

Manual of Procedures for the Cohesion Fund

Malta 2004 - 2006

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List of Acronyms

AG	Accountant General
CBM	Central Bank of Malta
CF	Cohesion Fund
CFIR	Cohesion Fund Irregularity Report
DAS	Departmental Accounting System
DCS	Director,(Corporate Services)
DoC	Department of Contracts
EU	European Union
FB	Financial Beneficiary
GCC	General Contracts Committee
IAID	Internal Audit and Investigations Directorate
IB	Intermediate Body
ISC	Invoice Status Certificate
LN	Legal Notice
MA	Managing Authority
MC	Monitoring Committee for Cohesion Fund
MEPA	Malta Environment and Planning Authority
MFEI	Ministry of Finance, the Economy and Investment
MGOZ	Ministry for Gozo
MoP	Manual of Procedures
MRRA	Ministry for Resources & Rural Affairs
MITC	Ministry for Infrastructure, Transport & Communications
NAO	National Audit Office
NGO	Non-Governmental Organisation
OLAF	European Anti-Fraud Office
PA	Paying Authority
PPCD	Planning and Priorities Co-ordination Department
RFD	Reference Framework Document
SCC	Special Contracts Committee
SF	Structural Funds
SPD	Single Programming Document
SFD	Structural Funds Database
SMSC	Sectoral Monitoring Sub-Committee
SOE	Statement of Expenditure
TA	Technical Assistance
TORs	Terms of Reference

1. Introduction

1. This manual of procedures (MoP) has been designed as a guide to all key players involved in the management and implementation of the Cohesion Fund in Malta. This MoP aims to provide practical help and guidance in setting up an effective framework for the Cohesion Fund.
2. In Malta the co-ordination of the Cohesion Fund falls under the direct responsibility of the Planning and Priorities Co-ordination Department (PPCD) within the Office of the Prime Minister, which is the designated Managing Authority (MA).
3. Malta has drawn up the Reference Framework Document (RFD) for the period 2004-2006 (which can be downloaded from www.ppcd.gov.mt). Projects co-financed through the Cohesion Fund need to be consistent with general environmental and transport strategies. The RFD defines such a strategy and sets out the guidelines for assistance from the Cohesion Fund. The RFD includes a definition of the long-term objectives, interim objectives to be achieved in the current programming period and the individual projects to be undertaken to achieve these objectives.
4. The Cohesion Fund is a project-based instrument and funds are mobilised through the submission of an application form to the European Commission by the MA. The European Commission commits funds on the basis of a Commission Decision for each approved project.
5. The Cohesion Fund only finances projects in the environment and transport (Trans-European Network) sectors.
6. It is important to note that the Cohesion Fund will never cover the total cost of a project. There will always be an element of national co-financing. This MoP applies for all projects being co-financed under the Cohesion Fund.
7. Note: In case of changes to the MoP, all project leaders will be informed. A version indicating changes will be placed on the website.

2. Roles and Responsibilities

2.1 Managing Authority (MA)

1. The Planning and Priorities Co-ordination Department (PPCD) within the Office of the Prime Minister has been designated as the Managing Authority (MA).
2. The MA shall carry out the following tasks:
 - act as the counterpart of the European Commission for issues concerning the Cohesion Fund;
 - co-ordinate the drafting of the RFD;
 - co-ordinate the preparation of the project proposals to be submitted to the Commission;
 - submit the project applications to the Commission;
 - send a copy of approved projects together with the Commission Decision to all the relevant stakeholders.
 - present for each project, the Monitoring Tool, serving as a progress report for each MC, in accordance with Article F(4), Annex II to the Council Regulation (EC) No 1164/94;
 - ensure follow up action is taken by the FB upon recommendations by the MC, following a thorough examination of the Monitoring Tool;
 - submit annual progress reports to the Commission within three months of the end of each full year of implementation, from the date of the Commission Decision;
 - draw up the final report to be submitted to the Commission within six months of the physical completion of the project and in accordance with Article F(4), Annex II to the Council Regulation (EC) No 1164/94;
 - ensure follow-up by the relevant bodies to the Commission's comments/recommendations concerning the progress, annual and final reports;
 - notify stakeholders in relation to reviews and updates of the systems described in Articles 5 and 12 of Commission Regulation (EC) No 1386/2002;
 - ensure the availability of sufficient guidance to FB and IBs via training and the Manual of Procedures;
 - ensure follow-up by the relevant bodies in line with information received from auditors;
 - inform IBs on the relevant Regulations and procedures concerning the Cohesion Fund;
 - act as Government's central contact/information point for issues concerning the Cohesion Fund;
 - ensure the correctness of operations financed by the Cohesion Fund by keeping with the principles of sound financial management and acting in response to any observations or requests for corrective measures in line with Article 5 and 17 of the Commission Regulation (EC) No 1386/2002 and follow it up each year;
 - undertake documentary and physical spot-checks to ensure that projects co-financed through the Cohesion Fund are being implemented in accordance with the respective project Commission Decision.

- co-ordinate with the Paying Authority (PA) and the Internal Audit and Investigations Directorate (IAID) on issues pertaining to financial management and control systems;
- receive any irregularity reports from all stakeholders and report these to IAID;
- co-operate with the PA on the preparation of annual payment forecasts.

Contact Person at the MA for environment and TA projects is:

Ms. Maria Pia Pace

Senior Manager

Tel: 2200 1142

Email: info.ppcd@gov.mt

Contact Person at the MA for the transport project is:

Mr. Mark Vella Muskat

Projects Manager

Tel: 22001142

Email: info.ppcd@gov.mt

2.2 Paying Authority (PA)

3. The EU Paying Authority Directorate within the Ministry of Finance (MFEI) will act as the Paying Authority (PA) for the Cohesion Fund in accordance with Article D(1), Annex II to Council Regulation (EC) No 1164/94, as amended by Article 1(4) of Council Regulation (EC) No 1265/1999.
4. The PA shall be responsible:
 - for the Certification Process:
 - ensuring that the Statements of Expenditures by projects are correct and the relevant declarations are attached;
 - prepare the Statement of Expenditure by Fund;
 - prepare the certificate of Annex II to Commission Regulation (EC) No 1386/2002;
 - prepare the application for payments;
 - forward the above documentation to the European Commission;
 - receive and account for funds transferred by the European Commission including:
 - payments on account;
 - interim and final payments;
 - transfer funds to the Public Account;
 - account for any discrepancies between certified claims and fund transfers and inform MA accordingly;
 - liaise with IAID in providing a report relating to funds still to be recovered;
 - keep debtor's ledger;
 - provide financial data of all claims and receipts to the Pertinent Authorities, including the MA.
5. Please refer to Annex 3.1 for covenant between the MA and PA.

Contact person at the EU Paying Authority is:

Mr. Edwin Camilleri
EU Programme Manager
EU Paying Authority (MFEI)
Tel: 25998339
Email: edwin.a.camilleri@gov.mt

2.3 Intermediate Body (IB)

6. There are two IBs:
 - a. The **Ministry for Infrastructure, Transport & Communications (MITC)** is the IB for the transport project;
 - b. The **Ministry for Resources & Rural Affairs (MRRA)** is the IB for the environment project and the Technical Assistance project.
7. The main functions delegated to the IBs are outlined in the Covenants between the MA and MUDR and the MA and MRAE (Annex 3.2 and Annex 3.3 respectively) regulating the relationship between the MA and the IBs. The IB will act as the primary focal point for information pertaining to the specific project that is co-financed under the Cohesion Fund.
8. Amongst others, the IB shall carry out the following functions as outlined in the relevant covenant:
 - a. the projects are implemented in a manner consistent with the objectives set out in the Commission Decision approving the relevant project and Community Policies;
 - b. the projects are implemented in accordance with the eligibility rules specified in the Commission Regulation (EC) No 16/2003 and with the Commission Decisions approving the projects;
 - c. the requirements of Council Regulation (EC) No 1164/1994 (Article 14) and Commission Regulation (EC) No 621/2004 on information and publicity measures to be carried out by the Member States concerning the activities of the Cohesion Fund are observed;
 - d. the projects are being implemented in accordance with the principles of sound financial management as specified in Commission Regulation (EC) No 1386/2002;
 - e. EU requirements with regard to environmental protection, transport, competition, public procurement and equality of opportunities are observed. (The IB shall ensure that Final Beneficiaries consult, where applicable, the respective authorities responsible for public procurement, state aid, environment and equal opportunities in order to ensure that the rules are respected throughout the implementation of the projects);
 - f. all supporting documentation is retained in accordance with Article G(3) of Annex II of Council Regulation (EC) 1164/94 as amended by Council

Regulation (EC) 1265/1999 – this includes information regarding expenditure and checks on the project concerned.

Contact Person at the MITC IB is:

Ms. Lucienne Meilak
EU Affairs Director
Ministry for Infrastructure, Transport & Communications
Tel: 2220 9310
Email: lucienne.meilak@gov.mt

Contact Person at the MRRA IB is:

Mr. Joe De Giorgio
Advisor
Ministry for Resources & Rural Affairs
Tel: 2299 7211
Email: joseph.de-giorgio@gov.mt

2.4 Department of Contracts (DoC)

9. The Department of Contracts (DoC) within the Ministry of Finance is responsible for the administration of the procurement procedures as laid down in the Public Contracts Regulation 2003 (LN 299 of 2003 and as amended by LN 377/2004 and any other subsequent amendments. As of June 2005 LN 177 & LN 178 of 2005 have entered into force). The DoC must ensure that relevant tenders are launched and published in accordance with the above mentioned regulations and that contracts are awarded in conformity with the principles of free access, fair competition and transparency.
10. The DoC provides advice and guidance to FBs regarding all issues pertaining to public contracts.

Contact person at the DoC is:
Mr. Anthony Cachia
Department of Contracts
Notre Dame Ravelin
Floriana
Tel Nos: 21220212 or 21 247686
Fax: 21 247681
Email: anthony.j.cachia@gov.mt

2.5 General Contracts Committee (GCC)

11. The role of the General Contracts Committee (GCC) is to:
 - assist the Director General of Contracts in the execution of duties;
 - advise on all matters relating to public contracts and procurement;

- and open tenders and evaluate definite recommendations made by the FBs for the award of tenders.

2.6 Special Contracts Committee (SCC)

12. The Special Contracts Committee (SCC) is appointed whenever the Prime Minister determines that the adjudication of a tender requires special expertise and skills. The SCC will remain in operation throughout the adjudication process until the tender is awarded or else the Director General of Contracts declares that the adjudication of the public contract is withdrawn.

2.7 Public Contracts Appeal Board (PCAB)

13. The Public Contracts Appeal Board (PCAB) is an independent and autonomous board (composed of the Chairman and two members) appointed by the Prime Minister for a period of three years and may be re-appointed. The PCAB is responsible for deciding complaints lodged by aggrieved bidders on all tenders issued by the DoC, public authorities and/or public undertakings.

2.8 Accountant General (AG)/Treasury

14. The AG is also referred to as the Director (Treasury) and heads the Treasury Department under the Ministry of Finance. In the context of the implementation of the Cohesion Fund, the Treasury is responsible for:

- checking that sound accounting policies and procedures are applied at all levels;
- effecting payments through the Central Bank of Malta to 3rd parties (e.g. contractors) in respect of approved projects;
- managing the Public Bank Account and accounting for the Consolidated Fund which includes the Cohesion Fund account that is transferred by the Director EU Paying Authority.

Contact person at the Treasury is:

Mr. Albert Zahra

EU Financing Unit

Treasury

Tel: 25 967131

Email: albert.h.zahra@gov.mt

2.9 Central Bank of Malta (CBM)

15. The Central Bank of Malta (CBM) is the official banker of the Government of Malta and of all money pertaining to the Government of Malta and money held on behalf of 3rd parties. The CBM will also maintain and operate accounts regarding funds advanced by the EU to finance projects and also interim payments as instructed by the Director EU Paying Authority. The CBM also acts as the national repository of funds representing Malta's contribution to the EU Budget as a Member State. In the case of payments for projects co-financed through the Cohesion Fund, the CBM will transfer funds into the contractor's

bank account once it receives instructions from the Treasury. Once the transfer is effected, the CBM will issue a Debit Advice.

2.10 Ministry of Finance (MFEI)

16. The Ministry of Finance is responsible for ensuring that Malta respects all its national co-financing obligations.
17. At a management level, the Budget Office will be assisted by the MA and the PA to manage the national co-financing. This co-financing will feature as a separate and distinct item within the national budget of the respective line ministries.
18. In addition, the MFEI will inform the MA of any issues regarding Malta's compliance with the Stability Growth Pact (as regulated by article 1 of Council Regulation (EC) No 1264/1999 amending Council Regulation (EC) No 1164/1994).

2.11 Internal Audit & Investigations Directorate (IAID)

19. The Internal Audit and Investigations Directorate (IAID) is the executive branch of the Internal Audit Investigation Board (IAIB) within the Cabinet Secretariat of the Office of the Prime Minister and is regulated by the Internal Audit and Financial Investigations Act 2003 (Chapter 461, Laws of Malta). In 2006, the responsibility of this Directorate was transferred to the Ministry of Finance for administrative purposes but the Directorate still reports to the Internal Audit & Investigations Board which is chaired by the Cabinet Secretary.
20. The IAID is responsible to:
 - certify to the EU the adequacy of financial control, procurement and operational management structures and systems when utilising the Cohesion Fund;
 - perform "a priori" audits, examining internal systems, procedures and controls and issuing certificates in this regard;
 - carry out "ex-post" performance auditing. This also includes responsibilities for performing joint-audits with EU services;
 - inform the Commission of any reported irregularity;
 - perform full financial investigations into the misuse and/or fraudulent mismanagement of funds, thereby also fulfilling its role as the national counterpart for DG OLAF in Malta;
 - perform specific audits on the MA, the PA and IBs;
 - carry out checks in accordance with Article 9 of Commission Regulation (EC) No 1386/2002;
 - undertake independent ad hoc audit reviews of the effectiveness or otherwise of the monitoring benchmarks applied during the implementation of particular projects or initiatives. The report will be submitted solely to the MA;
 - in accordance with Article 13 and 14 of Commission Regulation (EC) No 1386/2002, issue a declaration on winding up of the assistance for the Cohesion Fund according to internationally accepted audit standards.

Contact Person at IAID is:
Mr. Robert Camilleri
IAID
Tel: 21 237737
Email: robert.b.camilleri@gov.mt

2.12 National Audit Office (NAO)

21. The National Audit Office (NAO) is the external auditor of the Government of Malta and is wholly independent of the executive arm of Government and responsible to Parliament where the Auditor General's reports are debated by the Public Accounts Committee (PAC).
22. Since projects co-financed by the Cohesion Fund are considered to be financed by public funds, the NAO may carry out audits as the external auditor of Government.

2.13 Line Ministry

2.13.1 EU Affairs Director

23. The EU Affairs Director is present within both **MITC** and **MFEI**. The EU Affairs Director will be responsible for the co-ordination of the implementation of approved projects falling under the responsibility of the Director's line ministry, signing of each Invoice Status Certificate (ISC) and the relevant checklist.
PAYMENTS CANNOT BE PROCESSED IF NOT SIGNED BY THE EU AFFAIRS DIRECTOR.

The EU Affairs Director must ensure that projects are implemented in line with the relevant EU and national regulations and procedures particularly those pertaining to procurement, financial control and reporting. The EU Affairs Director will approve draft quarterly monitoring reports that are submitted by the FB and will send the report to the MA as specified in Chapter 9 on Reporting in this MoP.

Moreover, with regards to the Issue of Reporting of Irregularities, the Director (EU Affairs) is duty bound to:

- report any irregularities upon detection;
- certify and communicate to the MA, the Declaration on Irregularities (Nil Returns) received from the FBs.

In the event that the Director EU Affairs is away from office, the Director should delegate authority to another officer (preferably the Assistant Director of EU Affairs Directorate). The Director should fill in the form for Delegation of Authority, which can be found in Chapter 18 of this MoP¹.

¹ Please follow instructions as outlined in Chapter 15 Retention of Documents to ensure that the relevant authorities are duly informed that authority has been delegated.

2.13.2 Accounting Officer

24. The Accounting Officer in the line ministry must input into the Departmental Accounting System (DAS) the amount of each tender and should also fill in the soft Commitment Form. The Accounting Officer must ensure that the payments related to the EU funded projects are made from the correct Budget Lines (7174).
25. The Accounting Officer must keep in close contact with the Treasury to ensure that payments are processed efficiently and correctly.

2.14 Final Beneficiary

26. The final beneficiaries (FBs) for the Cohesion Fund for 2004-2006 are Wasteserv Malta Ltd and Transport Malta (TM) that are responsible for the commissioning of the operations and implementation of the environment and roads transport project respectively. In the case of the two sub-projects co-financed through the Technical Assistance project, WasteServ and Water Services Corporation are responsible for the implementation of these two sub-components.
27. The FBs must:
 - adhere to the terms and conditions set out in the Commission Decision;
 - follow the procedures outlined in this MoP;
 - fulfil the requirements of Commission Regulation (EC) No 621/2004 with regards to publicity and information with respect to the individual operation;
 - ensure compliance with the Public Contracts Regulations;
 - ensure compliance with Community policies on environment, equal opportunities, fair competition and state aid;
 - retain all documents as specified in the chapter on Retention of Documents of this MoP;
 - input financial, procedural and procurement data into the centralised SFD on a regular basis;
 - fill in the relevant parts of the Invoice Status Certificate (ISC) in relation to payments to be made to contractors;
 - fill in the Statement Of Expenditure (SoE) whenever the MA initiates the verification process and relevant declarations as specified in the chapter on Financial Control in this MoP;
 - prepare the Monitoring Tool, and provide input to the annual and final reports;
 - support and adhere to the checks required by national and EU Regulations;
 - supply promptly any information relative to errors or omissions which may lead to recovery of funds;
 - send immediately the communication sheet of any irregularities detected in relation to the co-financed operation. The FB must also send a nil return at quarterly intervals if no irregularities have been detected;
 - inform the MA and the IB on any possible civil, penal or administrative judicial procedures which might have repercussions on the co-financed operations;

2.15 Contractor

28. The contractor will be the provider of works, supplies or services that has been awarded a contract following the launch of a tender/call for application/request for quotations in line with Public Contracts Regulations (LN 299 of 2003 as amended by any other subsequent legislation. As of June 2005, LN 177 and LN 178 of 2005 have entered into force).

2.16 Monitoring Committee for Cohesion Fund (MC)

29. The Monitoring Committee (MC) for the Cohesion Fund has been established and is chaired by the Principal Permanent Secretary, OPM. It comprises Government representatives, social and economic partners, and NGOs.

30. The MC must satisfy itself with the effectiveness and quality of the implementation of EU-co-financed expenditure.

31. The MC consists of the following:

- the Principal Permanent Secretary Office of the Prime Minister as Chairman;
- the Permanent Secretary of each Government Ministry;
- the Head of the MA;
- the Paying Authority
- a representative of each of the organisations represented in the Malta Council for Economic and Social Development;
- a representative of the Regional Project Committee (Gozo);
- a representative of the National Council for Women;
- a representative of each of two environment NGOs;
- a representative of the fisheries sector;
- a representative of the agricultural sector;
- representatives of the European Commission (in an advisory capacity);
- and a representative of the European Investment Bank (EIB) when appropriate.

The Secretariat to the MC is provided by the MA.

A copy of the Terms of Reference and rules of procedure of the MC are attached in Annex 3.4.

2.17 Sectoral Monitoring Sub-Committees (SMSC)

32. The Sectoral Monitoring Sub-Committees (SMSC) will monitor the implementation of projects related to EU funding under the SPD and Cohesion Fund on a sectoral basis. There are two relevant SMSCs in relation to projects co-financed by the Cohesion Fund, one for Environment and one for Transport.

33. The SMSCs will be chaired by the Permanent Secretary (or his/her designate) of the lead sectoral line Ministry, co-chaired by the Director, EU Affairs. Members will include the project leaders, the MA, the PA, the IB

(where applicable), the DoC, Treasury, (MEPA, if and when required). The Chairperson shall appoint a Secretary from the same line Ministry.

34. The main objective of the SMSC is to monitor the impact of the interventions on the sector/s. The SMSC will receive periodic guidelines from the MA.

2.18 Malta Environment & Planning Authority (MEPA)

32. The Malta Environment and Planning Authority (MEPA) is the national body responsible for the regulation of environment and land use planning in Malta (Environment Protection Act, Chapter 435 & Development Planning Act, Chapter 356 of the Laws of Malta). FBs must ensure that their projects are compliant with national environmental and land use planning regulations and are encouraged to seek guidance from MEPA. MEPA will provide guidance on the potential environmental and planning impacts of the proposal, on the legislative implications, as well as on the processing time required for relevant permits to be determined. Projects having a significant impact on the environment may be required to undergo an Environmental Impact Assessment in terms of the LN 204/2001.

General queries on project related issues may be addressed to:

Ms. Marie Briguglio
EU and Multilateral Affairs Unit
MEPA
St. Francis Ravelin
Floriana
Tel: 22901586/22900000
Fax: 22901533
Email: structuralfunds@mepa.org.mt

Guidance on environmental matters will be provided to applicants by:

Mr. Michael Sant
Environmental Permits Team
Environment Protection Directorate
MEPA
St. Francis Ravelin
Floriana
Tel: 2290 1578
Fax: 2290 2295
Email: michael.sant@mepa.org.mt

Guidance on planning matters will be provided to applicants by:

Mr. Joseph Borg
Urban Conservation Area Team
Planning Directorate
MEPA
St. Francis Ravelin
Floriana
Tel: 2290 1037
Fax: 2290 2295
Email: joseph.borg@mepa.org.mt

2.19 Department of VAT

33. It is important to note that VAT is an eligible cost for the transport project but not for the environment project. In the case of the two sub-projects financed through the TA, VAT is an eligible cost for the Storm Water Master Plan while it is not an eligible cost in the case of the preparation of the designs and mechanical and biological treatment plants². FBs should contact the Department of VAT to make the necessary arrangements to settle the payment of the VAT component for each contract that the FB launches and signs. Guidance notes on VAT issues can be downloaded from www.vat.gov.mt For further guidance the FB should contact:

Mr. Joseph Sammut
Director General
VAT Department
Centre Point Building
Ta' Paris Road
Brikirkara CMR 02
Tel: 21 499311
Fax: 21 499365
Email: vat@gov.mt

² This is due to the different status of the two beneficiaries.

