appropriate mix of projects is selected for further analysis in order to cover a variety of different Funds.

The selection of programmes to be audited is a matter of choice for each audit institution. It will need to take into account the level of resources the SAI has available to apply to this exercise. Some of the criteria which might be taken into account are listed below:

- the size of the EU subsidy and the subsidy's share of the total expenditure;
- risk factors such as complexity (see below): the higher the risks the more extensive the investigations;
- representativity of the programmes in terms of the funds and regions covered (we recommend more than one programme is selected);
- representativity of the projects within the programmes selected (we recommend more than one project is selected);
- focus on the current audit trails operating and the most recent audit trail checks.

When assessing the risks, a number of factors should be taken into account such as the complexity of the funding allocation and other inherent risks (expanded within the audit guidance referred to below).

- **Audit approach**

The approach recognises that member states are responsible for the implementation, monitoring and effectiveness of Structural Fund assistance. They are obliged to ensure the regularity and compliance of structural fund operations and are held accountable for the effectiveness of the control systems. As a result of their specific constitutional and administrative structures the member states have developed differing management and control systems. To ensure that the differing systems work properly within the bodies responsible the

records and control need to be described in an audit trail and systematically verified through a programme of 5% checks.

The audit approach has been designed to provide a guide to SAIs in their application of more detailed audit plans. This guidance is provided in the form of two annexes, one covering the audit trail and one covering the 5% check. Rather than providing prescriptive audit steps within this guidance we have focused the approach to balance the need to provide SAIs with sufficient guidance to enable the results of the work to be comparable across member states, yet general enough to enable SAIs to tailor the work to their own country's particular environment. Therefore, the auditor should conduct sufficient audit work to enable him or her to form a judgement as to whether each audit objective (listed in the annexes) is achieved, this may not necessarily involve answering all of the underlying questions.

The investigation of the **audit trail** has to meet the minimum requirements set out in Article 7 of Commission Regulation 438/2001, amended by Commission Regulation 2355/2002. In addition the Working Group has recognized that the audit trail needs to incorporate many other requirements spread throughout the Council and Commission regulations. To address this, the Working Group has compiled a guidance annex (1), which interprets the main requirements of the audit trail and the key audit objectives associated with each.

The investigation of the **5% check** has to meet the minimum requirements set out within article 10 to 14 of Commission Regulation 438/2001. The Working Group has compiled a guidance annex (2) which draws out the requirements of each single provision and the key audit objectives associated with each.

A useful starting point for the audit will be to review the ex-ante evaluation for the programme (as required by Article 41 of Council Regulation 1260/1999), the information contained in the annual 30 June reports (as required under Article 13 of Commission Regulation 438/2001), and the mid-term evaluation which has to be available for each programme no later than 31 December 2003 (as required under Article 42 of Council Regulation 1260/1999).

In undertaking work to achieve each audit objective, as set out in the audit guidance, each SAI could utilize a number of different audit techniques, such as interviews, checking files, on-the-spot checks and questionnaires.

The overarching objective of our work and our final report are to capture the SAIs judgments identifying those parts of the controls within the regulations that need to be improved and provide an overview of best practice.

- **Country Reporting**

It is envisaged that one Country report will be provided by each SAI. The audit mandate of SAIs varying from country to country we expect that some Country reports will be focused at the Member State level only, others, however, will be able to review and incorporate the results arising from Regional audits. It is envisaged that each Country Report will identify the SAIs judgement on:

- parts of the controls that are working well and provide reasons as to why they are effective;
- those which need to be improved and why; and
- an overview of best practices (as appropriate).

This should be completed for each audit objective contained within the annexes serving as guidance. The report will also include details regarding the programmes and projects examined by the parallel audit and therefore will have to consist of three parts:

- executive summary,
- the report itself and
- annexes (if deemed necessary) giving details on each programme audited.

A technical workshop is proposed for 9 and 10 October 2003 (refer to timetable below) within which there will be additional discussion on the Country report, consolidated report format, and content.

- **Timetable**

The timetable consists of three separate phases, being:

Planning phase:

The planning phase runs from April 2003 to 15 August 2003. 15 August 2003 is representing the deadline for approval of the audit plan by all participating SAIs.

Implementation/Country Audit phases:

The implementation phase runs from October 2003 to 31 May 2004. These phases will commence with a technical workshop on 9 and 10 October 2003 in The Hague, to provide guidance to the auditors who will be involved in these assignments. By 31 May 2004 each of the participating SAIs has filed its Country Report to the Core Group in English.

Reporting phase:

The reporting phase runs from June 2004 to December 2004. The Working Group will produce a combined report summarising key findings and recommendations in English. The reporting process ends with the presentation of the final draft of the final report to the Contact Committee. During the reporting phase consideration will be given to a wider distribution (possible national publication and international presentation will be considered).

- **Possible contribution of New Member States**

The Working Group will inform all new Member States about the work being undertaken and its results. The Working Group will provide the new member states the draft audit plan and annexes for information. We will also seek from them their opinion on whether they might contribute, within the Working Groups mandate, to the parallel audit.

**AUDIT QUESTIONS FOR PERFORMANCE AND CONTROL SYSTEMS
TO ENSURE THE AUDIT TRAIL**

Introduction

The objective of an Audit Trail is to provide assurance that each and every transaction is subjected to proper control throughout its life (“From cradle to grave”). The key aspects that have to be addressed are completeness, timeliness, accuracy, validity, regularity, recording and reporting.

Article 7 of Commission Regulation 438/2001, amended by Commission Regulation 2355/2002, lays down rules for the implementation of Council Regulation 1260/1999 as regards the management and control systems for assistance granted under the Structural Funds. Article 7 paragraph 1 of Regulation 438/2001 refers specifically to the need for “Member States’ management and control systems [to] provide a sufficient audit trail.” Otherwise, however, Article 7 provides only the broad principles required for an effective audit trail. It does not provide a complete, coherent framework. In fact this does not exist in any one place. Specific controls and procedures are referred to in several different areas of the governing regulations on Structural Funds and with different levels of detail and definition.

The Working Group therefore decided that there was a need to create their own framework for this audit building on the principles in the regulations but also using the Working Group’s professional appreciation of the requirements of an adequate audit trail. The following guidance seeks to establish a series of practical steps that the Working Group feel would be necessary components of an effective audit trail. Key objectives and high level questions have been identified which may be asked at an audit at the level of the Member State or Programme authorities and at the level of individual final beneficiary. In carrying out this work the auditor will need to employ a combination of systems review and substantive procedures. The decision will, to some extent, depend on the level within the process that is being examined (programme level or project level).

The framework has 3 parts. Part A deals with issues at the programme level (objectives 1-4) and Part B deals with issues at the project level (objectives 5-7). Each objective is in terms of a contribution to the audit trail and identifies the key issues that would need to be addressed if this objective were to be met. Some of the questions may already have been addressed by the auditor as part of the SAI’s national audit responsibilities and may not necessitate additional audit work. Additional possible questions are provided at the end of this Annex which might

be of help in assessing the effectiveness of these key issues. However, these are provided for guidance in developing each SAI's Country Audit – they are not mandatory nor are they necessarily the only questions that might be relevant in each case.

For each objective the auditor is required to conclude on whether the control objective(s) have been met and to justify his or her view by, so far as possible, highlighting what were the main reasons for the judgement (NB. This should cover good or strong points as well as failures or weaknesses).

Finally, Part C (objectives 8-9) of the framework asks the auditor to give an overall opinion on the sufficiency and effectiveness of the audit trail as well as providing an opportunity to raise any other issues relevant to the audit.

Part A: Audit at the Programme level²

Objective 1: Does the Managing authority/Intermediate body have adequate procedures for ensuring the administration of applications?

The objective is to ensure complete and accurate administration of applications which reflect the objectives of the Programme and that the decision (approval) process is transparent.

There are four key elements (a – d).

- Are there adequate measures to ensure that all applications are recorded and dealt with?
- Are all applications evaluated on the basis of consistent and relevant criteria? (this question includes also applications which are denied support from the Structural Funds)
- Do final beneficiaries/applicants set out clear and measurable objectives linked to a sound financial plan?
- Are decisions on actions to be supported taken by an appropriate authorised individual or individuals and do those actions comply with the relevant rules?

Auditor's conclusion: Has objective 1 been met?

If YES, can you identify immediately any specific points of good practice which contributed to this; if NO, what are the main factors or weaknesses that caused this; are there any other interesting factors to be highlighted?

Objective 2: Does the Payment authority/Intermediate body have adequate procedures to ensure the correct payment of funds?

The objective is to ensure adequate control and management systems for payments to beneficiaries including investigating and resolving any errors found.

There are six key elements (a – f).

² Programme should be understood as to mean either Operational Programme (OP) or Single Programming Document (SPD). Community

- a) Do final beneficiaries submit suitable payment requests and are these in an appropriate form?
- b) Do payment requests contain appropriate information on expenditure and sufficient justifying documents (if available)?
- c) Are there adequate checks to ensure that payment requests are appropriate and that they are approved by an appropriate person?
- d) Has the authority introduced suitable payment arrangements?
- e) Is appropriate action taken when errors are found in payment requests and when errors or irregularities are found during on the spot checks?
- f) Can the internal control arrangements ensure that Community funds are satisfactory safeguarded by Member State authorities?