2.20 Transport Malta (TM)

34. 'TRANSPORT MALTA' is the Authority for Transport in Malta set up by Act XV of 2009. Transport is a cross cutting theme and all efforts should be made by the FB to include a transport dimension within the project. Project leaders should take a pro-active approach to transport issues when drafting projects and throughout the project's life cycle. Further information may be available from Transport Malta (TM).

35. Guidance on transport matters will be provided by:

Perit Robert Zerafa
Acting Director (Network Infrastructure Directorate)
Malta Transport Centre
Agius de Soldanis Street,
St Venera, SVR1910
Tel: 25563410
Fax: 25563444
Email: robert.zerafa@maltatransport.com

3. Compliance with Community Policies

3.1 State Aid

1. The Cohesion Fund projects for the period 2004-2006 do not involve state aid.

3.2 Environment

2. The environmental sector is one of the two sectors eligible for funding through the Cohesion Fund. The environment project will clearly leave a positive impact on the environment as a whole. The FB for the transport sector should strive to take on board environmental issues, where possible. Cohesion Fund projects may be subject to an Environment Impact Assessment (EIA). This is established by MEPA.

3.3 Transport

3. Transport is one of the two sectors eligible for funding through the Cohesion Fund. The transport projects themselves will clearly leave a positive impact on the transport infrastructure as a whole. FBs of the project under the environment sector should strive to take on board the transport dimension within the projects.

3.4 Public Procurement

4. When preparing the tender dossiers, FBs must follow the tendering procedure in line with Public Contracts Regulations (LN 299 of 2003 and amendments thereafter). It should be noted that as of June 2005, LN 177 & 178 of 2005 have entered into force. For further information on Contracting, please refer to Chapter 6 of this MOP and contact DoC.

4. Project Pipeline

4.1 Part I – Selection of Projects for co-financing from Cohesion Fund

4.1.1 Reference Framework Document

1. The Cohesion Fund is an instrument for financing individual projects and although reference to it is made in the SPD, the projects are negotiated individually with the Commission and do not fall under the Priority axes of the SPD. However, in order to ensure the effective allocation of funds, Member States who benefit from the Cohesion Fund are required to introduce a long term and short term strategy for the environment and transport sectors and ensure that the projects to be funded by the Cohesion Fund are in line with that strategy which is described in the 'Reference Framework Document for the Cohesion Fund'. Applicant organisations are responsible to ensure that projects submitted for funding are not receiving other EU funds, thus, preventing an issue of dual-funding.
2. The MA prepares the Reference Framework Document following input from the relevant stakeholders.
3. The MA submits the Reference Framework Document to the Commission for review. The Commission may ask the MA to amend the document or to provide more information.
4. The Commission informs the Member State as to whether the RFD has been approved.

Please refer to Annex 1.1 for Checklist on Drafting the Programming of the RFD.

4.2 Part II – Selection of Projects

4.2.1 Submission of Project Application Forms

5. Cohesion Fund projects are public sector projects. Following consultation with the relevant stakeholders, the MA prepares a Cabinet memo (with short-listed projects) with recommendations for discussion and approval by Cabinet.
6. The MA asks the FBs of selected projects to prepare the application form to be submitted to the European Commission.

7. In order to prevent duplication of funding, applicant organisations are responsible to ensure that projects submitted are not receiving other EU funds. Moreover, the MA, being responsible for the coordination of all EU Structural Funding, ensures that the same project does not receive funding twice. Every application is vetted against the activities under the project to ensure that there is no overlapping EU Assistance. Also, each project is approved by Cabinet.
8. Application forms for the selected projects for funding under the Cohesion Fund for the period 2004-2006 are prepared by the potential final beneficiaries (based on the template provided in the Guide to the Cohesion Fund). The application forms together with the supporting documents (cost-benefit analysis, feasibility studies, environment impact assessments, etc.) are submitted to the MA for review.
9. During the preparation of the documents, on-site visits are carried out by the MA and/or Commission officials.

4.2.2 Evaluation and Adoption by the European Commission

10. Application forms and supporting documents are formally submitted to the Commission by the MA.
11. The Commission vets the application forms and may ask for clarifications or additional information. When a project is approved, a Commission Decision is published.
12. The Environment Project was endorsed by Commission Decision CCI 2004 MT 16 C PE 001 dated 27th December 2004 (please refer to Annex 3.5). The Transport Project Commission Decision CCI 2004 MT 16 C PT 001 was adopted on 7th 2005 (please refer to Annex 3.6) whereas the Technical Assistance project was endorsed by Commission Decision CCI 2005 MT 16 CPA 001 dated 19th December 2005 (please refer to Annex 3.7). The Decisions determine the amount of financial support (co-financing rate), lays down a financial plan, establish deadlines for completing the respective project and determine all other conditions necessary for the implementation of the project according to Council Regulation (EC) No 1164/1994 as amended by Council Regulations (EC) Nos 1264/1999 and 1265/1999.
13. In exceptional cases, particularly concerning changes in the physical purpose of the project or an amendment to the total cost, entailing a change to the Community assistance, the FB can submit a request to the MA to amend the Commission Decision for the individual project. The MA will propose this amendment for the approval of the MC. If approved, the MC shall propose to the Commission, the revision and adjustments of the financing plan and the work schedule and any amendments to the Commission Decision. **The FB must note that the Commission may authorize only TWO amendments during the programming period, on a case-by-case basis and always with appropriate justification.**

14. The Commission Decision endorsing the Environment Project (CCI 2004 MT 16 C PE 001 dated 27th December 2004) was amended by Commission Decision K(2008) 4529 of 13 August 2008 (please refer to Annex 3.8). The Commission Decision endorsing the Technical Assistance Project (CCI 2005 MT 16 C PA 001) was amended by Commission Decision K(2008) 4220 of 30 July 2008 (please refer to Annex 3.9). The Commission Decision endorsing the Transport Project (CCI 2004 MT 16 C PT 001) was amended by Commission Decision K (2008) 6177 of 17 October 2008 and K (2010) 879 of 5 February 2010.

Please refer to Annex 1.2 for Checklist of Project Pipeline

Related documents: Commission Decision CCI 2004 MT 16 C PE 001 for the Environment Project dated 27th December 2004 (please refer to Annex 3.5);

Commission Decision K (2008) 4529 amending the Environment Project dated 13 August 2008 (please refer to Annex 3.8)

Commission Decision CCI 2004 MT 16 C PT 001 for the Transport Project dated 7th April 2005 (please refer to Annex 3.6)

Commission Decision K (2008) 6177 amending the Transport Project dated 17th October 2008 (please refer to Annex 3.10)

Commission Decision K (2010) 879 amending the Transport Project dated 5th February 2010 (please refer to Annex 3.11)

Commission Decision K (2010) 1981 correcting Amending Commission Decision K (2010) 879 dated 23rd March 2010 (please refer to Annex 3.12)

Commission Decision CCI 2005 MT 16 CPA 001 for the Technical Assistance dated 19th December 2005 (please refer to Annex 3.7)

Commission Decision K (2008) 4220 amending the Technical Assistance Project dated 30 July 2008 (please refer to Annex 3.9)

CF Guidance Note 4: Guidelines for the amendment of decisions on CF projects (please refer to Annex 5.4)

5. Technical Assistance

5.1 Introduction

1. Technical assistance (TA) supports and accompanies the implementation of the Reference Framework Document in accordance with Article 3 of Council Regulation (EC) No 1164/94, as amended by Article 1(3) of Council Regulation 1264/99. The Technical Assistance will support preliminary studies.

5.2 Components of Technical Assistance

2. Technical Assistance is split into two components:
 - a) The formulation of a Stormwater Master Plan towards the sustainable management of Stormwater. Water Services Corporation is the lead organisation for this component (it is a joint effort between Water Services Corporation and the Ministry for Resources and Infrastructure) and it is comprised of the following 2 sub-components:
 - i) Storm Water Master Plan;
 - ii) Preparatory studies for priority project under this sector to be submitted under the 2007-2013 Programme.
 - b) Preparatory Studies for the setting up of a Mechanical and Biological Treatment Plant. This component is being implemented by WasteServ.

6. Contracting

6.1 Introduction

1. **It is important to note that the following are only guidelines. These guidelines are not intended to substitute in any way the relevant regulations and guidebooks issued by the DoC. The MA insists that advice should be sought ON ALL ISSUES relating to contracting from the DoC.**
2. An updated procedure outlining the steps to be followed for the consideration, from a budgetary perspective by MFEI's Budget Affairs Division, of tenders issued through the Department of Contracts, has been established. The revised procedure aims at eliminating the need for the transfer of files between MFEI and the Department of Contracts. Furthermore, it should make available, for use by the parties concerned, more updated data by offering the added benefit of allowing the Tender Commitment Forms to be updated at a particular point during the process. The steps incorporating the new procedure may be viewed through the link http://finance.gov.mt/image.aspx?site=MFIN&ref=tenders_precedure.
3. When preparing the tender dossiers, the FB must refer to Public Contracts Regulations. It is important to note that as of June 2005 LN 177 & 178 of 2005 are in force as amended by LN 11 & 130 of 2006. It is important to note that ONLY tenders issued under Regulations which are in line with the EU directives are eligible for EU co-financing.
4. In accordance with Articles 17-20 of Legal Notice 177, public contracts with an estimated value of less than €47,000, are not administered by the DoC. It is the Authority where the FB is located that administers the contract **in compliance with** the Public Contracts Regulations.
5. In the case of public contracts above the €47,000 threshold, the responsibility of the tendering process lies with the Department of Contracts as per relevant schedule of the Public Contract Regulations. The relevant tendering templates and a detailed guidebook to Public Procurement are available at the EU Unit, Department of Contracts, Notre Dame Ravelin, Floriana. (Refer to Section 2.4 of Chapter 2 of this MoP).

6.2 General Principles

6. The following principles must be observed **for all contracts**:
 - tenders are initiated by the FB;
 - contracting must be done in line with the approved project proposals and relevant Commission Decisions;
 - the tender dossier must stipulate all items in detail in order to determine eligibility of costs;

- irregularities in the contracting process may render the project ineligible for EU funding;
- the setting up of an evaluation committee (see section 6.5 below);
- bidders – in case of an international tender it is important to note that even non-EU bidders may bid for tenders. It is important to note that purchases outside the EU might be subject to taxes if and when applicable. In this regard, it is recommended that clarifications are sought from the relevant tax authorities (e.g Customs + Vat prior to the conclusion of evaluating reports);
- it is important to ensure transparency and competition e.g different quotes to choose the best option;
- when preparing the tender dossier, the FB must observe the EU requirements in particular environment, equal opportunities and information technology. In executing the tender, the FB must ensure that the contracted party observes EU & national environment and equal opportunities legislation. The FB may also recommend ways in which these requirements are observed;
- splitting of contracts is not in line with the Public Contracts Regulations and the EU directives on Public Procurement and must be avoided;
- in cases where the content of the tender is subdivided into several lots and each lot is subject of a single contract, the estimated value of each lot must be taken into account for the purposes of calculating the estimated value of the public contract. (However, this rule is NOT applicable in the case of services or works, when any lot has an estimated value (net of VAT) less than the thresholds applicable to lots, provided that the value of such lots does not exceed 20% of the total value of all the lots) ;
- all tenders must be issued in Euros. Ex-ante approval has to be sought from the Ministry of Finance for contracts to be signed in other currencies.
- offers must be submitted in Euros and contracts must be signed in Euros (unless ex-ante approval has been given to the FB by MFEI to sign the contract in other currencies and the DoC must be informed immediately);
- the FB must also prepare a payment schedule and insert it in the special conditions of the tender dossier;
- the contract shall clearly indicate the contractor's bank name and address, account number and any other relevant information, wherein remittance shall be effected;
- safeguards, such as a bank guarantee must be put in place to recover funds in the case of advance payments;
- VAT and all other taxes must be quoted separately by the tenderers. When the contract is signed, the FB must contact the Department of VAT to fix an appointment to make the necessary arrangements for the payment of VAT. Please refer to Section 2.19 of Chapter 2 of this MoP for the contact details

- of the VAT Department & Section 11.8 of Chapter 11 of this MoP;
- once the contract is awarded and signed, the contract must be scanned onto the SFD by the FB.

6.3 Contracts that do not exceed €47,000 (organisations under schedule 2 of the Procurement Regulations)

7. Public contracts with an estimated value of less than €47,000, are administered directly by the implementing department and /or authority (listed under Schedule 2). It is important to note that although such contracts are not processed by DoC, the Head of the relevant organisation is responsible to ensure that procurement has taken place in line with legislation. Procurement Officers in the line ministries should be consulted.
8. Tenders will be evaluated by means of an Evaluation Committee. One should refer to Section 6.5 of this Chapter for further guidance on Evaluation Committees.
9. Once the contract is awarded and signed, the complete tender dossier (including dossier, evaluation report, contracts, CVs of the Evaluation Committee members and any subsequent addenda to the contract) must be sent to the DoC.
10. The FB must also send a copy of the contract and/or letter of award of a departmental tender and/or quotations, addenda to the contract where applicable, to the MA and upload them on the SFD.

6.4 Contracts that exceed €47,000

11. In the case of public contracts with an estimated value that exceeds €47,000, works and supplies:
 - if the FB is a contracting authority listed under Schedule 2 of the Public Procurement Regulations, the contracts within the above mentioned limits shall be administered by the DoC;
 - if the FB is a contracting authority listed under Schedule 3, then the FB will issue, administer and determine the public contracts in accordance with the provisions of the Public Contracts Regulations.

6.4.1 Administrative Steps

12. The following are administrative steps to be carried out by the relevant stake holders:

- the FB must initiate tenders and compile the Tender Dossier in accordance with the Public Contracts Regulations;
- the FB must compile forms for publication on the EU Official Journal if tender value exceeds the relevant thresholds. Such forms are available on-line on www.contracts.gov.mt or www.simap.eu.int;
- the FB must forward the tender dossier and the publication forms (if any), in soft copy to the EU Unit, Department of Contracts, Notre Dame Ravelin, Floriana, for vetting. Such documents have to be accompanied by the Commitment Form which can be found in Section 6.6 of this Chapter. It is important to note that the Commitment Form must be submitted immediately as the tender cannot be launched if the Commitment Form is not submitted to DoC. A copy of the commitment form must be sent to the MA, the Assistant Director (Capital Expenditure) MFEI and the accounting officer of the respective Line Ministry. Once there is approval from the DoC, all the above documents must be sent in both hard and soft copy to the DoC;
- the EU Unit within the Department of Contracts will carry out the vetting and advise the FB on any amendments if necessary;
- if amendments are required, the FB will take on board such changes and refer back to the EU Unit for further vetting;
- once the tender dossier is vetted, or no amendments are required, the EU Unit will advise the FB to forward thirty hard copies of the tender dossier;
- the EU Unit will take the necessary steps to forward the publication forms to the Official Journal (where applicable) and also to publish the tender on the Government Gazette;
- once the tender deadline elapses, the tenders are opened in public and scheduled;
- the tender bids or proposals/offers will be forwarded to the evaluation committee for evaluation;
- the Chairperson of the Evaluation Committee shall submit an evaluation report, signed by the evaluators to the Director General of the Department of Contracts, for the consideration of the General Contracts Committee consideration;
- upon award of the tender, and when applicable, the EU Unit will publish the award notice in the Official Journal;
- the DoC will issue a letter of award/contract to the successful bidder copying the FB. The FB should also consult the website of the Department of Contracts to follow progress on the award of a contract;
- in the case of contracts exceeding the value of €931,750 excluding VAT, and where VAT is not considered an eligible cost, the FB will only pay the net amount to the contractor. The VAT due on that amount will be settled directly by the FB to the VAT Department. Where VAT is an eligible cost (indicated to FB by the MA) the payment to the contractor will be made in full (with VAT).
Guidance should be sought from the MA on how to proceed with the issue of VAT;

- in the case of departmental tenders, once the tendering procedure is completed, the FB must send to the EU Unit, Department of Contracts a copy of:
 - Tender document
 - Evaluation report
 - Approval of the evaluation report
 - Contract.

6.5 Evaluation Committees

13. Tenders will be evaluated by means of an Evaluation Committee (including departmental tenders). The members of the Evaluation Committee are recommended by the Director EU Affairs of the respective Line Ministry and must be approved by the DoC in case of tenders over €47,000. In case of tenders below €47,000, the evaluation committee is recommended and appointed by the organisation responsible for the contract.
14. The Evaluation Committee must consist of at least five people and must have a chairperson, a secretary and at least 3 evaluators. The chairperson and the secretary will not have voting rights and the number of Evaluators must always be an odd number.
15. A detailed Curriculum Vitae on the appropriate template of all Evaluation Committee members must be submitted to the DoC, stating the expertise of the selected members. Evaluation Committees should avoid (where possible) hierarchical relationships between employees.
16. Documentation related to the evaluation process (including C.Vs) should be retained as an integral part of the project documentation (see chapter on retention of documents).

6.6 Funds Commitment Form

STRUCTURAL FUNDS/ COHESION FUND COMMITMENT FORM FOR CONTRACTS DEPARTMENT FILE

Original to accompany tender documents in Contracts Department file

Copy to be sent to Director General (Planning & Priorities Co-ordination Department), OPM

Copy to be sent to Assistant Director (Capital Expenditure), Ministry of Finance

Copy to be sent to the Accounting Officer of the Line Ministry

Cohesion Fund Project :

Tender :

CT Reference (This should be issued by Department of Contracts. However, in case of Malta Maritime Authority, Water Services Corporation and Enemalta, the Department/Corporation / Authority's file reference number should be quoted instead of the CT number) :

With the issue of this tender (estimated at € _____ excluding VAT), it is

confirmed that the total project cost (estimated at € _____ excluding VAT)

will not be exceeded.

Name and Signature of Project Leader:

Name and Signature of Director, EU Affairs:

Date

Ministry:

6.7 Contact Point

Contact person at the DoC is:

Mr. Anthony Cachia
Department of Contracts
Notre Dame Ravelin
Floriana
Tel Nos: 21247686
Fax: 21 247681
Email: anthony.j.cachia@gov.mt

☞ **NB. Proven Irregularities in the tendering process will render the contract ineligible for funding.**

6.8 Employment Contracts

17. Services can be contracted either through a service tender (in which case normal procurement procedures apply) or through employment contracts. The FBs should note that service contracts usually carry VAT while employment contracts carry obligations such as social security contributions.
18. If the FB is employing a person on an employment contract for the project co-financed through the Cohesion Fund, the normal employment procedures of the FB (which should be documented) should be utilised. **The DoC does not get involved in employment contracts.**
19. The FB must ensure that such employment contracts include a clause specifying that the contract is for a definite period and that it is not renewable.
20. Please refer to Chapter 11 Section 11.6.1 para 11 for payment process of salaries for persons employed on an employment contract basis.

6.9 Procurement of Equipment

21. When purchasing equipment it is important that the equipment is used for the specific reasons bought and in accordance with the contract and conditions of the grant. All documentation in relation to the purchase (including guarantees) and use has to be filed. The following are important things to keep in mind:

- When a FB purchases equipment through the Cohesion Fund it is imperative that such equipment is kept in working order throughout and after the project life.
- If any fault results in the equipment, all documentation must be kept in relation to the repairs and, in the worse case scenario replacement of equipment.
- If replaced, both the old and new serial numbers must be retained.
- The purchasing of equipment that is fully co-financed from the Cohesion Fund must be exclusively used for the project implementation.
- In addition, the project leader must also prepare an inventory list of all the items of equipment that have been purchased through the Cohesion Fund project budget. The equipment and inventory are the responsibility of the FB that has been granted Cohesion Fund assistance with which the procurement has been purchased. The project leader must sign the inventory and keep it in the project file.
- Failure to comply with these rules may lead to financial corrections to the project.

6.10 Late Payments MF Circular 3/2005

22. As of 1 July 2005 LN 233 of 2005 came into force and provides that unless the period for payment and rate of interest are specified in the contract, interest at the Central Bank of Malta intervention rate plus 7% shall become payable automatically after 30 days following receipt of invoice or receipt of goods or services.
23. Prior to signing a contract, FBs must comply with MF Circular 3/2005 to ensure that payments for procured goods and services are effected within 30 days. Alternatively, the conditions attached to public tenders should explicitly indicate the period for payment, as well as the rate of interest payable in the event of late payment. Close liaison should therefore be maintained with the Department of Contracts for the inclusion of appropriate clauses during the preparation of the tender documents. Penalties in general and also those arising from late payments are not eligible for co-financing.

6.11 Approval of Additional Costs & Addenda to a Contract

6.11.1 Additional Costs to a Contract

24. For any additional costs arising during the implementation of a contract, the FB must inform the Department of Contracts and the MA at the earliest possible. When the thresholds for additional costs which are allowed to the FB by the Public Contract Regulations are to be exceeded, the approval of the General Contracts Committee is required. The FB must present to the Department of Contracts a detailed report of the additional costs to be incurred in the contract implementation in question, together with a sound justification and recommendations.
25. In the case of infrastructural projects which also have a supervisor overseeing the works, the supervisor must present a report to the FB together with his/her recommendations on the additional costs to be incurred. In the case of the road transport project, the supervisor fills in the Modification Forms which are provided by Transport Malta and submits these forms to the FB. The latter will present both the supervisor's report/modification form as well as the recommendations prepared by the project leader.
26. Following the receipt of a report, the General Contracts Committee may approve the additional costs/variations. The FB and/or the supervisor must prepare a new cost estimate of the contract based on the rates and quantities approved by the General Contracts Committee. This cost estimate must then be submitted to the Department of Contracts and an addendum to the contract will be prepared by the Department, with Annexes if applicable to be prepared by the FB.