Auditor's conclusion: Has objective 2 been met?

If YES, can you identify immediately any specific points of good practice which contributed to this; if NO, what are the main factors or weaknesses that caused this; are there any other interesting factors to be highlighted?)

Objective 3: Does the Paying authority/Intermediate body have financial and accounting systems which ensure that expenditure is correctly recorded and properly allocated?

The objective is to ensure that systems are in place to accurately record and allocate payments made at the programme level and to keep appropriate supporting documentation.

There are two key elements (a – b).

- a) Has the Paying authority established a sound financial accounting system in which all of the relevant transactions are recorded?

- b) Does the accounting system at the paying authority make possible that the relevant final beneficiaries and the reasons for payment are identified?

Auditor's conclusion: Has objective 3 been met?

If YES, can you identify immediately any specific points of good practice which contributed to this; if NO, what are the main factors or weaknesses that caused this; are there any other interesting factors to be highlighted?

Objective 4: Are there sound arrangements to ensure that payments requests made to the Commission accurately reflect the amount paid to final beneficiaries?

The objective is to ensure that Member States can produce complete and accurate claims for funds from the Commission and that these claims are allocated to the correct recipient.

There are two key elements (a – b).

- a) Has the authority established procedures to ensure the completeness and accuracy of all payment claims to the Commission?

- b) Are satisfactory procedures established to ensure the implementation of rules layed down in article 4 of Commission Regulation 438/2001

Auditors' conclusion: Has objective 4 been met?

If YES, can you identify immediately any specific points of good practice which contributed to this; if NO, what are the main factors or weaknesses that caused this; are there any other interesting factors to be highlighted?

Part B: Audits at the Project level³

Objectives 5 to 7 require a number of Projects to be analysed/checked.

Objective 5: Have eligibility rules been followed in selecting project managers and projects for Structural Fund support?

The objective is to ensure the projects that receive support are actually eligible to receive support.

Questions relate to the project managers and to projects themselves.

There are two key elements (a – b).

- a) Has the final beneficiary been correctly identified?

- b) Is the project eligible to receive Structural Fund support?

Auditor’s conclusion: Has objective 5 been met?

If YES, can you identify immediately any specific points of good practice which contributed to this; if NO, what are the main factors or weaknesses that caused this; are there any other interesting factors to be highlighted?

Objective 6: Has the project implemented appropriate systems to ensure that receipts and payments are accurately recorded in the accounting system, assets are correctly recorded, and that these amounts are correctly reflected in demands for payment?

The objective is to ensure payments are accurately recorded and allocated at the Project level and that adequate supporting documentation is retained.

There are five key elements (a – e).

- a) Are the amounts paid accurately recorded in the accounting system?

³ EC Regulations usually speak of “operations” but we prefer the more day-to-day term “project”. For some useful definitions see article 9 of Council Regulation 1260/99.

- b) Are the amounts paid correctly reflected in demands for payment sent to the Member State or Programme authority?
- c) Has the project established systems to ensure the completeness and accuracy of all payment claims?
- d) Is there a satisfactory internal audit function (where appropriate)?
- e) Is the project subject to a satisfactory external audit?

Auditor's conclusion: Has objective 6 been met?

If YES, can you identify immediately any specific points of good practice which contributed to this; if NO, what are the main factors or weaknesses that caused this; are there any other interesting factors to be highlighted?

Objective 7: Is progress made truly and fairly reflected in any reports or other information submitted to Member State or Programme authorities?

The objective is to ensure that progress reports from Project managers to the Programme authorities are relevant, timely and reliable.

There are two key elements (a – b).

- a) Has the project established procedures to monitor progress of funded activities regularly and to verify that this information is accurate?
- b) Has the project established satisfactory reporting procedures to ensure that Member State or Programme authorities and the Commission receive regular and accurate information on the progress of actions?

Auditor's conclusion: Has objective 8 been met?

If YES, can you identify immediately any specific points of good practice which contributed to this; if NO, what are the main factors or weaknesses that caused this; are there any other interesting factors to be highlighted?

Part C: Additional information and Auditor's overall conclusion

Objective 8: Auditors to raise any other matters arising from their audit which they feel are relevant to their work

Objective 9: Auditor's overall conclusion on whether the Audit Trail is sufficient and effective

If YES, can you identify immediately any specific points of good practice which contributed to this; if NO, what are the main factors or weaknesses that caused this; are there any other interesting factors to be highlighted?