6.11.2 Addenda to a Contract

27. Whenever an agreement is reached between the Department of Contracts, the FB and a contractor, that necessitates an addendum to a contract, it is the FB's responsibility to ensure that the addendum is actually prepared and signed by the DoC and the Contractor

6.12 Non-Compliance with contractual obligations

28. The Department of Contracts informs that it is important to note that it is the responsibility of the FB, more specifically of the project leader, to ensure that a contractor is abiding by the obligations stipulated in the contract. Should a contractor fail to meet the contractual obligations, the project leader should bring this to the attention of the contractor, in writing, and should also copy the correspondence to the Department of Contracts.

29. Should the contractor continue to fail to meet with contractual obligations and no action by the contractor is taken to rectify these obligations, the FB may, in the first instance, ask the Department of Contracts to caution the contractor. Should the contractor persist in failing to abide by the contract despite having been cautioned, the project leader can initiate the procedure to implement the necessary penalties as stipulated in the contract. The Department of Contracts informs that it is the project leader that must initiate this procedure and not the Department of Contracts. Penalty payments notified and duly recorded, are to be deducted from the final payment and the contractor notified accordingly of all procedures taken.
30. The project leader is responsible to alert all concerned that a contractor is not abiding by the terms and conditions stipulated in the contractor. The project leader is obliged to inform the Department of Contracts and the MA should such a situation arise. It is important that the FB gives an early warning of such a situation in order to limit any undesirable consequences on the project. Failure by the FB to raise such concerns could result in the EU funds being lost due to the limited implementation period of the projects.

6.13 Release of Financial Guarantees

31. It is important to note that a financial guarantee is only to be released following confirmation that all contractual obligations have been fulfilled and a final completion certificate issued, unless otherwise stated in the conditions stipulated in the contract. In the case of tenders below the €47,000 threshold, the project leader is responsible for the release of the financial guarantee.
32. In the case of tenders above the €47,000 threshold and which are the responsibility of the Department of Contracts, a financial guarantee is made payable to the Director of Contracts and is retained by the Department of Contracts throughout the implementation of the contract and until a final completion certificate is issued. Upon completion of a contract, it is the project leader, through the proper channels, that must inform the Department of Contracts that the contract has been completed and that all obligations have been fulfilled accordingly. The FB cannot undertake any agreement with the contractor on the release of bank guarantees without prior consultation with the Department of Contracts. The bank guarantee will be released by the Department of Contracts in accordance with the conditions stipulated by the contract and only if it results that all contractual obligations have been fulfilled. Therefore, it is worth noting the importance that the FB provides a realistic assessment to the Department of Contracts in order for the release of the financial guarantee to be authorised.

7. Monitoring

1. Article 13 and Article F of Annex II of Council Regulation (EC) No 1164/94 deals with the monitoring of the Cohesion Fund. Monitoring is an on-going process of examining the progress of interventions and expenditure under the Cohesion Fund 2004-2006.
2. Monitoring of the Cohesion Fund projects is facilitated through the use of indicators (Article F(2), Annex II to Regulation (EC) No 1164/94). The indicators shall be carried out by reference to physical and financial indicators that relate to the specific character and objectives of the individual project. These indicators shall form part of a monitoring tool, which is established by the European Commission and the MA. The Monitoring Tool (Annex 4) is explained in detail in Chapter 9 of this Manual of Procedures.
3. **The attainment of the targets of the individual project is an essential condition of the grant.**
4. The MA must gather statistical and financial information from FBs required for monitoring of the individual projects. This will be done by gathering information through the SFD and by carrying out on-the-spot checks.
5. The Ministry for Infrastructure, Transport & Communications is the IB for the transport project while the Ministry for Resources & Rural Affairs is the IB for the environment project as well as for the TA project. The IBs shall conduct monitoring activities on behalf of the MA in line with the signed Covenants.
6. There are different levels of monitoring for Cohesion Fund:

Related Documents: The Monitoring Tool (Please refer to Annex 4)

7.1 Strategic Level

7.1.1 The Monitoring Committee

7. In accordance with Article 13(6) and Article F(3) of Annex II to Council Regulation (EC) No 1164/94, the strategic level of monitoring is dealt with by the Monitoring Committee which is composed of Government, social partners, NGOs, the European Commission (as an advisor) and the European Investment Bank. The Monitoring Committee shall review the projects' implementation at regular intervals and where necessary, propose any adjustments required. The MC will meet at least once every quarter and the chairperson may convene the MC as often as necessary. The rules of procedure allow for a written procedure.

8. The main tasks of the MC are:

- to monitor the implementation of Malta's Cohesion Fund projects for 2004-2006;
- periodically review progress registered towards achieving the specific objectives of the assistance;
- examine the results of implementation, particularly achievement of set targets for the different measures;
- consider and approve any proposal intended to amend the contents of the Commission decision on the contribution/allocation of assistance;
- as it deems fit, propose to the MA any adjustment or review of the assistance likely to render possible the attainment of the objectives of the assistance programme or to improve its management (including financial management).
- carry out monitoring by reference to physical and financial indicators
- ensure compliance, as is necessary or appropriate, with all Community policies ;
- be guided by the other provisions of the relevant regulations.

The Monitoring Tool for each project, reporting the progress made, must be updated prior to the Monitoring Committee meeting by the FB and presented by the MA at the MC meeting. The monitoring tool will be updated and circulated to all members 10 working days prior to the MC, in line with the Terms of Reference of the Monitoring Committee.

The TORs of the MC can be found in Annex 3.4.

7.2 Sectoral Level

7.2.1 The Sectoral Monitoring Sub-Committees

9. The Sectoral level of monitoring is dealt with by the Sectoral Monitoring Sub-Committees (SMSC). There are two SMSCs that monitor Cohesion Fund projects in the following sectors:
- The Environment SMSC;
 - The Transport SMSC.
10. The aim of the SMSCs is that of monitoring projects and their impact upon a particular sector which receives EU Structural & Cohesion Assistance. For logistical purposes, given that Malta only has two major CF projects and one TA project³, the monitoring of these projects falls within the remit of the Environment and Transport SMSC respectively. These SMSCs include also environment and transport projects under the SPD.
11. The SMSCs will be chaired by the Permanent Secretary of the sectoral line ministry concerned. The Chairperson is to ensure the participation of all relevant stakeholders, including MGOZ.

³ The SMSC for Environment monitors the Environment and TA Cohesion Fund projects.

12. The SMSCs will:

- monitor the implementation of individual projects under the sector
- discuss with project leaders the implementation of the project (tendering and contracting, payments, etc.);
- monitor the individual project's contribution towards the achievement of targets set as indicators;
- prepare templates of Annexes 6.1 & 6.2 on action to be taken and action taken by the respective SMSC highlighting issues for the respective sector;
- highlight any problems and issues encountered in the implementation of projects related to the respective sector.

7.3 Day-to-Day Monitoring

13. Day-to-day monitoring is based on a bottom-up approach and by regularly updating the status of the Cohesion Fund projects through the use of the SFD. The input into this database and the production of reports are a condition of the grant.
14. The FB will undertake day-to-day monitoring of the individual projects through the SFD by updating the financial commitments (both the contracting and disbursements) and the indicators. It is very important that the FB must regularly update the financial and implementation status of the project.
15. The FB must also update the Monitoring Tool in order to present an up-to-date project progress report for every meeting of the Monitoring Committee.
16. Through the information inputted in the SFD, the MA will monitor the implementation schedule of the individual project. The MA will compare the progress of the project with the forecasted implementation schedule and indicators.
17. The IBs will monitor, through the SFD, the Monitoring Tool and day-to-day contact with the FB, the implementation process of projects falling under their respective portfolio. Input of individual FBs will allow the IBs to register the progress achieved on a financial level as well as on the actual implementation.

7.4 Controls

18. The Managing Authority wishes to inform all the bodies implementing and monitoring projects part-financed by the Cohesion Fund of the need to record controls being carried out by the FB on the project.
19. In view of the fact that it is ultimately the Final Beneficiary that is responsible for the project, it is important that all project leaders keep in

the project file evidence of any controls they perform (on site or documentary) in order to ensure that funds are spent in accordance with the Commission Decision and in accordance with the contracts signed. Evidence of controls should always be signed and dated by the person carrying out the control. These may take the form of eg, reports of on site visits, and reconciliations prior to payments, controls over timesheets, minutes of meetings etc.

20. Any evidence of checks done to ensure the actuality and accuracy of a payment is to be kept in the project file and available to all stakeholders that are responsible to check the activities performed by the project.

8. Structural Funds Database Reporting

1. A centrally administered SFD system that captures information at different levels of the administration across all relevant line Ministries, authorities and entities is being utilized to gather data on Cohesion Fund projects. The data gathered by this SFD is exported from the system by means of interface files and reporting.
2. The reports that are issued by the system are used to facilitate the local process particularly with respect to payments and monitoring purposes. On a day to day basis, the FB must input into the SFD:
 - Financial data
 - Monitoring indicators
 - Regular executive summary
3. Kindly note that more system-specific information on reporting is found in the SFD system manual of procedures.

9. Reporting

9.1 The Monitoring Tool

9.1.1 Content and Deadlines

1. In accordance with Article F(4) of Annex II to Council Regulation (EC) No 1164/94, the FB will prepare an updated quarterly monitoring report on the progress of the project. This report must be submitted to the MA, copying in the IB fifteen working days prior to the next Monitoring Committee meeting.
2. The Monitoring Tool Template must be comprehensively filled in and contains information to the following effect:
 - a report number and period covered by the Monitoring Tool;
 - information identifying the project being reported upon;
 - general contact information relating to the MA, IB and FB;
 - specific conditions related to the projects and means of payment;
 - status of planning and environmental permits/licences;
 - confirmation of date specifying beginning of works;
 - brief chronological description of activities/works carried out;
 - confirmation of attribution of 20% of works for payment on account;
 - specific conditions related to the project and/or works;
 - updated procurement plan;
 - updated expenditure plan;
 - advanced information sheet for physical and financial execution;
 - reason for differences between physical and financial execution & explanation for delays;
 - technical, financial and/or legal problems;
 - observations and recommendations of national and/or Community inspection authorities;
 - measures adopted to fulfill information and publicity requirements;
 - expected completion date;
 - comments on compatibility of operations with Community policies, including those concerning environmental protection, transport, competition and the award of public contracts.
3. Following recommendation by the MA the FB will have 10 working days to fill in/update the Monitoring Tool. Once this draft Monitoring Tool is prepared, it is sent to the MA and copied to the respective IB.
4. **The report must be finalised within the stipulated deadlines and immediately sent to the MA for distribution to the Monitoring Committee members prior to each MC meeting**

9.1.2 Submission of the Monitoring Tool to the MC

5. Once the Monitoring Tools for the two Cohesion Fund projects and the TA project are finalised, the MA will circulate these reports to all members of the MC prior to every MC meeting in line with Chapter 7 of the CF MoP.
6. The MC will review the progress being made towards achieving objectives and targets (Article 13(6) of Council Regulation (EC) No 1164/94) and examine the results of implementation.

Please refer to Annex 1.3 for Checklist for the Monitoring Tool as a Quarterly Report.

9.2 SMSCs Reports

7. The secretariat of the respective SMSC will issue a request to all project leaders to provide an update on their respective projects prior to the SMSC meetings.
8. Once the project leaders have provided this update, the secretariat of the respective SMSC will provide the information to the members of the SMSC for discussion.
9. Following the SMSC meeting, the secretariat of the respective SMSC will fill in Annex 6.1 listing the actions to be taken by the SMSC. The secretariat of each the SMSC will forward this template together with the minutes of the meeting to the MA within ten working days of the SMSC meeting.
10. The secretariat to the SMSC must ensure that follow-up action is taken. Prior to the subsequent SMSC meeting, the secretariat of each SMSC must fill in Annex 6.2 listing the actions taken by the SMSC as a result of the previous SMSC meeting.

Please refer to Annex 1.4 for checklist for SMSC Reports.

9.3 Annual Progress Reports

11. Article F(4) for Annex II to Council Regulation (EC) No 1164/94 requires the MA to submit to the European Commission, progress reports within three months of the end of each full year of implementation. The basis for the compilation of this progress report will be the Monitoring Tool, submitted to the MC.
12. The report will include:

- A description of the work carried out, accompanied by physical indicators, the expenditure by category of work and the measures taken under specific clauses in the decision granting the assistance;
- Information on all publicity measures;
- Certification that the work conforms to the decision granting assistance;
- An initial assessment as to whether the anticipated results as indicated in Article 13(4) of Council Regulation (EC) No 1164/94 are likely to be achieved, in particular:
 - the actual starting date of the project;
 - the way in which it will be managed once finished;
 - confirmation, if appropriate, of the financial forecasts, especially as regards the operating costs and expected revenue;
 - confirmation of the socioeconomic forecasts, in particular the expected costs and benefits;
 - an indication of the environmental protection measures taken, and their cost, including compliance with the polluter-pays principle.

9.3.1 Contribution by the various players

Final Beneficiaries:

13. The Monitoring Tool submitted by the FBs on the individual projects will be utilised in preparation of the progress reports.

Intermediate Bodies:

14. The relevant IBs shall provide input to the Monitoring Tool of the respective project falling under the responsibility of the respective IB, as specified in 9.1.1 above.

Malta Environment & Planning Authority:

15. Environmental Impact – The MEPA will sit on both SMSCs in order to be able to gauge and monitor the impact of the Cohesion Fund project/s on the environment. MEPA will draw up a short report on environmental issues concerning CF projects.

Please refer to Annex 1.5 for Checklist for Annual Progress Reports.

9.4 Final Reports

16. In accordance with Article F(4) of Annex II to Council Regulation (EC) No 1164/94, the FB shall prepare a final report of their respective project (containing information similar to that of the annual reports). The FB will forward the final report to the respective IB. The latter will view the report prior to submission to the MA. Once the report is submitted to the MA, the final report must be submitted to the European Commission within 6 months of the final date for completion of works and payments as specified in the Commission Decision granting assistance to the individual project and in accordance with Article C(2) of Council Regulation (EC) No 1164/94 as amended by Article 1(3) of Council Regulation (EC) No 1265/99.

Please refer to Annex 1.6 for Checklist for Final Reports.

10. Evaluation

10.1 Overview

1. In the framework of EU interventions, evaluations are instruments aimed at assessing and improving the performance of projects, programmes, and policies. Evaluations are independent analysis where the ultimate goal is to improve design, management, coordination or implementation of programmes and projects.
2. In accordance with Article 13 of Council Regulation (EC) No 1164/1994 and Articles B and F of Annex II thereto, Malta and the Commission shall ensure that the implementation of the Cohesion Fund projects is duly evaluated.

10.2 Evaluation activities

3. During the implementation of the Cohesion Fund projects, as well as after their completion, an assessment may be carried out at the initiative of the MA or the Commission. The aim is to assess whether the project is progressing in line with the objectives outlined in the project application. Moreover, it may include recommendations for adjustments in order to overcome any implementation problems.

10.3 Ex-post Assessment

4. The MA and the Commission, may, upon joint agreement, carry out an ex-post assessment of the impact of the project. The assessment shall be carried out by an assessor once the project has been completed.

11. Financial Management and Payments

11.1 Rate of Exchange

1. In April 2005 Malta joined the ERM II, the Exchange Rate for Malta is EUR1.00 = MTL0.429300. This rate of exchange is fixed in the SFD.

11.2 Co-financing

1. The financing of all projects benefiting from the EU Cohesion Fund will have an element of national co-financing. The project will be financed through a percentage of EU funds and a percentage of national funds. The EU and Malta co-financing rates for each project are agreed upon with the Commission and articulated in Article 3 of the respective Commission Decisions.

11.2.1 Savings to the Project

2. If there are any savings to the project, the FB, through the IB, should inform the MA at once.

11.3 Pre-financing

3. Cohesion Fund projects will be pre-financed by Government in the Ministries' budgetary allocations. Each project will be specifically mentioned in the Financial Estimates and FBs and Line Ministries are to ensure that the correct sub-line and item is debited when making payments. In this case it is of utmost importance that all procedures are correctly and timely followed by stakeholders to enable Malta to receive the funds from the EU.
4. In accordance with article D of annex II of the CF Regulation (as amended by Regulation 1265/99):

"a single payment on account of 20% of the Fund assistance as initially decided shall be paid when the decision granting Community assistance is adopted and, except where duly justified, after signature of the contracts relating to public procurement."

5. In accordance with article 4 of the Commission Decision on the environment project, a first advance payment of EUR 1 875 720 shall be paid by the Commission to the Member State.
6. In accordance with article 4 of the Commission Decision on the transport project, a first advance payment of EUR 1 884 620 shall be paid by the Commission to the Member State.

7. In accordance with article 4 of Commission Decision on the Technical Assistance project, a first advance payment of EUR163,988 shall be paid by the Commission to the Member State.

Please refer to Annex 5.1, CF Guidance Note 1: Arrangements for the payment of the 20% payment on account, and Annex 5.2, CF Guidance Note 2: Procedure for implementing the repayment, in whole or in part, of the payment on account (n+12' rule).

11.3.1 Budgetary Allocation


7. The expected annual cash flow of each project will be provided for in the Financial Estimates of the respective year under Line Item 7174 of the Line Ministry responsible for the selected final beneficiaries namely MRRA and MUDR for environment and TA and transport respectively. Each project will have its own sub-item. There will be two sub-items within the project allocation; sub-item 1 will contain the EU allocation while sub-item 2 will contain the Malta allocation and the VAT cost (that is not considered an eligible cost). In the case of the transport project where VAT is considered an eligible cost, the total cost of the project will be deducted proportionately from the two sub-items (EU and Malta) as per co-financing rate.
8. In cases where the Accounting Officer foresees a shortfall of funds for a particular year, the MA should **always** be informed at once (copying the Director Budget Office (MFEI) giving the necessary details (i.e. amount remaining and amount required {in cash} and for which project).
9. Permanent Secretaries are reminded that the Cohesion Fund vote cannot be accessed for any other reason/operation other than those approved.

11.4 Eligibility of Costs

- Expenditure incurred shall be eligible for assistance as from the date on which the Commission receives the complete application. An application shall be considered complete where it contains the information in Article 10(4) of Regulation EC No 1164/1994. Applications were submitted to the European Commission by Malta on 21st September 2004 for the Environment project (CCI 2004 MT 16 C PE 001), on 30th September 2004 for the Transport project (CCI 2004 MT 16 C PT 001) and on 26th October for the Technical Assistance project.
- Costs are approved costs as per Commission Decision and listed in the approved budget breakdown. In case of doubt, contact the Programme Manager at the MA or IB.

11.5 Invoice Payment Process

10. **Stakeholders involved in the payment process (FB, line Ministry (EU Affairs Director and Accounting Officer and Treasury) are to ensure that the payment process moves in the shortest time possible since Malta will only be able to draw funds from the Commission on the basis of payments effected by the FB to the contractor.** It is the responsibility of the project leader to ensure that invoices are sent in time and correctly (first time round) in order not to slow down the process.

	Function	Responsible Body
1	<p>Issuing/ Receiving Invoices</p> <p>In principle, all contracts/invoices/payments shall be made in Euros (€).⁴</p> <p>The contractor shall issue the invoice according to stipulations in the contract and deliver it to the FB.</p> <p> In every invoice the VAT element is to be presented separately. The VAT number must also be put down in the invoice.</p> <p>Whenever the FB receives an invoice for the first time from a contractor, the Treasury requires that the FB should request that the contractor fills in a Financial Identification Form (FIF) (draft template Annex 2.3, TR/S 9), wherein the FB will provide the Treasury with adequate information on the contractor for the proper execution of a bank credit transfer. This solution is applicable to both local and cross-border payments. The Treasury reserves the right to contact directly the contractor to obtain the information required in the FIF template.</p>	Contractor (sending)/ Final Beneficiary (receiving)
2	<p>Regular Payments</p> <p>The FBs and the Line Ministry are to ensure that invoices are received and payments processed in the shortest time possible.</p>	Final Beneficiary
3	<p>Certifying Works/Services/Goods</p> <p>The FB shall certify work prior to forwarding the invoice and Invoice Status Certificate (ISC) to the line Ministry. (The ISC is printed from the EU Structural Funds Database and a sample is attached under Section 11.7 of this chapter).</p> <p>In this regard, the FB shall:</p> <p>a. validate the invoice – validation implies that the data on the invoice is</p>	Final Beneficiary

⁴ A foreign company may ask for payments to be made in another currency however prior authorisation from MFEI is necessary. The request made by the relevant Permanent Secretary is to be addressed to PS MFEI copied to MA, PA, Treasury, Department of Contracts and IB (if applicable).

⁵ (Note: with regards to the payment of VAT, the VAT Department is to be contacted by the FB once contractor/s are known).

	<p>correct. The FB shall ensure that the following data items are included in the invoice raised and that the information is accurate and correct:</p> <ul style="list-style-type: none"> - date (as agreed in contract); - line item; - quantity; - amount; - the VAT element is included in the bill as a distinct component of the total⁵; - the invoice is addressed to the FB and issued by the company that is awarded the contract. Invoices should not be issued by subsidiary companies. The company that issues the invoice must be identical to the name of the company listed in the contract. <p>b. ensure that the invoice is based on and reflects the financing plan as stated in the respective contract;</p> <p>c. verify the delivery (including quality) of the supplies, works and/or service (except where the invoice refers to an advance payment);</p> <p>d. confirm compliance with Community and national rules.</p> <p>The FB shall complete the checklist on the ISC [the checklist is a means of confirming that all the above checks (a-d) were carried out. The ISC checklist can be found in Section 11.7 of this chapter and sign it. The original invoice and ISC are transmitted to the line Ministry;</p> <p>Before transmitting the ISC to the line Ministry, the FB shall mark the status of the ISC as complete in the <i>Insertion of Invoice</i> and <i>Certify Works FB</i> sections in the invoice payment process on the EU Structural Funds Database and scan the Invoice and place it on the EU Structural Funds Database. Invoices and ISC should not be sent to the Line Ministry prior to updating of the SFD. The invoice and ISC should be sent to the respective Line Ministry together with all the necessary documentations.</p>	
4	<p>Authorising Payment</p> <p>The line Ministry shall confirm the checks made by the FB and sign the invoice and the ISC prior to authorising payment.</p> <p>The signature on the Invoice Status Certificate by the line Ministry entails that the line Ministry:</p> <ul style="list-style-type: none"> a. confirms that the FB carried out the relevant checks and has completed the ISC as required; b. confirms that adequate controls exist at the FB to ensure that the technical implementation of the project is being monitored; c. completes the relevant checklist on the ISC; d. ensures that the commitment and debit advice are raised through DAS. This task shall be carried out by the accounting officer but the EU 	<p>EU Affairs Directorate of the line Ministry</p> <p>Accounting Officer of the line Ministry</p>

Affairs Directorate shall ensure that the commitment has been made:

Tasks and Responsibilities – Accounting Officer

Step 1 - Request Commitment

The commitment request routine is the first stage of the commitment cycle wherein, accounting officers in line Ministries must insert ample description of the goods or services required by the FB, the prospective contractor and the total cost involved.