PERFORMANCE AND CONTROL SYSTEMS TO ENSURE THE AUDIT TRAIL

Possible Additional questions

Objective 1: Does the Managing authority/Intermediate body have adequate procedures for ensuring the administration of applications?

1. Are there adequate measures to ensure that all applications are recorded and dealt with?
 - Are all applications registered upon receipt?
 - Are all requests for support received centrally within the authority?
 - Are separate files maintained containing details of all application for support under particular programmes?

- Are all applications evaluated on the basis of consistent and relevant criteria (this question includes also applications which are denied support from the Structural Funds)?
 - a) Are there arrangements to ensure that evaluation criteria are set for the applications?
 - b) Is there a check that the set criteria meet Commission rules?
 - c) Is there evidence that these criteria are consistently applied?
 - d) Are the results of all assessments against the criteria recorded and kept?
 - e) Are the reasons for acceptance or rejection of application clearly set out?

- Do final beneficiaries/applicants set out clear and measurable objectives linked to a sound financial plan?
 - a) Does the authority check that applicants have set clear and quantified objectives?
 - b) Does the authority check that applicants have set dates for achievements of objectives together with relevant performance measures?

- c) Are there checks to ensure that objectives are in accordance with the operational programme of which the action forms part?
- d) Are there checks to ensure that all applications are supported by a detailed financial plan setting out clearly how funds will be used?
- Are decisions on actions to be supported taken by an appropriate authorised individual or individuals and do those actions comply with the relevant rules?
 - a. Is there a designated independent person or persons within the authority with responsibility for approving applications for support?
 - b. Are there checks that there is no double funding under different Funds or programmes?
 - c. Are there arrangements to ensure that all approved applications are properly authorised (e.g. with a signature or seal)?
 - d. Are there checks that the selected projects comply with the relevant rules and environmental requirements?

Objective 2: Does the Payment authority/Intermediate body have adequate procedures to ensure the correct payment of funds?

- Do final beneficiaries submit suitable payment requests and are these in an appropriate form?
 1. Has the authority set suitable time limits for the submission of payment request?
 2. Are there procedures to follow-up cases where payment requests are not submitted within the limits?
 3. Has the authority set out supporting documentation which should accompany payment requests?
 4. Does the authority require that copied documents are certified true copies?
 5. Is there a standard form set out for the submission of payment requests?
- Do payment requests contain appropriate information on expenditure and sufficient justifying documents (if available)?

- Do payment requests compare actual expenditure with the financial plan?
- Are there checks to ensure that payment requests are accompanied by appropriate supporting documentation?

a) Are there adequate checks to ensure that payment requests are appropriate and that they are approved by an appropriate person?

- a. Does the authority have written procedures covering the checking of payment requests?
- b. Are the checks set out in standard checklist?
- c. Are the checks evidenced (for example by initials of the checking officer)?
- d. Are there checks that the claim or parts of it have not been paid before?
- e. Are there checks to ensure that expenditure is actual and not notional or planned?
- f. Are there procedures to check that the appropriate criteria for making an advance have been met?
- g. Are invoices reconciled to statements of expenditure?
- h. Are there suitable checks to ensure that the beneficiary remains eligible to receive funding and that all expenses are eligible?
- i. Is there an arithmetical check of the payment request?

b) Has the authority introduced suitable payment arrangements?

1. Has the authority set a timetable for the making of payments to beneficiaries?
2. Are there procedures to ensure that payments are made within the set timescale?
3. Are payment delays monitored and action taken when these are exceeded?
4. Does the authority have procedures to ensure the use of the correct modalities of payment?
5. Has the authority set specific conditions for the final payment which accord with Commission requirements?
6. Has the authority set specific and appropriate rules on national and regional co-financing?

c) Is appropriate action taken when errors are found in payment requests and when errors or irregularities are found during on the spot checks?