Although, in principle, a single commitment cannot accommodate more than one contractor, even if the supply or service may have similar characteristics, the Accountant General may direct otherwise, as referred to in Article 28 of Chapter 174 of the Laws of Malta. However, payments expressed in foreign currency can only be dealt with individually.

Step 2 - Procure Commitment

The procure commitment routine enables accounting officers to ascertain that the details of the commitment are correct before authorisation is granted for advancing the commitment to the next stage.

Step 3 - Soft Commitment

The *soft commitment* shall be considered as a pivotal stage in the whole process of the commitment cycle. In this stage accounting officers must allocate the relative expenditure to the specific account – Cohesion Fund account in the estimates (7174 under capital expenditure).

Special attention needs to be taken into account whenever expenditure cannot be covered by existing provisions allocated under the budgetary estimates for that purpose. Any potential budgetary implications should be immediately brought to the attention of the competent authorities (MA/IB/copied to the Budget Office MFEI) for remedial action. Failure to properly manage EU related spending may result in severe delays in payments.

Step 4 - Hard Commitment

This final routine sets the type of purchase document required and consolidates the commitment cycle. In order to prevent the misuse of funds, the creation of a new transaction type was envisaged. As a result, a new code, specifically for the Cohesion Fund related payments, was introduced within the system – 08. It is therefore recommended that, prior to proceeding to the 'print document' routine, accounting officers ascertain that the correct document type is selected.

Accounting officers are responsible for the propriety, regularity and accuracy of the payments they authorise. In this regard, desk instructions are laid out to give guidance on the principles to be observed prior to submitting documents to the Treasury for payment execution.

	<p>Furthermore, Accounting Officers shall:</p> <ul style="list-style-type: none"> • check that a valid invoice or similar demand for payment has been presented and this corresponds to the commitment. Whenever significant disparities are recognised, accounting officers are responsible for taking remedial action, and if necessary, produce a fresh commitment at once. • ascertain that the provisions on the treatment of VAT has been thoroughly observed. Further guidance can be sought from the Treasury or the VAT Department. • where a single commitment is created in order to accommodate more than one contractor, a detailed list (refer to draft template Annex 2.1 {TR/S-1}), giving appropriate account of every individual payment, shall complement the commitment document. • debit the EU share of the net eligible cost of the invoice under 7174 EU sub-item and the Malta share of the net cost plus total VAT cost, where this is not part of the net cost where it's not eligible, under 7174 Malta sub-item. The EU and Malta share are indicated in the Commission Decision and the Structural Funds Database (except where VAT is considered to be an eligible cost when the procedure outlined under point 7 of section 11.3.1 above). <p><i>Step 5 – Transmission of documents</i></p> <p>The line Ministry shall send the original Invoice, debit advice and ISC to the Treasury authorising payment. A copy of these documents shall be kept by the line Ministry. Treasury reserves the right to refer documents back to the relevant Line Ministry for correction.</p> <p>Before transmitting the ISC to the Treasury, the line Ministry shall mark the status of the ISC as complete <i>Confirmation Line Ministry</i> in the Invoice Payment section of the EU Structural Funds Database.</p> <p>The EU Affairs Directorate is responsible for:</p> <ul style="list-style-type: none"> • liaising with the accounting officer with regard to the preparation of the required documents, • signing the relevant checklist on the ISC (already signed by the FB); and • ensuring that TR/S-1 (Annex 2.1) has been duly filled in; • transmitting all documents to the Treasury. <p>A copy of the ISC is attached in Section 11.7 of this chapter.</p>	<p>EU Affairs Directorate/ Accounting Officer/DCS</p>
5	<p>Effecting Payment</p>	

⁽⁶⁾ Chapter 174 of the Laws of Malta and Subsidiary Legislation 174.01 laying down general provisions regulating the receipt, control and disbursement of public moneys, to provide for the audit of accounts in relation thereto, and to provide for other matters connected with or incidental to the purposes aforesaid.

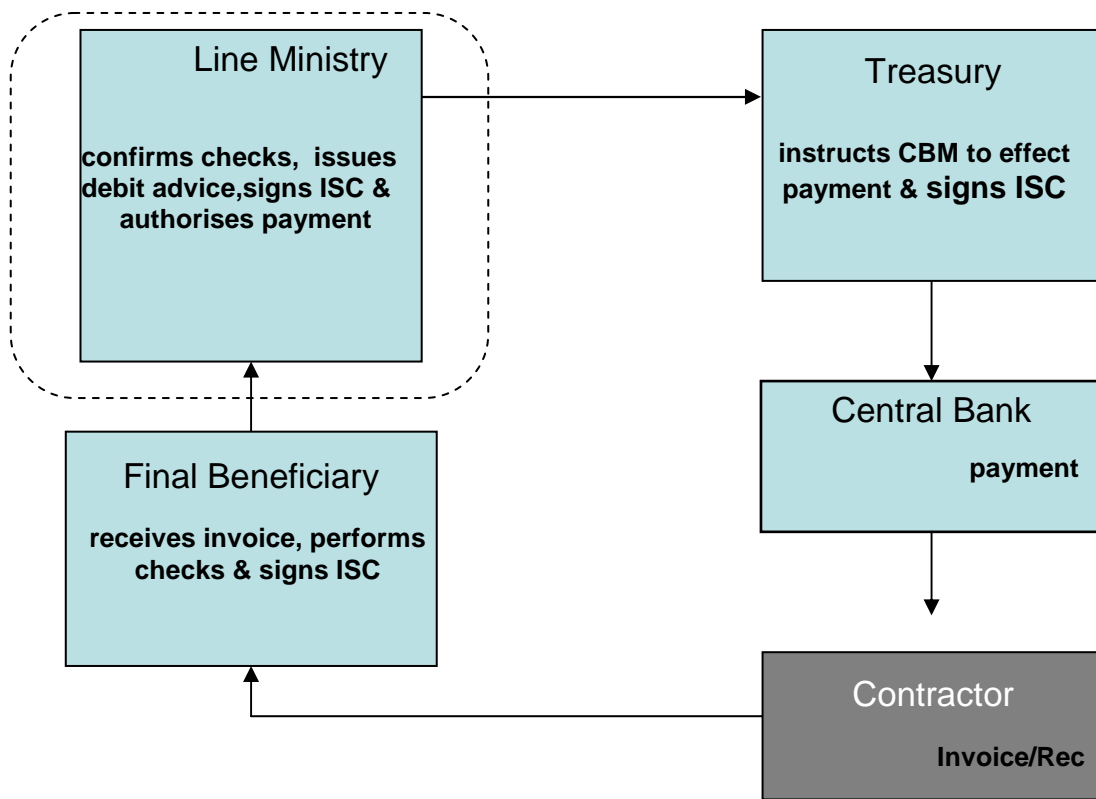
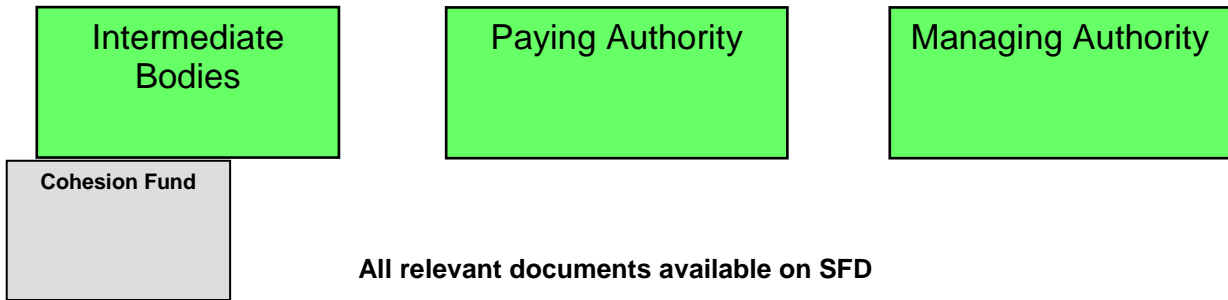
⁽⁷⁾ Chapter 406 of the Laws of Malta laying down general provisions for the imposition of a value added tax in place of an excise tax system on imports, products and services.

<p>Following the receipt of the relevant documents from the line Ministry, the Treasury shall:-</p> <ul style="list-style-type: none"> • confirm that the original invoice and ISC are validated by the FB and EU Affairs Directorate respectively. • ensure that the expenditure has been approved by the accounting officer and the commitment is in accordance with any agreed contract or other documentation governing the transaction. • determine the correctness of the commitment. In this regard, the commitment and invoice must have common recipient names, similar VAT identification numbers and analogous amounts. In those exceptional circumstances where a commitment is made out with the normal procedures, i.e. payment of grants, a corresponding list of (recipients), as set out in draft template Annex2.2 TR/S-2), must be included. • check that the claim and/or invoice is arithmetically correct. • ensure that the invoices comply appropriately with legislative requirements particularly to those contained in the Financial Administration and Audit Act⁽⁶⁾ and the Value Added Tax Act⁽⁷⁾. • ensure that the commitment has been raised out of the appropriate incidence of charge – Budget line 7174 (Capital)– and that the VAT treatment is correct. • ascertain that any VAT payable directly by the line Ministry on behalf of the contractor has in effect been settled (in line with the last bullet under point 11 of section 6.4.1). A sufficient proof of payment must be provided promptly. • confirm that the line Ministry has performed the required data entry in the EU Structural Funds Database. <p>On completion of these checks and provided that the above conditions are adequately met, the Treasury shall proceed with the relevant payment. The Treasury will:-</p> <ul style="list-style-type: none"> • certify the Invoice Status Certificate; • create the required document for transferring funds from the Public Account to the ad-hoc CBM Funds account; • prepare the necessary documents for payment execution on the prescribed CBM forms – Debit Advice; Funds Transfer and Bank Draft; • determine the authorised signatories in accordance with approved bank mandates; • prior to submitting documents to the Central Bank of Malta (CBM), through an automated IT system, consolidate all payment documents in one statement. At the point of entry, a unique number will be allocated to every document. Upon receipt of documents the CBM shall acknowledge and return a copy of the statement to the Treasury; <p>The Treasury, after making the relevant checks in line with the national procedures, will instruct the Central Bank of Malta (CBM) to debit the relevant account and issue a CB debit advice.</p>	<p>Treasury</p>
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	<p>The Treasury shall scan the Invoice Status Certificate (signed by FB, the line Ministry and Treasury) and copy it into the EU Structural Funds Database.</p> <p>The Treasury shall keep the original invoice and ISC in the relevant file. A copy of the signed ISC will be scanned by Treasury and posted on the SFD.</p>	
6	<p>Role of the Central Bank of Malta</p> <p>The Central Bank shall issue a CBM debit advice for all relevant payments and forward it to the Treasury</p>	CBM
7	<p>Suspension/Interruption/Withholding of Payment</p> <p>The responsibility for necessary corrections rests with line Ministries and, should there be proposals for payment which do not meet these requirements or which depart from the normal rules or procedures, the Treasury reserves the right to refer documents back to the relevant line Ministry for correction.</p> <p>Should an irregularity be detected funds may be suspended, interrupted or payments may be withheld.</p>	Treasury
8	<p>Post-Payment</p> <p>Following the receipt of the CBM Debit Advice, the Treasury shall:</p> <ul style="list-style-type: none"> • update DAS as necessary; • perform a bank reconciliation exercise as quickly as possible and certainly not later than 15 clear days following the date of receipt of the statements of accounts; • ensure that all accounting records and supporting documents are maintained appropriately and in an organised manner as to facilitate audit controls; • insert the relevant data in the SFD immediately upon receipt of the debit advice issued by the CBM confirming payment. This information is available for review by all bodies and is particularly important in relation to the Statement of Expenditure. Each Statement of Expenditure printed from the EU Structural Funds Database shall only include expenditure for which the notification of issue of the CBM debit advice is inserted in the database; • send a copy of the CBM debit advice to the FB. 	Treasury
9	<p>Bank Transfers vs Cheques</p> <p>Rather than effecting payments directly out of the Departmental Accounting System, the Treasury has opted to disburse and account for payments in individual bank accounts of the contractors by bank transfer. Nevertheless, these accounts shall form part of the Public</p>	Treasury

	<p>Account proper.</p> <p>On the basis of the information available, the Treasury shall instruct the CBM to effect a bank credit transfer. In case where a bank transfer is not possible, the Treasury will instruct CBM to issue a cheque.</p> <ul style="list-style-type: none"> ✚ It is important to note that it is highly recommended that FBs strongly encourage the use of bank credit transfers as this will ensure a smooth flow of funds and an efficient arrangement for the transmission of payments. ✚ It is important to note that the issue of cheques will only be carried out in exceptional circumstances and with prior approval of the Accountant General. ✚ In this respect, further guidance regarding banking matters can be specified at contracting stage. In practice, Special Conditions – Terms of Payment, can ask for the minimum requirements needed to ensure an adequate level of banking information for the execution of payments. A typical example can be:- 	
10	<p>Receipt</p> <ul style="list-style-type: none"> ✚ It is important to note that once the Treasury instructs the CBM to issue payment via a bank credit transfer to the contractor, the Treasury will issue a letter to the contractor informing that payment has been effected indicating: <ul style="list-style-type: none"> - the CBM reference number of the transaction; - the value date; - the name of the Bank and the bank branch; - the account number; - the contractors address; - the Line Ministry responsible for the project; - and the title of the project. ✚ In the case of payment being effected by a cheque, the Treasury will ask the contractor to collect the cheque by hand from the Treasury and the contractor will be asked to sign a receipt which confirms that payment has been received. ✚ It is the responsibility of the FBs to ensure that upon receipt of payment contractor issues a receipt confirming that payment has been effected. The receipt should include VAT where applicable. ✚ It is important to note that the contractor must issue a receipt within 3 to 5 days of receiving payment. 	<p>Treasury</p> <p>Treasury</p> <p>Treasury</p> <p>FB</p> <p>Contractor</p>

11.6 Payment Process



11.6.1 Payment Process – Salaries

11. In case of payments consisting of salaries (e.g. employment contracts), in principle these should be processed in the normal manner (from the salaries vote of the organisation). Every quarter there should be a replenishment from the Cohesion Fund vote of the project concerned (under which the person has been contracted) to the salaries vote of the organisation (from where the payment to the contractee was made) so that ultimate impact is on the Cohesion Fund item. It is important to note that all contracts should be scanned into the SFD for payments to proceed. For ad hoc instructions please refer to the Treasury contact person (section 2.8 of chapter 2 of this MoP).

12. In the case of FBs employing persons on an employment contract basis to implement the Cohesion Funded project, the FB will issue the salary of such people from the FB's salary vote or account. The FB should then prepare (as often as the FB wants but **at least once every quarter**) an Invoice Status Certificate together with proof of payment of salary for reimbursement from the Treasury. In the case of ministries/departments, the Treasury will only transfer money from the 7174 vote to the salary vote of the FB concerned. In the case of a corporation, the Treasury will issue a reimbursement for the 7174 vote to the corporation's account.

11.7 Invoice Status Certificate (SAMPLE)

INVOICE STATUS CERTIFICATE (ISC)

Invoice Details

Certificate Date	Invoice Date
Invoice Number	VAT Number
Contractor	
Address	
Accounts Number	Bank
Invoice Amount (MLT)	VAT Amount (MLT)
Remarks	

Invoice Lines

Description / Remarks	Amount	VAT	Total Amount
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Contract Information

Contract Level Number	Contract Date
-----------------------	---------------

Guarantees

Date / Remarks Type	Executed	Date
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Project Execution Indicators

Indicator
Status
Target

Payment Request Information

Planned Date
Conditions
Remarks

Checklist – Final Beneficiary

Is the original Invoice attached?	Yes/No
Validation of Invoice:	
Is the Invoice based on the contract of the approved project as endorsed by Commission Decision on:	
– the environment project: CCI 2004 MT 16 C PE 001 of 27 th December 2004	
– the transport project: CCI 2004 MT 16 C PT 001 of 7 th 2005?	
– the technical assistance project: CCI 2005 MT16 CPA001 of 19/12/2005?	Yes/No
Does the Invoice reflect the schedule of payments in the respective contract?	Yes/No
Is the contract still valid?	Yes/No
Are the following details on the Invoice all correct: date, line item, quantity, amount, contractor's details (including Bank account Name and Number), VAT element?	Yes/No
Delivery of product / service:	
Unless the Invoice is for an advance payment, have the works/products/services been delivered according to contract	Yes/No

specifications?	
Compliance with National and Community rules:	
Have all National and Community rules, including the Public Contracts Regulations of 2003 (LN 229 of 2003 and subsequent amendments) and Commission Regulation (EC) No 16/2003 on Eligibility been complied with?	Yes/No
Is the line item on the Invoice eligible according to Commission Regulation (EC) No 16/2003?	Yes/No
Signature:	Date:

Checklist – Line Ministry / EU Affairs Director	
Ensuring that the Final Beneficiary carried out the required checks:	
Has the Final Beneficiary carried out the required checks and completed the ISC as required?	Yes/No
Have all National and Community rules, including the Public Contracts Regulations and Commission Regulation (EC) No 16/2003 on Eligibility been complied with?	Yes/No
Does the payment correspond to a valid contract?	Yes/No
Has the Final Beneficiary input a copy of the Invoice into the SFD?	Yes/No
Has the Final Beneficiary confirmed the status of the <i>Insertion of Invoice</i> and <i>Certify Work</i> as complete on the SFD?	Yes/No
Raising the Commitment (Debit Advice):	
Has the Debit Advice been raised through the DAS by the Accounting Officer of the relevant Ministry?	Yes/No
Does the Debit Advice and the Invoice have common recipient names, common corresponding VAT identification numbers and analogous amounts?	Yes/No
Has the Final Beneficiary inserted a copy of the Invoice in the SFD?	Yes/No
Confirmation of Checks by Line Ministry on SFD	
Upon confirmation of the above, has the Line Ministry confirmed the status of <i>Confirmation by Line Ministry</i> as complete on the SFD?	Yes/No
Signature:	Date:

Checklist – Treasury	
Checking the Invoice and ISC:	
Has the original Invoice been validated by the Final Beneficiary and has a Debit Advice been issued by the Line Ministry?	Yes/No
Have the Final Beneficiary and the EU Affairs Director completed the ISC and signed it?	Yes/No
Confirming the Commitment:	
Is the Debit Advice issued by the Accounting Officer in the Ministry accurate?	Yes/No
Has the Commitment been produced out of the correct incidence of charge – budget line?	Yes/No
Is the Invoice in line with National rules as set out in SL 174.01 and Cap 406?	Yes/No

SFD:	
Have the Final Beneficiary and the EU Affairs Director marked the status of the ISC as complete in the relevant section of the SFD?	Yes/No
Instructing CBM to transfer funds:	
Have the required documents for transferring funds from the Public Account to the CBM and ad hoc funds account been prepared and forwarded to CBM?	Yes/No
Have the required payment documents been forwarded to CBM to issue payment to the contractor?	Yes/No
Uploading the ISC:	
Has the complete ISC with all signatures been uploaded onto the database by the Treasury?	Yes/No
Signature:	Date:

Please note that a standard ISC is utilised in the SFD for both Structural Funds and the Cohesion Fund. Since there are only three projects co-financed through the Cohesion Fund, the standard ISC makes reference to the Structural Funds Regulations. For ease of reference, the above is a sample ISC listing the Cohesion Fund Regulations which the relevant stakeholders of the Cohesion Fund should refer to.

11.8 Treatment of VAT

11. Before finalising a contract, the FB should refer to the VAT presentation which was delivered by officers of the VAT Department on 3rd December 2004 to see under which section of the VAT legislation, the contract falls. The VAT presentation can be downloaded from the PPCD website: <http://ppcd.gov.mt> and click on Useful Links and Downloads.
12. It is highly recommended that the FB contacts the VAT Department to seek clarifications on issues related to VAT to make the necessary arrangements for the payment of VAT.
13. VAT is an eligible expenditure for the transport project but not for the environment project and TA project.
14. In the case of the environment project, the FB should note that the VAT component should be charged to the 'Malta Funds' budget item. In case of the transport project, every payment (inclusive of VAT) should be made to the EU and Malta funds items in line with the co-financing rate of the project.
15. In the case of contracts awarded under the environment project, payments with a value of €931,750 (net of VAT) and over, the FB should contact the VAT Department to make the necessary arrangement for VAT.
16. The FBs are to ensure that foreign contractors that should be registered in Malta, have in fact registered and have a VAT certificate.
17. Guidance notes on VAT issues can be downloaded from www.vat.gov.mt For further assistance on the issue of VAT, Final Beneficiaries are kindly asked to contact:

Mr. Joseph Sammut
(Director General)
VAT Department
Centre Point Buidling
Ta' Paris Road Birkirkara CMR 02
Tel: 21 499311
Fax: 21 499365
Email: vat@gov.mt
Website: www.vat.gov.mt

18. Any clarifications should be submitted in writing (even e-mail) and should be copied to the relevant Programme Manger at the MA, IB, PA, the DOC and Assistant Director (Capital Expenditure) MFEI.

12. Drawdown of Funds from the European Commission

12.1 Commission Decision

1. The Commission Decision shall require the Member State to implement the project in a way which is compliant with Community and national rules.

12.2 Statement of Expenditure by project and Declaration:

12.2.1 Statement of Expenditure by project

2. **FBs and Line Ministries are to ensure that invoices are received and payments are processed in the shortest time possible.** The MA will periodically issue proposed schedules for the verification/certification process.

☛ Failure to ensure that payment procedures are initiated and processed efficiently will result in Malta losing funds.

3. Upon request, each FB shall prepare a SOE (which is downloaded from the SFD) including the payments for which a CBM debit advice was issued since the last verification. This SOE is downloaded from the SFD.
4. The Statement of Expenditure shall be accompanied by a Declaration (section 12.2.2 of this Chapter) stating that all relevant tasks and checks were fulfilled. Both the Statement of Expenditure and the Declaration shall be signed by the Final Beneficiary:

The signature entails that:

- a. no irregularity concerning the expenditures included in the Statement of Expenditure was detected;
 - b. the relevant checks concerning each invoice were carried out and that the Invoice Status Certificate for each expenditure included in the Statement of Expenditure was adequately completed and filled in (a copy of the ISC including signatures of the Final Beneficiary, the line Ministry and the Treasury will be available on the EU Structural Funds Database).
5. The signed Statement of Expenditure **for every project prepared by the FB** shall be sent to the Intermediate Bodies for Environment, Transport and TA.

12.2.2 Declaration by the Final Beneficiary

I declare that:

- all products/works/services relevant to the attached Statement of Expenditure have been delivered according to contract specifications;
- all expenditures were incurred for the implementation of the project entitled _____, project number _____, of the Commission Decision _____;
- all expenditures were incurred in terms of the Decision issued by the EU Commission;
- no uncorrected irregularity concerning the expenditures included in the attached Statement of Expenditure was detected;
- the audit trail pertaining to my organisation were maintained;
- the relevant checks concerning each invoice were carried out and that the Invoice Status Certificate for each expenditure included in the Statement of Expenditure was adequately completed and filled in;
- national and Community rules were followed and all expenditures included in the Statement of Expenditure are eligible and in line with the approved project and the relevant Commission Decision ;
- all relevant documents are filed according to Chapter 15 of the Manual of Procedures – Retention of Documents.

Project Leader

Date

12.2.3 Statement of Expenditure by Respective Intermediate Body

6. The signed Statement of Expenditure by project together with the Declaration prepared by the FB shall be sent to the Intermediate Bodies within the established deadlines.

10. Statements of Expenditures and the relevant Declarations (by the FB and IB) shall be forwarded to the MA. The MA shall forward all Statements of Expenditure to the Paying Authority.

- 11. NOTE: Failure to comply with the deadlines of the verification process deadlines will result in Government of Malta not being able to recover funds already spent by the National Budget.**

12.2.4 Declaration by the Intermediate Body

**To: Planning & Priorities Co-ordination Department
Office of the Prime Minister**

From: (Insert details of the IB)

SUBJECT: Cohesion Fund 2004-2006 Statement of Expenditure: (insert date of SOE Verification process)

Dear ,

Reference is made to the attached Statement of Expenditure by Project for the Project entitled, '**(insert name of the project)**' (SFD Ref Nos:).

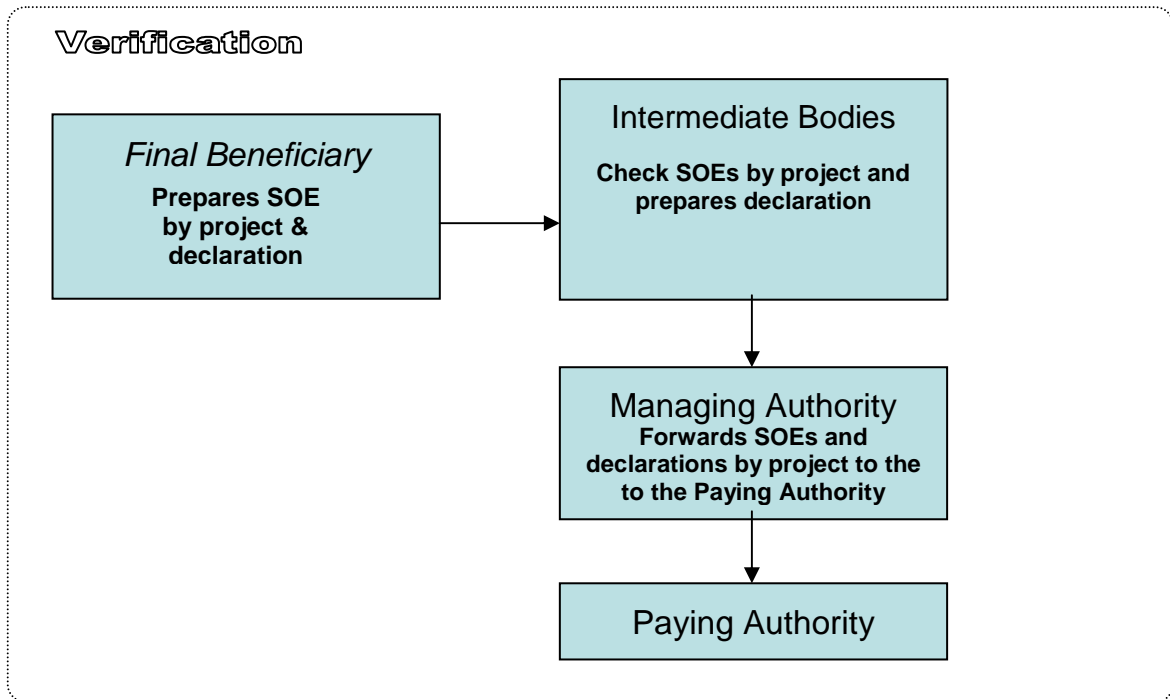
The Ministry (please insert name of Ministry), which is the Intermediate Body for the above mentioned project, would wish to declare that:

- The Amounts included in the Statement of Expenditure by measure are an aggregation of all invoices of the relevant project(s), for which a CB debit advice was issued during the relevant period and corresponded to the Statement(s) of Expenditure by project prepared by the respective Final Beneficiary;
- The audit trail as maintained and an Invoice Status Certificate supporting each Invoice has been uploaded onto the Structural Funds Database;
- No uncorrected irregularity concerning the expenditures included in the attached Statement of Expenditure was detected;
- National and Community rules were followed and all expenditure included in the Statement of Expenditure are eligible;
- Where on-the-spot checks were carried out, the reports for these checks are available on the Structural Funds Database;
- All relevant documents are filed according to the Chapter on Retention of Documents in the Manual of Procedures

HEAD IB

Date

12.3 Verification Process



12.4 Certification

13. The Paying Authority shall perform the **certification process** according to Article 8 of Commission Regulation (EC) No 1386/2002, every time a request for reimbursement is made to the Commission. Such request for payment shall be made at least three times a year.

This process shall be undertaken in two stages which in effect are inter-related:

12.4.1 – Validation

14. The Validation Officer in charge of a particular fund within the EU Paying Authority shall:
- a) Review all relevant documentation, namely:
 - statements of Expenditure and the attached Declarations received from the MA;
 - the invoices and Invoice Status Certificates;
 - the reports on the on-the-spot checks carried out by the MA (or the IB on its behalf).
 - b) print out the Statement of Expenditure by project (based on Annex II to Commission Regulation (EC) No 1386/2002) from the Structural Funds Database and ensure:
 - that every expenditure in the Statement of Expenditure is supported by the Statements of Expenditure by project and the relevant Declarations provided by the MA and Intermediate Bodies;
 - that a CBM debit advice has been issued for every expenditure therein;
 - that every expenditure was actually effected within the eligibility period;
 - that every expenditure was incurred in operations that were selected for funding and are in line with the Commission Decision;
 - compliance with all relevant national and Community rules, especially Commission Regulation (EC) No 16/2003 on eligibility of expenditure.
15. Once the above points have been satisfied, the validation officer fills in the relative checklist (Annex 1.7 Checklist for Certification Stage I), signs and dates it. The Checklist together with the relevant documentation is submitted to the Assistant Director who makes the necessary counter checks and signs the checklist. All the relevant documentation is then passed on to the

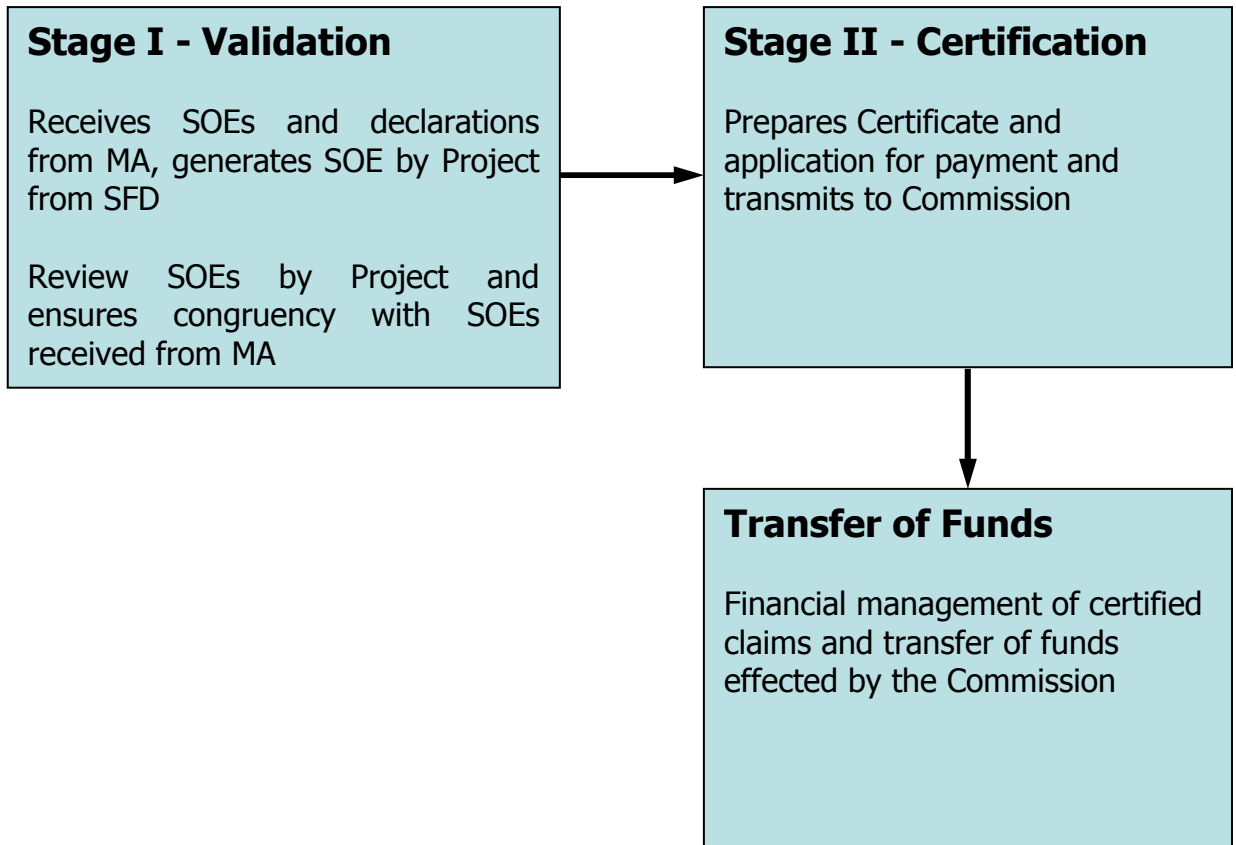
Certifying Officer to prepare the Certificate and Application for Payment in accordance with Annex II to Commission Regulation (EC) No 1386/2002.

12.4.2 – Certification

16. Following the first stage, the PA-Certifying Officer shall issue the Certificate and the Application for Payment in accordance with Annex II to Commission Regulation (EC) No 1386/2002.
17. In accordance with Article 8 of Commission Regulation (EC) No 1386/2002, the Certifying Officer shall draw up the Certificate of Expenditure against the Statement of Expenditure and Declarations. Prior to drawing up the Certificate, he/she has to be satisfied that operations are progressing in accordance with the objectives laid down in the granting Decision and observed that the MA, Intermediate Bodies and the implementing body have fulfilled the requirements of Council Regulation (EC) No 1164/94, particularly with regard to:
 - Compliance with the provisions of the Treaty and instruments adopted under it with Community policies, in particular the rules on competition, procurement regulations and environmental protection;
 - Application of management and control procedures to the assistance;
 - In accordance with Article G(3) of Annex II to Council Regulation (EC) No 1164/94, as amended by Article 1(7) of Council Regulation (EC) No 1265/1999, all the supporting documents shall be available for a minimum period of three years following payment of the balance by the Commission;
 - The annual report of the respective project has been sent to the Commission by the MA;
 - If any recommendations on management have been made by the Commission under Article H(1) of Annex II to Council Regulation (EC) No 1164/94, as amended by Article 1(8) of Council Regulation (EC) No 1265/1999, and whether these have been followed;
 - If any requests for corrective measures on controls have been made by the Commission under Article 12 of Council Regulation (EC) No 1164/94, as amended by Article 1(10) of Council Regulation (EC) No 1265/1999, and whether these measures have been applied;
 - None of the certified expenditure has been suspended under Article 17 of Commission Regulation (EC) No 1386/2002;
18. Without prejudice to the on-the-spot checks which the PA Certifying Officer may carry out from time to time, such assurances would emanate from the documentation and declarations submitted by the MA. Also, in view of the fact that the PA attends the Monitoring Committee meetings, the PA will be sent a copy of the monitoring tool prior to every Monitoring Committee meeting.

19. The PA Certifying Officer shall also complete the Application for Payment (Annex II of Commission Regulation (EC) No 1386/2002). The PA Certifying Officer shall ascertain the status of:
 - The Commission Decision and the date when it was adopted;
 - The latest annual report/final report on implementation;
 - Any follow-up to recommendations for improving the monitoring and management arrangements made by the Commission;
 - Follow-up to requests for corrective measures.
20. Other requirements that the PA Certifying Officer has to take account of are:
 - Decisions of the MA and the MC are consistent with the total amount of Cohesion Fund contribution;
 - Whether certified expenditure has been suspended pursuant to Article 17 of Commission Regulation (EC) No 1386/2002.
21. Finally the PA Certifying Officer has to deduct any recoveries affected since the previous certified statement of expenditure. It has to be ensured that account of such recoveries are taken in the Statement of Expenditure and Certificate being drawn up and that the Appendix for recoveries (Annex II to Commission Regulation (EC) No 1386/2002) is duly completed and attached to the former documents and the debtors ledger system updated. .
22. The PA Certifying Officer shall complete the Certification Checklist (Annex 1.8 Checklist for Certification – Stage II) and endorse accordingly.
23. The Statement of Expenditure by project, the Certificate and the Request for Payment shall be sent to European Commission through the Structural Funds Database.
24. Subject to available funding, the Commission shall make interim payments to the relative bank account at the Central Bank of Malta within no more than two months of receipt of an acceptable payment application from the PA.
25. It is important to point out that the verification and certification process is the basis on which the claim for reimbursement of funds can be made to the EU Commission. Thus all bodies involved in this process are to ensure that the steps outlined above are followed in a correct and transparent manner.
26. Errors committed may result in delays in the certification process which could have serious implications on the automatic decommitment of the funds.

Certification Process: EU Paying Authority



12.5 Payment from the European Commission

27. In accordance with Article D of Annex II to Council Regulation (EC) No 1164/94 as amended by Article 1(4) of Council Regulation (EC) No 1265/1999, Payments from the European Commission can consist of:
- Payment on account
 - Interim payments
 - Payment of the final balance
28. All the responsible applications are prepared by the responsible line Ministry and forwarded to the PA.
29. **Payment on Account** – a single payment on account of 20% of the Fund assistance shall be paid when the granting Decision is adopted and, except where duly justified, after signature of the contracts relating to public procurement. All or part of a payment on account shall be repaid by the PA if no payment application is sent to the Commission within 12 months from the date on which the payment on account is paid.
30. **Interim Payments** - Interim Payments are made by the Commission on the basis of certified expenditure applications from the PA and are subject to a number of conditions, including the submission by the MA of the annual progress reports being submitted at the appropriate times. Interim payments are made to reimburse the Government with the EU component of the actual expenditure incurred by final beneficiaries and certified by the PA. The detailed conditions are specified under Article D(2)(b) of Annex II to Council Regulation (EC) No 1164/94 as amended by Article 1(4) of Council Regulation (EC) 1265/1999.
31. In accordance with Article D(5) of Annex II to Council Regulation (EC) No 1164/94 as amended by Article 1(4) of Council Regulation (EC) No 1265/1999, the Commission has indicated that, as far as possible, payments should be grouped three times a year. The specification of dates assists the Commission in anticipating payment demands.
32. The PA must ensure that in accordance with the Commission Decision on environment, the total amount of the payments of the advance and the interim payments for all instalments may not exceed 80% of the total assistance.
33. The PA must ensure that in accordance with Commission Decision on transport, the total amount of the payments of the advance and the interim payments for all instalments may not exceed 80% of the total assistance granted.

34. The PA must ensure that in accordance with Commission Decision on technical Assistance, the total amount of the payments of the advance and the interim payments for all instalments may not exceed 80% of the total assistance granted.
35. **Final Balance** - The final balance calculated on the basis of expenditure certified and actually paid shall be paid provided that the specific conditions under Article D(2)(d) of Annex II to Council Regulation (EC) No 1164/94 as amended by Article 1(4) of Council Regulation (EC) No 1265/1999 are met. This is paid once the Paying Authority submits a certified statement of expenditure following the submission of the final implementation report by the MA. An independent statement of assurance (winding-up declaration) summarizing the adequacy of control checks carried out is also required for closure of the programme (Articles 13-15 of Commission Regulation (EC) No 1386/2002). The winding up declaration is compiled by the IAID.
36. A final report shall be submitted to the Commission within six months of the physical completion of the project and shall be drawn up in accordance with Article F(4) of Annex II to Regulation (EC) No 1164/94.
37. Payment of the balance of Community assistance shall be subject to approval by the Commission of the final report.
38. For further information, please refer to the CF Guidance Notes 1 - 4 that set rules to ensure the respect of the principle of sound financial management with respect to payments for the CF (Please refer to annexes 5.1, 5.2, 5.3 & 5.4).

12.6 Transfer to Central Government Revenue

39. Since the Constitution of Malta stipulates that all money received by the Government of Malta has to be accounted for in the General Public Account, upon receipt of payment from the Commission, the PA ensures that:
- ✚ it issues an official letter authorizing the CBM, in conjunction with the Treasury Department, to debit the CBM Account and credit the Government's Revenue Account in the appropriate revenue Line item;
 - ✚ the official letter bears a double signature as a security requirement, of the persons authorized to perform such duty in relation to the PA Head and the Director General Finance and Administration or those Public Officers delegated with the authority to perform such tasks in the absence of the former two;
 - ✚ the transfer of Funds through a "Transfer Schedule of Payments" is effected; and
 - ✚ subsequent "Receiving Schedule of Payments" evidencing the above mentioned transaction shall be kept recorded in the relevant PA file.

12.7 Forecasts

40. A forecast of payments for the current year and the following year will be sent to the Commission by not later than 30 April of each year. This exercise will be carried out by the Paying Authority with the support of the MA.

13. Audit & Control

13.1 Introduction

1. This section is concerned with financial control procedures for EU co-financed expenditure. The framework for proper financial management, control and audit is set out in Council Regulation (EC) No 1164/94 and Commission Regulation (EC) No 1386/2002.
2. Internal Control – It is Management’s responsibility to put in place and maintain arrangements (i.e. control systems) to ensure the proper management of the Funds. It is the responsibility of each management level in the cascade (FB, Line Ministry, IB, MA, PA) to ensure that there are adequate internal control systems not only at their own level, but also at the level below.

13.2 Financial Control Mechanisms

3. Drawing down financing under the Cohesion Fund requires that proper mechanisms of financial control are put in place. Member States must also certify declarations of expenditure and ensure these are accurate and keep the Commission informed of measures taken to prevent, detect and correct irregularities (refer to Reporting of Irregularities, Chapter 14 of this MoP).
4. Systems audit and verification checks are required to trace transactions and validate the declared outputs and expenditure from a project – a clear audit trail is established that allows reconciliation of amounts certified to the Commission with individual expenditure records and supporting documents at various administrative levels. The audit trail was formulated by the MA with the support of the Internal Audit & Investigations Directorate (IAID). The objectives of the audit trail are to ensure that the business procedures utilized follow the steps as described in this MoP.
5. When carrying out an audit, auditors verify the effectiveness of the management and control systems and selectively verify, on the basis of risk assessment, expenditure declarations made at the various levels of the cascade.

Note: The audit trail is described in this MoP. There is also a copy attached to the article 5 questionnaire.

13.3. First Level of Control & On-the-spot checks

6. In accordance with Article 4 of Commission Regulation (EC) No 1386/2002 and as part of the 1st level control, on-the-spot-checks will be carried out by the MA, the IB (on behalf of the MA) and PA and will include both documentary and physical checks as specified in the on-the-spot check templates which can be found in Section 13.3.5, 13.3.6 & 13.3.7 of this Chapter.