1. Has the authority established written procedures on how errors in payment requests should be treated?
 2. Are errors in payment requests recorded and written records kept of the follow up and correction of those errors?
 3. Are there procedures to ensure that errors found in on the spot checks are recorded?
 4. Are there arrangements to ensure that errors found in on the spot checks do not appear in the subsequent payment requests?
 5. Are there written procedures on how fraud and irregularities should be recorded and dealt with?
 6. Are there procedures to ensure that managers are informed of and take action to monitor cases of fraud and irregularities?
 7. Are there procedures to ensure that apparent irregularities are followed up within six months?
- Are there procedures to ensure that any irregularity not investigated within six months are reported to the Commission?
 - Are there arrangements to take action to address systematic irregularities?
 - Are there procedures to ensure that the relevant authorities are informed of fraud?
 - Are there written procedures covering appeals by beneficiaries against the disallowance of claims?
- d) Can the internal control arrangements ensure that Community funds are satisfactory safeguarded by Member State authorities?
1. Are there written and approved procedures setting out the authority's internal control framework?
 2. Is the internal control function subject to regular monitoring by senior management?
 3. Are there suitable arrangements for the periodic audit of the authority's Structural Fund activities?
 4. Has the authority designated an appropriate individual with responsibility for monitoring the results of audits of the authority and taking action to address weaknesses found by auditors?

Objective 3: Does the Paying authority/Intermediate body have financial and accounting systems which ensure that expenditure is correctly recorded and properly allocated?

- a) Has the Paying authority established a sound financial accounting system in which all relevant transactions are recorded?
- Are all Structural Fund transactions recorded individually?
 - Are there checks to ensure that Structural Fund expenditure is recorded against the correct budget heading?
 - Is there a check to ensure that all transactions have been recorded (completeness)?
- b) Does the accounting system at the paying authority make possible that relevant final beneficiaries and the reasons for payment are identified?
- Do the accounting records clearly show the beneficiary of a payment?
 - Do accounting records clearly identify the source of funds for each payment?

Objective 4: Are there sound arrangements to ensure that payments requests made to the Commission accurately reflect the amount paid to final beneficiaries?

- o Has the authority established procedures to ensure the completeness and accuracy of all payment claims to the Commission?
- Has the authority delegated responsibility to an appropriate person or persons for the preparation of payment claims to the Commission?
 - Has the authority delegated responsibility to an appropriate person for the authorisation of payment claims to the Commission?
 - Has the authority established checks to ensure that only amounts due are included in claims to the Commission?
 - Has the authority established checks to ensure that amounts are not claimed twice?

- Has the authority established checks to ensure that correct exchange rates are used?
- Is there an independent or management check of payment claims to the Commission before they are authorised and despatched?
- Are there procedures laid down to ensure payment is made on or before the agreed latest date?

Are satisfactory procedures established to ensure the implementation of rules laid down in article 4 of Commission Regulation 438/2001

Additional questions initiated by Zacharias Kolias:

- Have control procedures been established to verify the delivery of the products and services co-financed and the reality of expenditure?
- Do the controls include tests which aim to ensure the respect of national and community project and expenditure eligibility rules and in addition the respect of procurement, state aid and environment rules?
- Has a sufficient number of checks been carried out (sufficient in relation to the amounts declared to the Commission)?
- Do the checks aim to cover all co-financed operations? If not, is the sampling methodology justified?
- Are the controls carried out for the verification of projects on the spot well documented using a standardised format? Do they clearly state the work done and the results of this work?
- Are irregularities and errors identified adequately followed-up?

Objective 5: Have eligibility rules been followed in selecting project managers and projects for Structural Fund support?

1. Has the final beneficiary been correctly identified?

- g) Are the name, status and address of the project manager or operator correct?
 - h) Is the bank account number of the final beneficiary correct?
2. Is the project eligible to receive Structural Fund support?
- a) Does the project/action fulfil all relevant eligibility conditions?
 - b) Has the project/action remained eligible during the execution of the action subsidised?

Objective 6: Has the project implemented appropriate systems to ensure that receipts and payments are accurately recorded in the accounting system, assets are correctly recorded, and that these amounts are correctly reflected in demands for payment?

- 1. Are the amounts paid accurately recorded in the accounting system?
 - c) Is there at least one person responsible for examination of the validity and accuracy of claims for payments?
 - d) Is there a clear segregation of duties between staff responsible for certifying the receipt of goods and services and those who make payments?
 - e) Are there procedures to ensure that payments cannot be made without being recorded (e.g. through reconciliation of the ledger with bank accounts and cash)?
 - f) Are there procedures to ensure that payments cannot be recorded without being made?
 - g) Are payments made only in respect of goods or services which have been received and which conform to eligibility rules?
 - h) Are payments made at the correct amount?
 - i) Are there arrangements to ensure that management fees and administrative charges are deducted from the grant amount?
 - j) Is VAT relating to the action recorded separately? Is refundable VAT deducted?
- e) Are the amounts paid correctly reflected in demands for payment sent to the Member State or Programme authority?

- c) Are receipts and payments for the action separately identifiable within the financial and accounting system from other activities undertaken by the organisation?
 - d) Are there procedures to ensure that receipts and payments are recorded against the appropriate action?
- f) Has the project established systems to ensure the completeness and accuracy of all payment claims?
- a. Is there an appropriate member of staff designated by the project manager/operator with responsibility for checking claims and for certifying their correctness?
 - b. Has the project manager or operator provided the designated authority with statements of expenditure accompanied by relevant invoices or copies of invoices?
 - c. Has the standard of the statements of expenditure submitted by the final beneficiary been rated as excellent, satisfactory, unsatisfactory or poor?
 - d. Are the checks carried out by the project manager/operator on claims clearly set out and evidenced in respect of each claim for reimbursement?
 - e. Are there procedures to ensure that all amounts due, and only amounts due, are included in claims?
- g) Is there a satisfactory internal audit function (where appropriate)?
- c) Is there an internal supervisory body which is responsible for overseeing internal audits, which is functionally independent (for example, an audit committee)?
 - d) Has internal audit established suitable working methods?
 - e) Has internal audit or internal supervisory body examined the operation of the project manager/operator's financial and accounting systems?
 - f) Is there a satisfactory follow-up to internal audit's findings?
 - g) Has the project manager/operator taken appropriate action in the light of internal audit's recommendations?
- h) Is the project subject to a satisfactory external audit?

- f) Is the project manager/operator subject to public or private external audit?
- g) Has the external auditor identified any problems relating to the operation of the action(s) supported by the Structural Funds?
- h) Has the project manager/operator taken action in response to the recommendations of the external auditor?

Objective 7: Is progress made truly and fairly reflected in any reports or other information submitted to Member State/Programme authorities?

1. Has the project established procedures to monitor progress of funded activities regularly and to verify that this information is accurate?
 - Has the project manager/operator established suitable performance targets and indicators for assessing the progress of actions?
 - c) Has the project manager/operator established suitable performance arrangements for physically monitoring the progress of actions?
 - d) Is performance and monitoring information reviewed by staff at the appropriate level?
 - e) Is action taken to address problems identified during monitoring?

2. Has the project established satisfactory reporting procedures to ensure that Member State or Programme authorities and the Commission receive regular and accurate information on the progress of actions?
 - a. Has a reporting system been established by the project manager or operator?
 - Are reports directed towards the appropriate individuals within the project manager's or operator's organisation?
 - Are reports prepared on a regular basis?
 - Are reports well documented?
 - Do reports fully reflect the information available on individual actions?
 - Are reports vetted at the appropriate level by the project manager or operator?

AUDIT QUESTIONS FOR THE 5% SAMPLE CHECKS

Introduction

The draft audit plan of the EU-Working Group on Structural Funds has its legal basis in the requirements for the 5% sample checks on operations as stipulated in article 10 to 14 of Commission Regulation (EC) No 438/2001 of 2 March 2001, laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the management and control systems for assistance granted under the Structural Funds.

The objective of the draft audit plan is to determine:

3. Compliance with the relevant articles of Regulation 438/2001; and
4. The effectiveness with which this has been done.

To be able to meet this objective, audit questioning should be focused at two levels, first a number of questions can be asked on the level of the programme selected for the audit. Subsequently, within each programme that is being audited, a number of projects (also referred to as ‘operations’) should be selected. At this project level a number of questions can then be addressed as well (see part B).

At both the programme level and the project level the audit questions can be grouped under a number of objectives. This document contains a suggested overview of relevant objectives and proposals for the audit questions. Following these proposed audit steps and questions could lead us to the fulfilment of the above two-fold objective of the audit.

It is important to note that you consult the Commission guidelines relating to the 5% checks. Your national/regional 5% body should have these guidelines. Moreover, it is necessary to check whether the European Commission or the European Court of Auditors carried out an audit into the programmes you are going to audit!

Part A: Audit at the programme level⁴

Select a number of programmes that you find suitable and representative for the programmes in your country. It is recommended to select more than one programme.

Objective 1: Obtain the general quantitative overview of the 5% sample check

The objective is to ensure that the requirements set out in Article 10 *paragraph 2* of Commission Regulation 438/2001 are met. It states that the checks carried out before the winding-up of each programme shall cover at least 5 % of the total eligible expenditure and be based on a representative sample of the projects approved. It furthermore states that Member States shall seek to spread the implementation of the checks evenly over the period concerned. They shall ensure an appropriate separation of tasks as between such checks and implementation or payment procedures concerning operations.