7. According to the covenants between the MA and IBs, the IBs will carry out these checks on behalf of the MA, however the MA retains the possibility of carrying out on-the-spot checks itself on the IBs and FBs.
8. When carrying out on-the-spot checks, the MA or IB (on behalf of the MA) must ensure that all the requested information in the on-the-spot checks template is duly filled in.
9. The *controller* must ensure:
 - that the delivery of products and/or services has been carried out;
 - compliance with the audit trail and the retention of all necessary documentation (see Chapter 15, Retention of Documents);
 - compliance with Community and national rules throughout the implementation of the projects;
 - compliance with regulations on information and publicity, procurement, and environment.
10. The checklists in Sections 13.3.5, 13.3.6 & 13.3.7 of this Chapter, shall be used by the MA and/or the Intermediate Bodies in accordance with Article 4 of Commission Regulation (EC) No 1386/2002 during the verification process.
11. On-the-spot checks may be carried out throughout the lifetime of the project.
 - the MA/IB shall inform the FB that an on-the-spot check will take place at least 1 day in advance;
 - The template used during the visit is to be sent to the FB with the notification as to help the FB preparing for the visit;
 - the FB shall be informed of the type of check to be carried out: documentary; physical or both.
12. The on-the-spot check is carried out in the presence of the FB. The FB co-signs the checklist/report drawn up after the visit.
13. **For planning and preparation of the checks, the following tasks have to be considered:**
 - gathering information about the project from the computer system (SFD);
 - gathering all necessary information from the file kept by the MA/IB:
 - Contents of the project;
 - Commission Decision;
 - Financial commitments and payments already made (through SFD);
 - information in writing to the FB at least 1 day in advance about the proposed date for on-the-spot check and the required documents to be presented for checks;
 - Contact relevant authorities, (for example the Department of Contracts/Treasury) for update on project status.;
 - Go through the Structural Funds Database and gather information on the expenditure of the project;
 - Go through the previous on-the-spot report and take note of previous recommendations to verify that these have been followed up by the project leader.

13.3.1 Documentary on-the-spot checks

14. The MA/IB shall ensure that the project is being implemented in respect to sound financial management and to ensure that products/supplies/services are being delivered. The on-the-spot checks shall cover the administrative, financial, technical and physical aspects.
15. The MA/IB shall ensure that the FB's project file includes the following documents:
 - copy of application and relevant correspondence;
 - copy of Commission Decision;
 - original letters of any agreed changes to the project;
 - copies of documents required if procurement does not exceed €2500 as listed in Chapter 15 of this MoP - Retention of Documents;
 - copies of documents required if procurement exceeds €2500 but does not exceed €6000 as listed in Retention of Documents Chapter 15 of the MoP;
 - documents required if tenders falls under Schedule 2 to the Public Contracts Regulations and below the €47,000 threshold as listed in Retention of Documents Chapter 15 of the MoP;
 - documents required if tenders fall under Schedule 2 of Public Contracts Regulations and above the €47,000 threshold as listed in Retention of Documents Chapter 15 of the MoP;
 - a copy of all invoices;
 - a copy of the Invoice Status Certificates (ISC). The ISC should be filled in and signed by the relevant bodies;
 - debit advice from DAS;
 - original letter of guarantees (where applicable);
 - a scanned copy of the completed Statements of Expenditure and attached declarations;
 - inventory of equipment;
 - documentation required in case of second hand equipment as listed in Chapter 15 of this MoP - Retention of Documents;
 - publicity records as listed in Chapter 15 of this MoP - Retention of Documents;
 - a copy of all Monitoring Tool reports and input into annual report;
 - reports on irregularities (incl. Nil Returns);
 - copies of relevant SMSC.

The officer conducting the checks will have to make sure that the delivery of products/supplies/services is in line with:

- Eligibility rules
- Community policies (environment)
- Publicity
- Established timeframes for conclusion of project;
- Schedules of the contracts;

- Issuing of invoices and payments;
- Payment Process;
- Verification Process;
- Disbursement schedules.

13.3.2 Physical on-the-spot checks

16. The MA/IB will carry out a physical on-the-spot check on individual projects to ensure that products/supplies/services of the project undergoing the spot check, have been delivered in accordance with the Commission Decision.

13.3.3 On-the-Spot Checks on IBs

17. The MA reserves the right to carry out on-the-spot checks on the IBs. The MA may carry out a documentary on-the-spot check on the Environment & TA IB and the Transport IB.

18. On-the-spot checks may be carried out throughout the lifetime of the project period.

19. The MA shall inform the IB that an on-the-spot check will take place at least 1 day in advance;

21. The following shall be taken into consideration when carrying out on-the-spot checks:

- copy of project application forms and relevant correspondence;
- copy of feasibility studies and Environment Impact Assessments where applicable;
- copy of the Commission Decision;
- copy of any agreed changes to projects;
- original/copies of Delegation of Authority where applicable;
- copy of Statement of Expenditure for every project;
- copy of declaration attached to the Statement of Expenditure for every project;
- copy of the organisation's organigram
- original report of on-the-spot checks for individual projects if the check has been conducted by the IB;
- receipt of Irregularity Report by the IB from FB which is sent to the MA;
- copies of photographs taken to show that the individual projects have been implemented;
- copy of monitoring tool;
- copy of irregularity report (inc. Nil return);
- relevant checklist (where applicable).

13.3.4 Follow-up Action to On-The-Spot Checks

20. Following an on-the-spot check, the IB/MA shall send a copy of the report to the FB (copied to the EU Affairs Director and the Permanent Secretary of the relevant line Ministry {and the MA if being issued by the IB}) outlining the

findings of the checks and any follow-up action required/being recommended. A copy of the report is uploaded on the SFD by the body conducting the checks.

21. The report will give a deadline for implementation of the action required/recommendation. In the case of non-compliance, the MA may decide to suspend the operation concerned.

13.3.5 Template for documentary on-the-spot checks

This template should be filled in by the MA/IB when carry out a documentary on-the-spot check.

<p style="text-align: center;">DOCUMENTARY ON-THE-SPOT CHECKS REPORT ARTICLE 4 OF REGULATION 1386/2002</p>

<p>For MA Use: OSC/CF/000/2005</p>
--

1.0 General Information

Date:

Place:

Member State: MALTA

Programme Period: 2004-2006

Quarter:

Project No.:

Title of Project:

Final Beneficiary:

Project Leader:

Person representing Project Leader (if PL is not available):

Place of meeting:

The following were present at the meeting:

Comments on Findings:

Proposed Follow-Up and Relevant Deadlines (Corresponding checklist to confirm action taken and finalised):

2.0 Documentation

a. Are all the required documents kept in the project file as requested in the retention of documents Chapter in the Manual of Procedures?			
	Yes	No	N/A⁸
Cohesion Fund Application Form			
Feasibility studies [where applicable]			
Commission Decision			
Any agreed changes to the Commission Decision			
Any related correspondence to the project ⁹			

3.0 Payment Process

Amount of money requested by the Final Beneficiary to the Treasury to date:

Where a sample of Invoice Status Certificates is checked, state %:

Comments:

4.0 Verification Process

Total Cost of Project

EU Funds	Malta Funds	Total

How many verifications have taken place to date? _____

List down the Statements of Expenditure (by project) to date with relevant amounts.

⁸ N/A – Not Applicable

⁹ The retention of these documents depends on the body sending the information. The sender must retain a copy of the letters/documents sent, while the recipient must keep the originals.

Statement of Expenditure (by Date)	EU Funds	Malta Funds	Private contribution (where applicable)	Total

Grand Total amount of claim:

Where a sample of invoices is checked, state %:

Specify amount of expenditure checked:

Invoice No.	Company	Amount	Was the product/service /works delivered to FBs satisfaction?	Reality Check (Physically Checked)	
				Yes	No
Grand Total					

Comments:

5.0 Deliverables

5.1 Studies

	Yes	No	N/A
Were any studies about the project conducted?			

If yes, specify:

5.2 Equipment

	Yes	No	N/A
Does the project have procurement of equipment?			

Please specify what equipment was procured:

	Yes	No	N/A
Documentation of procured equipment listed in inventory			
Does the inventory list include the items separately with the relative details (e.g. serial/identification numbers, department where item is installed, address and certification that item has been inventorised)?			
Amount of EU Grant paid on inventory			

Is the equipment operating on site? Add additional comments below:

	Yes	No	N/A
Is the 'User Acceptance Certificate' filled in and signed?			
5.2.1 Second Hand Equipment			
Declaration by the seller stating origin, and that it has not been purchased within the previous 7 years with the aid of national or EC Grant			

Proof that it does not exceed market value or cost of similar new equipment			
Is the 'User Acceptance Certificate' filled in and signed?			

5.3 Works¹⁰

	Yes	No	N/A
Was the Certification of work done from works supervisor?			
Relevant MEPA approvals/permits/Environment Impact Assessments [where applicable]			

List down all the documentation that is available on works certification to date on the project with relative comments (if any):¹¹

6.0 Public Procurement

	Yes	No	N/A
6.1 Procurement which does not exceed €2,500¹²			
a. Quotations			
OR			
b. Direct from the open market			
- Justification taking into consideration the amount involved, the urgency attached to the procurement & restrictions of choice & availability			
- Approval from the Head of Department			
LPO/Agreement (where applicable)			
6.2 Procurement which exceeds €2500 but does not exceed €6000¹³			
a. Tender -[Required documents are identified under the section "Tenders below the €47,000 threshold"]			
b. Quotations			

¹⁰ This section concerns the reporting done by professionals when certifying works for example reports of architects and engineers. If applicable attach any photos and reports to this report.

¹¹ One may annex copies of these reports to this document.

¹² This applies for both schedule 2 and 3

¹³ This applies for both schedule 2 and 3

- Written approval by Minister or delegate			
OR			
b. Direct from open market			
- Justification taking into consideration the amount involved, the urgency attached to the procurement & restrictions of choice & availability			
- Written Approval by Minister or delegate			
LPO/Agreement (where applicable)			
6.3 Schedule 2 – Tenders BELOW the €47,000 threshold (Departmental Tender)			
Tender Document			
Request and approval for direct order (negotiated procedure)			
Adverts where tenders are made public (e.g. Newspapers, websites, etc)			
Requests for explanations & published replies			
Official letter of appointment of the Evaluation Committee and CVs			
Bids by prospective bidders			
Tender opening report (indicating the number of bids received on time)			
Evaluation Report			
Contract Award Notice			
Contract (and any other document required by law)			
Publication of the selection results			
Letter of Acceptance			
Letter to non successful bidders			
Recourse to Court and defence procedures			
6.4 Schedule 2 – Tenders ABOVE the €47,000 threshold			
Commitment Form			
Tender Document			
Request and approval for direct order (negotiated procedure)			
Adverts where tenders are made public (e.g. Newspapers, websites, etc)			
Official Letter of appointment of the evaluation Committee			
Bids by prospective bidders			
Tender opening report (indicating the number of bids received on time)			

Evaluation Report			
Contract Award Notice			
Contract (and any other documents required by law)			
Original recommendation for selection by the FB			
Publication of the selected results			
Letter of Acceptance			
Letter to non successful bidders			
Recourse to Court and Defense procedures (if applicable)			
6.5 Tenders above €133,000			
Commitment Form			
Tender Document			
Adverts where tenders are made public (e.g. Newspapers, websites, etc)			
Contracts Notice [Official Journal Adverts - (if tender value exceeds the stipulated threshold)]			
Requests for explanations & published replies			
Official Letter of appointment of the evaluation Committee and CVs			
Bids by prospective bidders			
Tender opening report (indicating the number of bids received on time)			
Evaluation Report			
Contract Award Notice			
Contract (and any other document required by law)			
Publication of the selection results			
Letter of Acceptance			
Letter to non successful bidders			
Recourse to Court and Defence procedures			
Request and approval for direct order (negotiated procedure)			
6.6 Schedule 3 – ALL Tenders			
Tender Document			

Adverts where tenders are made public (e.g. Newspapers, websites, etc)			
Contracts Notice [Official Journal Adverts - (if tender value exceeds the stipulated threshold)]			
Requests for explanations & published replies			
Official Letter of appointment of the evaluation Committee and CVs			
Bids by prospective bidders			
Tender opening report (indicating the number of bids received on time)			
Evaluation Report			
Contract Award Notice			
Contract (and any other document required by law)			
Publication of the selection results			
Letter of Acceptance			
Letter to non successful bidders			
Recourse to Court and Defense procedures			
Request and approval for direct order (negotiated procedure)			

6.7 Employment Contracts			
Call for applications: position, requirements (qualifications, skills, experience), any supporting documentation to be provided with application			
Adverts where call was published (e.g. Newspapers, websites, etc)			
Application forms, <i>Curriculum Vitae</i> , certificates and other requested documents where applicable (costings, workplans) of all applicants			
Shortlist of applicants– giving reasons for any rejection of applications			
Interview Letters to short listed applicants			
Selection Report			
Letter of Appointment to successful applicant			
Letters to non-successful applicants			
Contract of employment			

7.0 Publicity

Was the Commission Regulation on Publicity (621/2004) observed?		
	Yes	No
<i>If yes please specify which of the following communication tools were used:</i>		
	Yes	No
Media		
Television		
Radio		
Newspapers & Magazines		
Newsletters		
Publications		
Leaflets/brochures		
Newsletters		
Posters		
Videos		
New Media		
Internet		
E-mail		
CD-ROMs		
Visual Identity		
EU Flag		
Structural Fund logo(s)		
Maltese Coat of Arms		
Signage		
Billboards		
Signs/plaques		
Display Stands		
Information Events		
<i>If not please specify:</i>		

8.0 Horizontal Priorities

8.1 Environment Protection

	Yes	No
Relevant MEPA approvals/permits/Environment Impact Assessments [where applicable]		

8.2 Equal Opportunities

	Yes	No
Is the project in line with Community Policy on Equal Opportunities		
Specify what is the project's contribution to the development of Equal Opportunities		

8.3 State Aid

	Yes	No
Is the project in line with Community Policy on State Aid		
Was the state aid communicated to the State Aid Monitoring Board as required by National Legislation LN 210/2004?		
Was the state aid communicated to the EU Commission as set out in Article 37 of EC Treaty (where applicable)		

9.0 Project Implementation

	Yes	No
Is the project being physically visited by the person conducting the check?		

If yes, specify:

Date:

Place:

Time:

Is the project being implemented in accordance with:		
	Yes	No
<ul style="list-style-type: none">• The Commission Decision approving the project		
<ul style="list-style-type: none">• The contract		
<ul style="list-style-type: none">• Eligibility rules (Regulation (EC) No 16/2003)		
Does the present state of the project realisation ensure the conclusion of the project within the set period?		
If not what remedial action may be taken:		

Comments

10.0 Conclusion¹⁴

Concluding comments on findings, proposed follow-up and relevant deadlines

¹⁴ In this section, state clearly whether a problem was detected or not. If there are no remarks to pass, do state so.

Officer Conducting Checks:

Name in BLOCK LETTERS

Signature

Designation

Date

Project Leader:

Name in BLOCK LETTERS
PROJECT LEADER

Organisation/Department

Signature

Date

13.3.6 Documentary on-the-spot checks follow-up report

Should the need arise, the MA/IB may request that a follow-up on-the-spot check will be scheduled with the respective FB. A follow up report (template below) should be filled as part of the on-the-spot check undertaken by the MA and/or the IB.

ON-THE-SPOT CHECKS FOLLOW-UP REPORT
--

1.0 General Information

Date:

Place:

Member State: MALTA

Programme Period: 2004-2006

Objective: 1

Quarter:

Project No.:

Title of Project:

Final Beneficiary:

Project Leader:

Person representing Project Leader (if PL is not available):

Place of meeting:

The following were present at the meeting:

2.0 Follow-Up Action

Comments on the results of the verifications:
For documents which were not found during the On-the-Spot Visit please indicate if the missing documentation was found during the follow-up visit. If not, please specify reasons and remedial action to be taken highlighting the timelines.

Further follow-up visit:

Officer Conducting Checks:

NAME IN BLOCK LETTERS

Signature

Designation

on behalf of MA/IB

Date

Project Leader:

Name in BLOCK LETTERS
PROJECT LEADER

Organisation/Department

Signature

Date

13.3.7 Template for documentary on-the-spot checks on IBs

This template should be filled in by the MA when carrying out a documentary on-the-spot check on an IB

1.0 General Information

Date:

Place:

Member State: MALTA

Programme Period: 2004-2006

Quarter:

Title of Project:

Place of meeting:

The following were present at the meeting:

Comments on Findings:

Proposed Follow-Up and Relevant Deadlines

2.0 Documentary On-the-Spot Checks: Check List

Template for documentary on-the-spot checks on IBs			
a. Are all the required documents kept in the project file as requested in the retention of documents Chapter in the MoP?			
	Yes	No	N/A¹⁵
- Copy of relevant project application forms and relevant correspondence			
- Copy of feasibility studies and Environment Impact Assessments where applicable			
- Commission Decision			
- Copy of any agreed changes to the project			
- Copies of Delegation of Authority (if applicable)			
- Copies of Statement of Expenditure and corresponding declaration			
- Have checks been undertaken by the IB?			
Original report of on-the-spot checks for individual projects if the checks have been undertaken by the IB.			
Were on-the-spot checks reports uploaded on the Structural Funds Database?			
- Original copies of photographs taken to show that the individual projects have been implemented			
- A copy of the monitoring tool			
- A copy of the irregularity report			
For documents which were not found, please specify reasons and remedial action:			
- Has follow-up action been undertaken by the IB?			
b. Do all documents include the correct information and are they complete? If not please specify which documents are not complete, why and any remedial action.			
- Have all outstanding issues from previous on-the-spot checks been resolved? If not, please specify.			

¹⁵ Not Applicable

Officer Conducting Checks

Signature

Date

Designation

on behalf of MA

Intermediate Body

Name in BLOCK LETTERS
PROJECT LEADER

Organisation/Department

Signature

Date

13.4 Second Level of Control

22. The 2nd level of control (Article 9 of Commission Regulation (EC) No 1386/2002) will be carried out by the Internal Audit and Investigation Directorate (IAID).
23. Article 9 Commission Regulation (EC) No 1386/2002 stipulates a minimum of 15% checks must be continuously undertaken by the member state.

13.5 EU Audits and Assessment of Risk

24. Officials from various parts of the European Commission can undertake audits. Officials from the Court of Auditors may also take part.
25. The Court of Auditors will inform the Auditor General's Office (who will contact the MA & PA), which years of expenditure they wish to examine.
26. Audits are usually directed towards those areas where risk is likely to be greatest.
27. It is then up to the MA/PA to arrange a timetable for the audit, whereby auditors will spend time visiting the offices of the various organizations involved in the implementation process.

13.5.1 Audit Visits

28. The following bodies may undertake audits under the Cohesion Fund expenditure:
 - The European Court of Auditors – may carry out audits on any body or organisation receiving EU Funds;
 - The European Commission Services – carry out audits of financial systems or expenditure claims and performance audits within OPM;
 - The Internal Audit & Investigations Directorate who examine and report on the operation of management and control systems. IAID is also responsible for the 15% checks (in terms of Article 9 of Commission Regulation (EC) No 1386/2002 and the winding up declaration);
 - The National Audit Office – as external auditors to Government, the NAO carries out audits of relevant public bodies.
29. In general, the auditors will want to spend a few days examining documentation held by the MA, PA, Treasury, DoC, IBs and project leaders. In general they are accompanied by IAID officials.
30. There may be site visits to individual projects which essentially allow auditors to associate physical progress and infrastructure with documentation and figures of expenditure, certifications etc. Normally this involves reviewing financial records and files, supplementing these with interviews with relevant staff where necessary, and testing systems through examining a sample of transactions. Information on other audits will also usually be sought. Those

members of staff within the organisation most familiar with the project should be available to meet with the auditors.

31. A meeting room should be available which can be used by the auditors. The room should have sufficient space for the auditors and the documentation they will be inspecting.

32. Typically, auditors will seek to examine the following items (using the original version), and the MA, PA IBs and FBs should be prepared to ensure these are made available during the audit:

- contracting;
- Official Journal advertisement (where applicable);
- list of response to advertisements;
- a record of the tender opening procedure and subsequent selection of successful contractors;
- the tender document submitted;
- the contracts drawn between the FB and the contractors;
- the evaluation reports of the tender and all documents such as minutes and decisions in relation to the selection of the contractor;
- payments:
 - analysis and reconciliation of claims and SoE declared
 - check of ledger and financial IT system
 - certified copies of the original invoices (originals are held by the Treasury)
 - statements providing the receipt of grant and payment to contractors
 - document verification of selected items of expenditure during the site visits.

- project management/co-ordination: For better management and control, timesheets of project coordinators/managers, paid on an hourly basis through the Cohesion Fund, should include a brief description of the activities carried out during the day. In the case of project managers/coordinators/supervisors on a service contract, a report on the activities carried out by the manager/coordinator/supervisor for the period covered in the invoice should also be included with the invoice.
- verification of EU publicity (when applicable) during site visit;
- verification of monitoring information provided (monitoring reports);
- discuss local or national economic context of the project, especially in

relation to employment prospects and the socio-economic effects of the completed investment;

- interaction with any other Government/private grants to the FBs.

33. Usually a wrap up session is held between the auditors and the relevant organisations prior to finalisation of the mission.

13.5.2 Follow-up to Audits

34. Once the audit is complete, the auditors will then write an audit report with findings and recommendations to improve the procedures and reduce the risks of irregularities. An opportunity is given for the organisation to agree or disagree with each recommendation in the audit report. Normally, the MA or PA (depending on the issue) would ask the project leader/IB/relevant stakeholder to comment on the report. This allows the MA/PA's response to be co-ordinated with the views of all those concerned.

35. It is then up to the MA and the PA (according to issues raised) to make sure that corrective action takes place. Normally, the appropriate Permanent Secretary will be addressed and asked to report back and inform the MA/PA on the steps taken to correct the situation and ensure that other similar practices are not taking place.

36. On an annual basis, Malta through IAID, in consultation with the Commission, must review the outcomes of the various checks undertaken, comments and reports made by audit bodies and financial impact of any irregularities and how these have been dealt with. Under Article 12 of Commission Regulation (EC) No 1386/2002, Malta must also report to the Commission on their application of the Regulation each year.

13. 6 Winding Up

37. IAID is responsible for the winding-up declaration which will be done at the end of the programme implementation.

38. It is important to note that IAID can carry out audits even after the project has been concluded.

39. In accordance with Article G(3) of Council Regulation (EC) No 1164/94, as amended by Article 1(7) of Council Regulation (EC) No 1265/1999; for a period of three years, unless otherwise decided in the bilateral administrative arrangements, following the payment by the Commission of the final balance in respect of a project, the responsible body and authorities shall keep available for the Commission all the supporting documents (either the originals or versions certified to be in conformity with the originals on commonly accepted data carriers) regarding expenditure and checks on the

project concerned. This period shall be interrupted either in the case of legal proceedings or at the duly substantiated request of the Commission.