Proposed questions:

6. Which agency or organisation conducts the 5% sample checks of the programme? Is this agency fully independent from the managing and paying authority? If not, why not?
7. What is the sum of the expenditures of the programme audited? Did the 5% body correctly identify the completeness of the population based on declarations made to the Commission?
8. Is a planning scheme present for the 5% sample checks of the programme? If yes, what does it look like?
9. Are the checks evenly spread over the life of the programme period?
10. Which amount of the programme expenditures has been included in the 5% sample check carried out so far?
11. Which proportion (%) of the programme expenditures has been included in the 5% sample check carried out so far?

⁴ Programme should be understood as to mean either Operational Programme (OP) or Single Programming Document (SPD). Community Initiative programmes are not included in this audit.

Auditor's conclusion:

Has the objective been met? If YES, can you identify immediately any specific points of good practice which contributed to this; if NO, what are the main factors or weaknesses that caused this; are there any other interesting factors to be highlighted?

Objective 2: How was the selection for the 5% audit carried out?

The objective is to ensure that the requirements set out in Article 10 *paragraph 3* of Commission Regulation 438/2001 are met. It states that the selection of the sample of operations to be checked shall take into account:

2. The need to check a representative sample covering all types and sizes of projects;
3. Has the 5% body taken account of risk analysis when selecting the sample to be examined;
4. The concentration of operations under certain intermediate bodies or certain final beneficiaries, so that the main intermediate bodies and final beneficiaries are checked at least once before the winding-up of each single assistance.

Proposed questions:

3. What was the selection methodology used?
4. Was there a formalised and systematic sample selection approach? If YES, please give a short description. If not, why not?
5. Was the selection of projects based on a representative sample covering:
 - the whole programme period;
 - all regions or sub-regions;
 - all aspects of the programme;
 - all important intermediaries;
 - all important final beneficiaries;
 - both large and small projects;

6. Was the selection based on a risk analysis? Did the risk analysis take into account the size and complexity of the project, the level of public interest in the project and the level of political risk associated with the project, and the material importance? More specifically, risk factors that *could* be taken into account are (following list is not comprehensive nor compulsory):
- Complexity in terms of multiple streams of funds for one programme, legislation, administrative organisation, decentralisation;
 - Payments that are not based on the beneficiary's invoiced expenses are a greater risk than those based on invoices, as non-invoiced expenses generally are more difficult to document (e.g. internal pay-role costs);
 - The size of the subsidy and the increase of the subsidy's share of the total expenditure.
 - The type of programme: certain programmes or project types may be connected with greater inherent risk than others;
 - The project manager. There can be public or private project managers, they can be newly established or experienced;
 - Great staff turnover or substitutes within the organisation;
 - Control risk: the risk that the organisation's internal controls do not discover the errors.
7. Is in the selection of the sample of operations the concentration of operations under certain intermediate bodies or certain final beneficiaries taken into account? Is it certain that the main intermediate bodies and final beneficiaries are checked at least once before the winding-up of each assistance?

Please note that the Commission issued guidance notes on how to draw a sample based on a risk analysis and representativity.

Auditor's conclusion:

Has the objective been met? If YES, can you identify immediately any specific points of good practice which contributed to this; if NO, what are the main factors or weaknesses that caused this; are there any other interesting factors to be highlighted?

Objective 3: What is the content of the checklist used for the 5% sample check?

The aim is to obtain an overview of the issues addressed in the 5% sample checks. Article 10 paragraph 1 of Commission Regulation 438/2001 states that Member States shall organise checks on operations on an appropriate sampling basis, designed in particular to verify: (a) The effectiveness of the management and control systems; (b) The expenditure declarations made at the various levels concerned, on the basis of risk analysis. The 5% check should address a number of issues, which are laid down in Art. 11 of Commission Regulation 438/2001.

Note: make sure to consult the report of the system control as it is carried out by the 5% body as well.

Proposed questions:

2. Are the issues laid down in Article 11 addressed in the minimum 5% sample check? Please provide the main results for each of the bullets below:
3. Practical application and effectiveness of the management and control systems;
4. Correspondence of accounting records with supporting documents held by intermediate bodies, final beneficiaries and the bodies carrying out the operations;
5. Sufficient audit trail (but this is also included in the Audit Trail Annex);
6. Eligibility of expenditure (art. 30 of Regulation 1260/1999 and Commission Regulation No 1685/2000⁵)
7. Consistency between the use of the project and the use described in the original application to the EC;
8. Sufficient national co-financing;
9. EC contributions are within the limits laid down in art.29 (par. 3 and 4) of Regulation 1260/1999;
10. EC grants are paid to final beneficiaries without any reduction or delay;

⁵ Commission Regulation 1685/2000 of 28 July 2000, laying down detailed rules for the implementation of Council Regulation 1260/1999 as regards eligibility of expenditure of operations co-financed by the Structural Funds.

11. Compatibility with other EU policies and actions, including rules on competition, on the award of public contracts (tenders) and on environmental protection (art. 12 of Regulation 1260/1999).
12. Has the project actually been carried out? Is there sufficient evidence to support this?

Auditor's conclusion:

Has the objective been met? If YES, can you identify immediately any specific points of good practice which contributed to this; if NO, what are the main factors or weaknesses that caused this; are there any other interesting factors to be highlighted?

Objective 4: Have the information requirements been met?

The aim is to check if the information requirements related to the 5% check have been met. Article 13 of Regulation 438/2001 states that Member States shall inform the Commission by 30 June each year and, for the first time by 30 June 2001, of their application of Articles 10 to 12 of Regulation 438/2001 in the previous calendar year.

Proposed questions:

7. Has the management authority issued annual reports to inform the Commission since the programme started?
8. If yes, have the annual reports been issued in time, i.e. before 30 June of each year? If not, why not?
9. Did the annual reports contain information about the 5% checks (Articles 10 to 12 of Regulation 438/2001) in terms of findings and number of checks carried out? Were any systematic errors reported?
10. If yes, was the information in accordance with the conclusions of the sample checks (see Step 1, question 5) and with the planning scheme (see also Step 1, question 2)? If not, what are the main differences/inconsistencies and why did they occur?

Auditor's conclusion:

Has the objective been met? If YES, can you identify immediately any specific points of good practice which contributed to this; if NO, what are the main factors or weaknesses that caused this; are there any other interesting factors to be highlighted?

Part B: Audit at the project level⁶

When objectives 1 to 4 have been looked at, the general picture is clear on the level of the programme as a whole. It is then useful to select a number of projects that also were included in the 5% sample check. This is important to verify on a basic level the general findings on the programme level.

It will be useful for auditors to make the selection of projects on the basis of a risk-analysis. For example, one might choose projects with high costs, project is great political or material interest, or complex projects e.g. projects in which subsidies from more than one structural fund are used. Next to these risk factors, obtaining a cross-section of projects would be useful. Therefore, a second criterion could be to select – if possible – projects from different funds, with different beneficiaries and/or from different regions (or different parts within a region). Please give the reasons why you made a certain selection.

Objective 5: Examine the report of the 5% audit of those projects

The objective is to examine at the project level if there could be reason to doubt the general findings at the programme level (especially as included in Objective 1).

Proposed questions for each project selected:

8. What is the sum of total eligible expenditure of the projects?
9. Which project documents have been audited? For example: final expense account, quarterly report, project administration, etc.
10. What is the total amount that has been audited for the 5% audit?
11. Ascertain that only audited invoices were included in the calculation of the audited amount (question 3). *Note that the audited amount can also include amounts via extrapolation.*
12. Was the 5% check carried out on the level of the final beneficiary?

⁶ EC Regulations usually speak of ‘operations’ but we prefer the more day-to-day term ‘project’. For some useful definitions see article 9 of Council Regulation 1260/1999.

Auditor's conclusion:

Has the objective been met? If YES, can you identify immediately any specific points of good practice which contributed to this; if NO, what are the main factors or weaknesses that caused this; are there any other interesting factors to be highlighted?

Objective 6: What are the findings of the 5% checks for the projects?

The aim is to check on the project level if the information requirements related to the 5% check have been met, and that the information has been transferred correctly to the programme level.

Proposed questions for each project selected:

5. What are the main findings of the 5% check? Please give a summary of the results.
6. What follow-up actions were undertaken / will be undertaken to redress shortcomings?
7. How are the findings of the 5% audit made known? To whom?
8. Were there any irregularities (over € 4000) reported to the Commission? If so, how many and what amount?
9. Are the findings reported in the annual report(s) (30 June), in the final report or in the findings report (step 5)?
10. Has a national authority or the European Commission made corrections? What was the amount of the corrections and what were the reasons for these?

Auditor's conclusion:

Has the objective been met? If YES, can you identify immediately any specific points of good practice which contributed to this; if NO, what are the main factors or weaknesses that caused this; are there any other interesting factors to be highlighted?

Part C: Additional information and Auditor's overall conclusion

Objective 7: Are there any other matters arising from your audit which you feel are relevant to our work?

Objective 8: Auditor's overall conclusion on whether the 5% check is sufficient and effective

If YES, what are in general the points of good practice which contributed to this? If NO, what are the main factors or weaknesses that caused this? Are there any other interesting factors to be highlighted?