14. Reporting of Irregularities

14.1 Irregularities & Financial Corrections

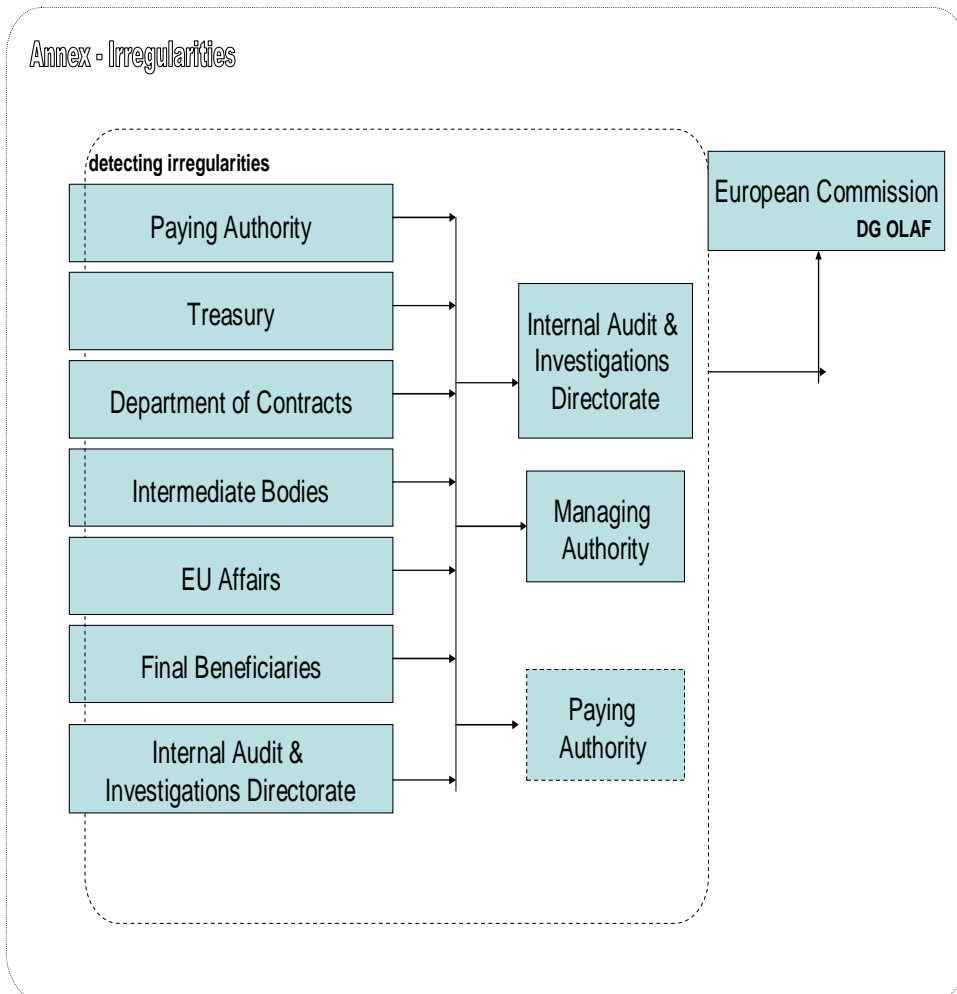
1. Irregularity means any infringement of a provision of Community law resulting from an act or omission by an economic operator which has, or would have, the effect of prejudicing the general budget of the Communities by charging an unjustified item of expenditure to the Community budget.
2. Irregularities can be one-off or systematic. A systematic irregularity is a recurrent error due to deficiencies in the management and control systems aimed at ensuring the correct accounting and compliance with rules and regulations.
3. If an irregularity is systematic, recovery is done as usual, if there is something wrong with the system, all stakeholders (horizontal) will be called in and the system is changed and FBs informed.

14.2 How to report an Irregularity

4. Commission Regulation (EC) No 1831/94 regulates the reporting of irregularities.
5. Any one of the key players (the MA, PA, Treasury, DOC, IB, line Ministry, FB, IAID or any other relevant entity) who, at any stage of contracting, implementation and payment, becomes aware of an irregularity (whether one-off or systematic), is duty bound to **IMMEDIATELY** report the irregularity in accordance with the procedures specified in this chapter. The person/organisation detecting an irregularity at any stage of the implementation of the programme, shall prepare the Cohesion Fund Irregularity Report A (CFIR (A)) (Section 14.7 of this Chapter) giving details on the relevant irregularity. It is important to note that the CFIR must **be drawn up immediately and sent to the MA (copied to IAID and PA) as soon as the irregularity is detected.**
6. There might be isolated circumstances where the relative officials feel constrained to by-pass the normal system of reporting irregularities. Whenever this situation arises, the official is given the opportunity to report any irregularity directly by filling in form Cohesion Fund Irregularity Report B (CFIR (B)) (Section 14.7 of this Chapter).
7. Should there be no irregularities to report for the period in question, the project leader has to submit the nil return (template 14.8) to the EU Affairs Director within 7 days of the end of the quarter under review. This communication is done through the 'Declaration on Irregularities (Nil Return) at Project Level.' The EU Affairs Director certifies this information and

communicates it to the MA (copying in the PA and IAID). **FBs and EU Affairs Directors should note that given that there are only two CF projects and one TA project, the same nil return generated by the FB will be certified by the EU Affairs Director and sent by the latter to the MA (copying in the PA and IAID).**

7. The original reports are sent to the MA and a copy is concurrently sent to the PA and the IAID. The IAID informs the Commission in terms of Article 6 of Commission Regulation (EC) No 1831/94.



14.3 Content of the Cohesion Fund Irregularity Report

8. The CFIR (A) (please refer to the CFIR (A) template in Section 14.7 of this chapter) should provide details concerning:
 - the name of the project in question;
 - the provision/procedure which has been infringed (where applicable);
 - the nature and amount of the expenditure (EU and Malta Funds);

- in case where no payment has been made, the amounts which would have been wrongly paid had the irregularity not been discovered, except where the error or negligence is detected before payment and does not result in any administrative or judicial penalty;
- the total amount and its distribution between the different sources of financing;
- the period during which, or the moment at which the irregularity was committed;
- the practice employed in committing the irregularity;
- the national authority/ies or body/ies detecting the irregularity;
- the financial consequences, the suspension, if any, of payments and where applicable the procedure to be undertaken for recovery;
- the date and source of the first information that an irregularity was in evidence where applicable;
- the date on which the official report on the irregularity was drawn up;
- the body involved, save in cases where such information is of no relevance in combating irregularities on account of the character of the irregularity concerned;

14.4 Reporting to the Commission

9. Upon receiving the irregularity report, the MA shall inform the IAID of such irregularity. The MA will send the report to the IAID and copy the PA.
10. The IAID will report the irregularity to the European Anti-Fraud Office (OLAF), copying the completed report to the MA.
11. During the two months following the end of each quarter, the IAID shall inform the Commission, with reference back to any previous report made under Article 3 of Commission Regulation (EC) No 1831/94, of the procedures instituted following all irregularities previously notified and of important changes resulting therefrom, including:
 - the amounts which have been, or are expected to be recovered;
 - the interim measures taken by the Member State to safeguard recovery of sums wrongly paid;
 - the judicial and administrative procedures instituted with a view to recovering sums wrongly paid and to imposing sanctions;
 - the reasons for any abandonment of recovery procedures (the Commission shall as far as possible be notified before a decision is taken);
 - any abandonment of criminal prosecutions where applicable.
12. The IAID shall notify the Commission of administrative or judicial decisions, or the main points thereof, concerning the termination of these procedures.

14.5 Types of Irregularity

13. There are many types of Irregularities; the following list provides a mere example of what an irregularity can be. The list is intended for guidance only and it is not exhaustive.

14. Accountability

- absence of account;
- incorrect forms;
- falsified accounts;
- accounts not present;
- other cases of irregular accounts.

15. Documents

- request for aid incorrect or incomplete;
- request for aid falsified;
- request for aid false;
- supporting documents missing or incomplete;
- incorrect supporting documents;
- false supporting documents;
- falsified supporting documents;
- other cases of irregularity documents.

16. Actions

- project not eligible for aid;
- non-eligible expenditure;
- incorrect identity;
- non-existent operation;
- failure to respect National and Community Rules;
- operator/beneficiary not having the required quality;
- other irregularities by the beneficiary;
- other irregularities by the operator;

14. 6 Methods of Detecting Irregularities

17. Management and Control

- controls during tendering process;
- checks made during payment process by FB, line Ministry and Treasury;
- checks made during verification process by MA and IB;
- checks made during certification process by PA;
- checks made under Article 9 of Commission Regulation (EC) No 1386/2002;
- other checks made by the IAID;
- checks made by the National Audit Office/ European Court of Auditors;
- checks made by European Commission services.

18. Other Methods Include:

- fiscal control;
- initial/judicial enquiry;
- community initiative;

- Council Regulation (EC) No 1164/1994 and Commission Regulation (EC) No 1386/2002;
- management and control;
- *a posteriori* documentary check;
- correction of accounts;
- control on holding;
- on-the-spot check;
- denunciation;
- grievance or complaint (unanimous or not);
- situation of the operator;
- preventive control;
- release of the guarantees;
- press information;
- parliamentary statements;
- situation of the beneficiary;
- national ex-post controls;
- requests for documentary checks made to a member state;
- requests for documentary checks made to the issuing country;
- community controls.

14.7 Template of Irregularity Report A and B

COHESION FUND IRREGULARITY REPORT (CFIR(A))				
1.0 General Information:				
1.1	Member State: MALTA			
1.2	Programme Period: 2004-2006			
1.3	Case no <i>(indicate whether this is a new case or an update. e.g. CF Fund/No100.Case 1)</i>			
1.4	Date when the irregularity was detected:			
1.5	Organisation which detected the irregularity:			
1.6	Quarter when MA is informed:			
1.7	Date when Commission is informed: <i>(for MA)</i>			
1.8	Final Beneficiary:			
1.9	Title of Project:			
1.10	EC Decision No & Date:			
1.11 Type of Project (tick where applicable)	Services	Supplies	Works	Salaries
1.12	Total Project Cost: <i>(amount in Euro)</i>	EU Funds:		
		Malta Funds:		
		TOTAL		
2.0 Provision Infringement				
2.1	Community Regulations: <i>(indicate the regulation/decision that has suffered the infringement, where applicable)</i>			
2.2	National provisions: <i>(indicate the national regulation that has suffered the infringement, where applicable)</i>			
2.3	Infringement of other procedures <i>(where applicable)</i> :			
2.4	What raised first suspicions of irregularity? <i>(Annex DM refers)</i>			
2.5	Date of first suspicion:			

2.6	How was suspicion confirmed and irregularity discovered?				
3.0	Type of Irregularity				
3.1	<i>(use Section 14.5 for reference)</i>				
3.2	Please provide a brief description of practices employed in committing the irregularity (i.e. falsification of invoices by changing the original amounts)				
3.3	"Dates on which, (or dates between which) irregularity took place:"				
4.0	Organisation involved in committing irregularity				
4.1	Person(s)/organisation involved in the irregularity				
	Name:				
	Address:				
	Post Code:				
	Position held:				
4.2	(if there are additional entries please complete separately and attach to form)				
5.0	Financial Details				
5.1	Was the Irregularity discovered prior to the execution of payment?				
Yes		No		N/A	
5.2	Was the Irregularity discovered prior to the reimbursement request from the European Commission?				
Yes		No		N/A	
5.3	Is there a case for recovery of funds?				
Yes		No		N/A	
5.3.1	If yes, state what is the nature of recovery				
5.3.2.	If no, Why?				

5.4	Describe the actions and/or measures taken to settle the irregularity.				
5.5	Describe the actions and/or measures taken to prevent the recurrence of the irregularity already detected				
5.6	If there are any costs involved, were these reimbursed?				
Yes		No		N/A	
5.6.1	If yes, please give details				
5.7	Was the Paying Authority informed? ¹⁶				
Yes		No		N/A	
5.8	Was action taken to recover funds?				
Yes		No		N/A	
5.9	Give details on recovery (if applicable):				
5.9.1	Invoice number/s				
5.9.2	Total amount (in Euros) to be recovered:				
5.9.3	Community share:				
5.9.4	National share:				
5.9.5	Total amount recovered:				
5.9.6	Community share:				
5.9.7	National share:				
5.9.8	"Prospects of irregularity reoccurring (if relevant) (i.e. Likely, Unlikely due to.....)" and and summary of procedures for recovery taken/to be taken				

¹⁶ The person/organization detecting an irregularity at any stage of the implementation of the programme, shall prepare the Cohesion Fund Irregularity Report A (CFIR (A)) giving details on the relevant irregularity. It is important to note that the CFIR (A) must be drawn up immediately and sent to the MA (copied to IAID and PA) as soon as the irregularity is detected.

Name in BLOCK LETTERS

Name of Organisation/Department

Designation

Signature

Date

Permanent Secretary/EU Affairs Director¹⁸

Signature

Date

For office use:

Report received by:

Name of Officer

Signature & Stamp

Date

¹⁸ In case an irregularity is detected/committed by the Line Ministry or an organization within the line Ministry. The signature of Head of MA is sufficient when the irregularity is detected by the MA.

COHESION FUND IRREGULARITY REPORT (CFIR(B))					
1.0 General Information:					
1.1	Member State: MALTA				
1.2	Programme Period: 2004-2006				
1.3	Case no <i>(indicate whether this is a new case or an update. e.g. CF Fund/No100.Case 1)</i>				
1.4	Date when the irregularity was detected:				
1.5	Organisation which detected the irregularity:				
1.6	Quarter when MA is informed:				
1.7	Date when Commission is informed: <i>(for MA)</i>				
1.8	Final Beneficiary:				
1.9	Title of Project & Reference No:				
1.10	EC Decision No & Date:				
1.11	Type of Project (tick where applicable)	Services	Supplies	Works	Salaries
1.12	Total Project Cost: <i>(amount in Euro)</i>	EU Funds:			
		Malta Funds:			
		TOTAL			
2.0 Provision Infringement					
2.2	Community Regulations: <i>(indicate the regulation/decision that has suffered the infringement, where applicable)</i>				
2.2	National provisions: <i>(indicate the national regulation that has suffered the infringement, where applicable)</i>				
2.3	Infringement of other procedures <i>(where applicable)</i> :				
2.4	What raised first suspicions of irregularity? <i>(Annex DM refers)</i>				
2.5	Date of first suspicion:				

2.6	How was suspicion confirmed and irregularity discovered?				
3.0	Type of Irregularity				
3.1	<i>(use Section 14.5 for reference)</i>				
3.2	Please provide a brief description of practices employed in committing the irregularity (i.e. falsification of invoices by changing the original amounts)				
3.3	"Dates on which, (or dates between which) irregularity took place:"				
4.0	Organisation involved in committing irregularity				
4.1	Person(s)/organisation involved in the irregularity				
	Name				
	Address				
	Post Code				
	Position held				
4.2	(if there are additional entries please complete separately and attach to form)				
5.0	Financial Details				
NOTE:	<i>The amounts detailed in this section should be the amount at risk i.e. the amount that has been paid (if any) plus the amount that would have been paid had the irregularity not been discovered.</i>				
5.1	Was the Irregularity discovered prior to the execution of payment?				
Yes		No		N/A	
5.2	Was the Irregularity discovered prior to the reimbursement request from the European Commission?				
Yes		No		N/A	
5.3	Is there a case for recovery of funds?				
Yes		No		N/A	

5.3.1 If yes, state what is the nature of recovery?					
5.3.2. If no, Why?					
5.4 Describe the action taken to settle the irregularity.					
5.5 Describe the actions and/or measures taken to prevent the recurrence of the irregularity already detected.					
5.6 If there are any costs involved, were these reimbursed?					
Yes		No		N/A	
5.6.1 If yes, give details?					
5.7 Was the Paying Authority informed? ¹⁹					
Yes		No		N/A	
5.8 Was action taken to recover funds?					
Yes		No		N/A	
5.9 Give details on recovery (if applicable):					
5.9.1 Invoice number/s					
5.9.2 Total amount (in Euros) to be recovered:					
5.9.3 Community share:					
5.9.4 National share:					
5.9.5 Total amount recovered:					
5.9.6 Community share:					
5.9.7 National share:					
5.9.8 "Prospects of irregularity reoccurring (if relevant) (i.e. Likely, Unlikely due to.....)" and summary of procedures for recovery taken/to be taken					

¹⁹ The person/organization detecting an irregularity at any stage of the implementation of the programme, shall prepare the Cohesion Fund Irregularity Report B (CFIR (B) giving details on the relevant irregularity. It is important to note that the CFIR (B) must be drawn up immediately and sent to the MA (copied to IAID and PA) as soon as the irregularity is detected.

5.9.9	The total amount of Cohesion Funding ²⁰ that would have been wrongly paid if the irregularity had not been discovered				
5.10	Has further expenditure been suspended (<i>Please complete where applicable</i>)				
	Yes	Amount			
	No	Why not?			
	N/A				
6.0	Is a follow-up required?				
	Yes		No		N/A
6.1	If yes what?				
6.2	Who is responsible for follow up?				
6.3	By when must action be taken?				
7.0	Additional observations				
Please give any additional information you believe is relevant.					

²⁰ Total Public share

Report submitted by:

Name in BLOCK LETTERS

Name of Organisation/Department

Designation

Signature

Date

For office use:

Report received by:

Name of Officer

Signature & Stamp

Date

14.8 Template of the Declaration on Irregularities (NIL RETURN) at Project Level

DECLARATION ON IRREGULARITIES (NIL RETURN) AT PROJECT LEVEL*

1.0 General Information:

- 1.1 Member State: **MALTA**
- 1.2 Programme Period: 2004-2006
- 1.3 Fund: Cohesion Fund
- 1.4 Quarter:
- 1.5 Decision:
- 1.6 Project Title:

I declare that no irregularities according to Community and/or National Regulations were detected in the above mentioned projects during the quarter covered by this report.

Submitted by:

Name in BLOCK LETTERS
PROJECT LEADER

Organisation/Department

Signature

Date

Certified correct by:

EU Affairs Director

Name of Ministry

Signature

Date

* To be sent by project leader through EU Affairs Director of the respective line ministry.

For Office Use:

Report Received by:

Name of Officer

Signature & Stamp

Date

Please refer to Annex 1.9 for Checklist for Irregularities Nil Return.

14.9 Financial Recoveries

21. In case an irregularity necessitates recovery of funds the person/organisation detecting the irregularity must ensure that recovery procedures are initiated immediately. The person/organisation must:
- **Detail the sums to be recovered** – a breakdown of the amounts that are to be recovered and how these sums have been wrongly incurred.
 - **If and when have the sums been claimed to the Commission** – In which payment request/s have these funds been included, if the funds have been claimed to the Commission.
 - **Action taken** – a description of the action that has been taken and of follow-up if required.
 - **Expenses incurred** – details of expenses incurred to recover funds wrongly paid and whether these expenses have been reimbursed or not.

14.10 Financial Corrections

22. It is important to note that if there are deficiencies with respect to the application of rules and regulations, such irregularities can lead to financial corrections.

23. The Commission can apply the following types of corrections:

- **Specifically quantified corrections** – corrections made where a quantifiable irregularity is detected for an individual operation or several individual operations. These will be applied where it is feasible to quantify the correction. This would be the case where operations or parts thereof are ineligible or do not respect EU legislation.
- **Extrapolated corrections** – these corrections will apply where the auditors have detected in a representative sample of transactions a quantifiable irregularity that it can be assumed will have recurred in other operations of the same type, or throughout a measure or programme. The Commission can apply such corrections when it has reason to believe that the irregularity detected is not limited to specific cases investigated. The Commission has the right to extrapolate the correction to be applied.
- **Flat Rate corrections** – these corrections will be applied for individual breaches or systemic irregularities that are not in practice quantifiable, such as those resulting from a failure to undertake checks effectively to prevent or detect an irregularity or to comply with a condition of the assistance or EU legislation. These corrections will apply where it is not possible to calculate the specific loss related to an individual case or several cases of irregularities. They can also be applied when a Member State discovers such failures and does not take corrective action. Flat rate corrections can vary from 2% to 100%.

15. Retention of Documents

15.1 General Remark

1. In accordance with Article G(3) of Council Regulation (EC) No 1164/94, as amended by Article 1(7) of Council Regulation (EC) No 1265/1999; for a period of three years, unless otherwise decided in the bilateral administrative arrangements, following the payment by the Commission of the final balance in respect of a project, the responsible body and authorities shall keep available for the Commission all the supporting documents (either the originals or versions certified to be in conformity with the originals on commonly accepted data carriers) regarding expenditure and checks on the project concerned. This period shall be interrupted either in the case of legal proceedings or at the duly substantiated request of the Commission.
2. Expenditure relating to the environment project shall be eligible until 30 June 2008.
3. Expenditure relating to the transport project shall be eligible until 30 September 2008.
4. Expenditure relating to the technical assistance project shall be eligible until 30th November 2008.

15.2 What records are needed?

5. In line with Reg. 1386/2002 the supporting documents regarding expenditure and checks shall comprise:
 - documents relating to specific expenditure incurred and declared and payments made under the assistance and required for a sufficient audit trail including documents constituting proof of the actual delivery of works, goods or services co-financed;
 - reports and documents relating to checks carried out through:
 - verification of expenditure (Article 4 of Commission Regulation (EC) No 1386/2002);
 - certification of expenditure (Article 8 of Commission Regulation (EC) No 1386/2002);
 - checks on operations by MS organised on an appropriate sampling basis (Article 9 of Commission Regulation (EC) No 1386/2002);
 - declaration at winding up of assistance (Article 13 of Commission Regulation (EC) No 1386/2002);
6. As indicated below some organisations/departments would be required to maintain documents in their original format while others would be requested to keep copies of these originals. Copies of original documents must be kept on commonly accepted data carriers, by a competent officer, which include:
 - photocopies of original documents;

- microfiches of original documents
 - electronic versions of original documents on optical data carriers (such as CD-rom, hard disk or magnetic disk);
 - documents existing in electronic version only.
7. The Final Beneficiaries are required to hold a copy of any original document related to the implementation of the project (if the original has to be passed on to another authority) including where the latter are not the bodies or firms carrying out operations.
8. **Copies of original documents must be certified as true copies of originals.** The person certifying such copies depends on the document to be copied. Certification of true copies of original shall be done as follows:
- FB - Project Leader;
 - Line Ministry – Director (EU Affairs) or Director (Corporate Services) as appropriate;
 - MA – Director General, Planning & Priorities Co-ordination Department;
 - PA – Director, EU Paying Authority Directorate;
 - IB – Permanent Secretary (unless there is a delegation of authority);
 - Department of Contracts - Director General Contracts;
 - Budget Office – Director;
 - Treasury - Head of Section.

15.3 Delegation of Authority

9. The responsible person to certify true copies of original may establish a procedure where such person will delegate the authority to sign to an official within the office. For further information please refer to Chapter 18 of this MoP - Delegation of Authority.

15.4 Who may carry out checks?

10. Documents should be made available for inspection by the persons and bodies who would normally have the right to carry out checks/audits/control missions. These persons and bodies shall be the:
- Managing Authority;
 - Paying Authority;
 - IB (where applicable);
 - Public Services undertaking audits of management and control systems (e.g IAID, National Audit Office);
 - IAID as the Directorate responsible for the winding up declaration under Chapter V of Commission Regulation (EC) No 1386/2002;
 - European Commission
 - European Court of Auditors

Upon Request, extracts or copies of the documents or accounting records are to be made available to the representatives of these organisations.

15.5 Procurement Documentation

9. **NOTE:** For the retention of documents related to procurement, the information has been classified according to the thresholds and split between schedule 2 and 3 as stipulated by the Public Contracts Regulation. Schedule 2 refers to Contracting Authorities falling within the competence of the Department of Contracts while Schedule 3 refers to the Contracting Authorities who shall administer their own Public Procurement in accordance with the provisions of the Public Contracts Regulations. Contracts below the threshold of €47,000 (schedule 2) should be copied to DoC (after finalisation) for records. To determine under which schedule an organisation/body falls please refer to the Public Contracts Regulations (as of June 2005 LN177 & 178 as amended by LN 11 & 130).

Documentation	MA	IB	PA	FB	Line Ministry	DoC	Budget Office	Treasury	CBM
1. Application Form									
Cohesion Fund Application Form	Original	Copy		Copy					
Feasibility studies and Environment Impact Assessments [where applicable]	Original	Copy		Copy					
Commission Decision	Copy	Copy	Copy	Copy	Copy	Copy		Copy	
Any agreed changes to the Commission Decision	Original	Copies	Copies	Original	Copy				
Any related correspondence to the project ²¹	Original /Copies	Original/ Copies	Original/ Copies	Original /Copies	Original/ Copies	Original /Copies	Original/ Copies	Original/ Copies	Original/ Copies
2. General									
Delegation of Authority to sign ²² [where applicable] ²³	Original /Copies	Original/ Copies	Original /Copies	Original /Copies	Original /Copies	Original /Copies	Original /Copies	Original /Copies	Original /Copies
Financial Estimates	Copy		Copy				Original		

²¹ The retention of these documents depends on the body sending the information. The sender must retain a copy of the letters/documents sent, while the recipient must keep the originals.

²² It is highly recommendable that each office identified above should have the Delegation of Authority template duly filled in and signed (Please refer to Chapter 18). Each office should retain the original template and forward copies of the template to all offices identified above.

²³ Depends on the nature of the Delegation of Authority.

Documentation	MA	IB	PA	FB	Line Ministry	DoC	Budget Office	Treasury	CBM
Project Management Costs [detailed time sheets in the case of employment contracts]				Original	Copy			Copy	
3. Payment Process									
Invoices related to all expenditure ²⁴				Copy	Copy			Original	
Invoice Status Certificate ²⁵				Copy	Copy			Original	
CF Purchase Order (issued by the Accounting Officer)					Copy			Original	
Guarantees (where applicable)				Original /Copy ²⁶		Original /Copy ²⁷			
Funds Transfers Document (BOP/8)								Copy	Original
Debit Advice (prepared by Treasury)								Copy	Original
Bank Draft (BOP/21) (where applicable) ²⁸								Copy	Original

²⁴ Invoices shall be filed in supplier's name order with each supplier section in date order, with the latest invoice on top

²⁵ The copy retained by the FB must have only the signature of the FB, the copy retained by the Line Ministry must have the signatures of the FB and Line Ministry, while that retained by the Treasury must have the three signatures (FB, Line Ministry, and Treasury)

²⁶ In the case of tenders (or procurement by direct orders or calls for quotations) administered by the FB, the FB must keep the original financial guarantee which is then returned to the contractor once the contract has been successfully completed and in accordance with the terms and conditions stipulated in the contract. The FB will retain a copy of the guarantee for records purposes once the original is returned to the contractor. In the case of a tender which is administered by the Department of Contracts, the Department of Contracts retains the original financial guarantee throughout contract execution and will forward a copy of the financial guarantee to the FB.

²⁷ In the case of tenders that are administered through the Department of Contracts, the original financial guarantee is retained by the Department of Contracts. The Department of Contracts will forward a copy of the guarantee to the FB. The original guarantee is returned to the contractor once the contract has been successfully completed and in accordance with the terms and conditions stipulated in the contract. The Department of Contracts will retain a copy of the guarantee for records purposes once the original is returned to the contractor. The FB will also retain the copy of the guarantee for records purposes.

²⁸ The Treasury shall instruct the CBM to effect a bank credit transfer. In case where a bank transfer is not possible, the Treasury will instruct CBM to issue a cheque.

Documentation	MA	IB	PA	FB	Line Ministry	DoC	Budget Office	Treasury	CBM
Letter for adjustment (prepared by Treasury – where applicable)								Copy	Original
Debit advice (prepared by Central Bank)				Copy				Original	Copy
Receipts				Original ²⁹	Copy			Certified ³⁰ True Copy	
4. Verification Process									
SOE by Project	Copy	Copy	Original	Copy					
Declaration attached to SOE by Project	Copy	Copy	Original	Copy					

²⁹ The FB retains the original receipt (whether fiscal or not). FB should also ascertain that a contractor issues a receipt within 3 to 5 days of receiving payments. The receipt is evidence of payment.

³⁰ The FB must send a Certified True Copy of a receipt to Treasury as soon as the FB receives the original receipt from the contractor.

Documentation	MA	IB	PA	FB	Line Ministry	DoC	Budget Office	Treasury	CBM
5. Certification Process									
Request for Payment			Copy ³¹						
Certificate			Copy ³²						
Reports on checks made by PA			Original						
6. Tendering (Public Contracts Regulations)³³									
Commitment Form	Copy			Copy	Copy	Original	Copy		
6.1 Procurement which does not exceed €2500³⁴									
a. Quotations				Copy	Original				
<u>Or</u>									
b. Direct from the open market: - Justification taking into consideration the amount involved, the urgency attached to the procurement & restrictions of choice & availability - Approval from the Head of Department				Copy	Original				
LPO/Agreement, where applicable				Original	Copy				

³¹ Original is sent to EC

³² Original is sent to EC

³³ For Schedule II under €47,000 and Schedule III, please note that once the contract is awarded and signed, the complete tender dossier must also be sent to the Department of Contracts. For further information please refer to Contracting, Chapter 6 of this MoP.

³⁴ This applies for both schedule 2 and 3

Documentation	MA	IB	PA	FB	Line Ministry	Final Recipient	DoC	Budget Office	Treasury	CBM
6.2 Procurement which exceeds €2500 but does not exceed €6000³⁵										
a. Tenders -[Required documents are identified under the section "Tenders below the €47,000 threshold"]				Copy	Original					
<u>Or</u>										
b. Quotations	Copy			Copy	Original					
Written approval by Minister or delegate				Copy	Original					
<u>Or</u>										
c. Direct from open market										
- Justification taking into consideration the amount involved, the urgency attached to the procurement & restrictions of choice & availability				Copy	Original					
- Written Approval				Copy	Original					
LPO/Agreement, where applicable ³⁶				Copy	Original					

³⁵ This applies for both schedule 2 and 3

³⁶ This applies for (b) and (c). For (a) please refer to Schedule 2 – Tenders below the €47,000 threshold

Documentation	MA	IB	PA	FB	Line Ministry	DoC	Budget Office	Treasury	CBM
6.3 Schedule 2³⁷ – Tenders BELOW the €47,000 threshold									
Tender Document				Original	Copy	Copy			
Adverts where tenders are made public (eg. Newspapers, websites, etc)				Original					
Requests for explanations & published replies				Original / copies					
Official letter of appointment of the Evaluation Committee				Original	Copy	Copy			
Bids by prospective bidders				Original					
Tender opening report (indicating the number of bids received on time)				Original					
Evaluation Report				Original	Copy	Copy			
Contract Award Notice				Original	Copy	Copy			
Contract (and any other document required by law)	Copy			Original	Copy	Copy			
Publication of the selection results				Original	Copy	Copy			

³⁷ In the case of a restricted procedure or direct award, consent of the Director of Contracts must be retained. The original request for consent should be retained by the DoC and the original consent issued by the DoC should be retained by the FB.

Documentation	MA	IB	PA	FB	Line Ministry	DoC	Budget Office	Treasury	CBM
Letter of Acceptance				Copy					
Letter to non successful bidders				Copy					
Recourse to Court and defence procedures				Original /Copies					
6.4 Schedule 2 – Tenders ABOVE the €47,000 threshold									
Tender Document				Copy		Original			
Adverts where tenders are made public (eg. Newspapers, websites, etc)				Copy		Original			
Contract Notice [Official Journal Adverts ³⁸ - (if tender value exceeds the stipulated threshold)]						Original			
Requests for explanations & published replies						Original /Copies			
Official Letter of appointment of the evaluation Committee				Original		Copy			
Bids by prospective bidders						Original			
Tender opening report (indicating the number of bids received on time)				Copy		Original			
Evaluation Report				Copy		Original			
Minutes of the General Committee Sitting						Original			

³⁸ The thresholds for the publication of tenders in the Official Journal are as follows: tenders amounting to or exceeding €133,000 excluding VAT in the case of services and supplies while the thresholds for a works tender is €5,150,000 excluding VAT or above.

Documentation	MA	IB	PA	FB	Line Ministry	DoC	Budget Office	Treasury	CBM
Contract Award Notice						Original			
Contract (and any other documents required by law)	Copy			Original		Original		Copy	
Publication of the selected results						Original			
Notification Award letter						Copy			
Letter to non successful bidders						Copy			
Tendering Process Checklist ³⁹	Copy					Original			
Recourse to Court and Defence procedures				Original /Copies		Original /Copies			
6.5 Schedule 3 – ALL Tenders									
Tender Document				Original		Copies			
Adverts where tenders are made public (eg. Newspapers, websites, etc)				Original		Copies			
Contracts Notice [Official Journal Adverts - (if tender value exceeds the stipulated threshold)]				Original		Copy			
Requests for explanations & published replies				Original /Copies		Copy			
Official Letter of appointment of the Evaluation Committee				Original		Copy			
Bids by prospective bidders				Original		Copy			

³⁹ The tendering process checklist is attached to each tender file for tenders that go through the Department of Contracts. Once the checklist is filled in, the Department of Contracts will send a copy of this checklist to the MA.

Documentation	MA	IB	PA	FB	Line Ministry	DoC	Budget Office	Treasury	CBM
Tender opening report (indicating the number of bids received on time)				Original		Copy			
Evaluation Report				Original		Copy			
Contract Award Notice				Original		Copy			
Contract (and any other document required by law)				Original		Copy			
Publication of the selection results				Original		Copy			
Letter of Acceptance				Copy		Copy			
Letter to non successful bidders				Copy		Copy			
Recourse to Court and Defence procedures				Original /Copies		Copy			
6.6 Tenders above EU Thresholds (applies to both sections 6.4 and 6.5)									
Prior Indicative Notice ⁴⁰				Copy	Copy	Original			
7. Monitoring									
On-the-spot checks report ⁴¹	Original /Copy	Original/ Copy	Copy	Copy	Copy				

⁴⁰ A Prior indicative Notice is required for supply & service tenders of a value of €700,000 excluding VAT or more and for works amounting to €5,150,000 excluding VAT or more.

⁴¹ The body conducting the check must retain the original report. Others are copied if required by particular follow-up action.

Documentation	MA	IB	PA	FB	Line Ministry	DoC	Budget Office	Treasury	CBM
Photographs to show that the Project has been carried out (where applicable) ⁴²	Original / Copy	Original/ Copy		Original / Copy					
Monitoring Tool Reports	Original	Copy		Copy					
Input into Annual Reports	Original	Copy		Copy					
Signed minutes of Monitoring Committees	Original	Copy							
Signed minutes of relevant SMSC	Original	Copy							
8. Irregularities									
Cohesion Fund Irregularity Report ⁴³	Original ⁴⁴		Copy						
Irregularity Report (Nil Return)	Original	Copy	Copy	Copy	Copy				
9. Assets/Equipment/Inventory									
Date of Purchase				Original					
Description of asset/equipment				Original					
Price with identified VAT				Original					
Amount of EU Grant paid				Original					
Location of the asset and of the title deeds				Original					
Serial or identification numbers				Original					

⁴² Please note that photographs must be retained by the body taking them

⁴³ The body detecting an irregularity should prepare the Cohesion Fund Irregularity Report and forward it to the appropriate bodies through the established channels. Should the IAID detect an irregularity they should also keep a copy of the report and forward it to the appropriate bodies through the established channels.

⁴⁴ A copy is to be also sent to IAID.

Documentation	MA	IB	PA	FB	Line Ministry	DoC	Budget Office	Treasury	CBM
Date of Disposal				Original					
Sale of proceeds/net of VAT				Original					
Inventory				Original					
9.1 Second Hand Equipment									
Declaration by the seller stating origin, and that it has not been purchased within the previous 7 years with the aid of national or EC Grant				Original					
Proof that it does not exceed market value or cost of similar new equipment				Original					
10. Publicity Records⁴⁵									
Copies of all publicity used (adverts, press releases, photos, leaflets, posters, etc)				Original					
Evidence of using EU Flag and Malta Coat of Arms notifying beneficiaries of Cohesion Fund Contribution				Original					

⁴⁵ For further information on publicity measures please consult the Publicity section within this manual.

15.6 Filing System by the FB for project-related Documents

11. The MA, IB, PA, FB and Line Ministry should open a **file per project** (ideally ring files for ease of reference). This file should contain project-related documents, which are identified in the above-mentioned table, which must be readily available for any inspection made by the bodies identified under section 15.4 Each **Project File** should be divided into sections. For ease of reference the sections are being repeated below:

1. Application Form
2. Commission Decision
3. General
4. Payment Process
5. Verification Process
6. Certification Process
7. Tendering
8. Monitoring Tool
9. Copies of Annual Report
10. Irregularities
11. Assets/Equipment
12. Publicity Records

The documents included under each of these sections should be filed in date order, with the most recent documents on top.

16. Information and Publicity

16.1 General Principle

1. Council Regulation (EC) No 1164/94 and Commission Regulation (EC) No 621/2004 set out the requirements on information and publicity measures to be carried out by Member States in relation to activities supported by the Cohesion Fund. Where appropriate, the information and publicity measures concerning the work of the Cohesion Fund may include activities concerning the programmes and projects part-financed by the Structural Funds under Commission Regulation (EC) No 1159/2000 (in accordance with Article 1 of Commission Regulation (EC) No 621/2004). A simplified checklist of requirements has been produced, together with a guide to ensure that the correct visual identity for the European Union is employed.

16.2 Aims

2. The primary objective for the programming period 2004-2006 is to inform the general public about the role played by the European Union in co-operation with the Member States in the assistance concerned and its results.
3. Communication actions related to the Cohesion Fund should also aim to inform on the opportunities and benefits offered by joint assistance from the European Union and the Member States in order to ensure the transparency of such assistance. The target groups include:
 - potential and final beneficiaries;
 - regional and local authorities and other competent public authorities;
 - trade organisations and business circles;
 - the economic and social partners;
 - non-governmental bodies, especially bodies to promote equality between men and women;
 - bodies working to protect and improve the environment;
 - project operators and promoters,
4. It is to be noted that publicity in the sense of the Regulation does not include marketing activities. The latter cannot be financed unless identified as a separate and distinct component (not under publicity) in the project activities with an indicative budgetary allocation.

16.3 Responsibilities & Funding

5. The IB shall ensure that the Final Beneficiaries carry out the publicity measures required by Article 14 of Regulation 1164/94 and Regulation 621/2004 on behalf of the Managing Authority.

6. Through the EU Structural Funds Database and the monitoring tool, the IB shall ensure that the final beneficiaries report on all action taken to fulfill the publicity requirements.
7. In the case of the Cohesion Fund, the FB is responsible for the publicity related to a specific project. The FB **MAY** only use publicity to increase awareness of what the EU funds are used for (project specific) and **not** be used to promote/market products/services or infrastructure. The FB must include information/publicity costs in the project's budget. Actions and the corresponding budget available are outlined in the application form.
8. FBs should ensure complementarity with publicity measures being carried out for similar projects (especially in the case of transport) under the Structural Funds.

16.4 Tasks

9. The **FB** should:
 - inform and consult the MA about all media activities in the relevant reports such as monitoring tool and publicity template;
 - inform the appropriate national and/or local media when projects part-financed by the Cohesion Fund are launched and during the main phases of implementation; (steps involved may include press releases, press conferences, radio & television commercials, articles & supplements in the most suitable newspapers & or magazines and site visits);
 - keep copies of articles, news items, TV commercials, Video clips, cds and send copies together with the Publicity Report (Section 16.12 of this chapter) to the MA;
 - ensure that articles press releases and other material for the media include a balanced reference to the EU's contribution and the purpose(s) of the Cohesion Fund concerned. Reference to appropriate collaboration with the Commission's office in the country concerned must also be ensured.
 - report on communication actions undertaken in their monitoring tool and future activities to the Managing Authority on a quarterly basis (Publicity Report- Section 16.12 of this chapter)
 - send a nil report to the Managing Authority even if no progress is made (Publicity Report – Section 16.12 of this chapter);
 - where use is made of advertising inserts, the participation of the European Union shall be clearly indicated.
10. The **Managing Authority** should:
 - endeavour to ensure that information and publicity material is presented in a uniform fashion and in accordance with the rules on the means of information and publicity;
 - make use of its website (<http://www.ppcd.gov>) that has been launched since 2002, and update it accordingly with any developments and other information about the Cohesion Fund;

- inform the media in the most appropriate way about the Cohesion Fund assistance financed by the Union. (This information shall include a balanced reference to the Union's contribution and the messages shall state the tasks of the Fund).
- present the publicity report to the Monitoring Committee;
- send the Commission all the information which it needs to take into account for its annual report as provided for in Article 14 of Council Regulation (EC) No 1164/94. Such information must enable the Commission to ascertain that the provisions of this Regulation have been complied with.

11. The **Monitoring Committee** should:

- ensure that there is adequate information about their work; (wherever possible, they shall keep the media informed of the progress of the Fund. Contacts with the press shall be under the responsibility of the chairman);
- make appropriate arrangements when important events are held in connection with the Monitoring Committee's meetings, such as high-level meetings or inaugural sessions;
- be kept informed on the progress on publicity measures and be provided with material produced or proof of the publicity measures undertaken and instruments used such as photographs of billboards and events.

16.5 Language

The language used can be Maltese or English or both, depending on the target audience and the nature of the publicity action. The FBs are encouraged to use the Maltese language to ensure the widest audience possible.

16.6 Logos, Billboards and Commemorative Plaque

12. In addition to the standard EU requirements which include the EU flag, the Maltese emblem is the official logo for Malta's Cohesion Fund Projects 2004-2006. For the Malta emblem, the National Coat of Arms shall be used. OPM Circular No/17/99 explains the use of the Coat of Arms. In general, project leaders are to use the Maltese emblem in black and white (as per OPM circular No 17/99). The circular may be accessed from the following link:

<http://intra.gov.mt/genericdata.asp?pagecode=21&SubCategory=2&Data=954>

Non-government departments can obtain a copy of the circular from the Directorate for Corporate Services of the sectoral respective Ministry most relevant to the area of operation of the NGO.

13. As regards the EU emblem, the blue rectangular flag with twelve gold stars (situated at equal intervals which form an invisible circle) should be used. If only black is available, the EU flag should be presented in a black outline rectangle, white background and black stars. In the event that (Reflex) blue is the only colour available, the stars may be reproduced in negative white and the field 100% blue. For further information please consult the following website:

http://europa.eu.int/abc/symbols/emblem/index_en.htm

For further information the FB may contact the IB.

- ✚ It is important to note that the use of the Coat of Arms is regulated by law and it can only be reproduced in relation to EU Structural Funds and Cohesion Fund.

Cohesion Fund:



Cohesion Fund for Malta 2004-2006
Tender co-financed by the European Union
Cohesion Fund
Co-financing rate⁴⁶: 70% EU Funds; 30% Government
of Malta



Fond ta' Koeżjoni:



Fond ta' Koeżjoni għal Malta 2004-2006
Offerta ko-finanzjata mill-Unjoni Ewropea
Fond ta' Koeżjoni
Rata ta' Ko-finanzjament : 70% Fondi UE; 30% Gvern
ta' Malta



The symbols may also be downloaded from the following websites:

http://europa.eu.int/abc/symbols/emblem/graphics1_mt.htm (Maltese Version)

http://europa.eu.int/abc/symbols/emblem/graphics1_en.htm (English Version)

<http://doi.gov.mt/EN/state/symbols.asp> (colour)

<http://www.coe.int/02/LOGO/DOWNLOADLOGOE.asp>

⁴⁶ The co-financing rate (i) for Transport is 85% EU Funds:15% Government of Malta, (ii) for Environment is 70% EU Funds:30% Government of Malta, (iii) for TA Environment is 85% EU Funds:15% Government of Malta

14. The FBs are to ensure that reference is made to the source of financing (Cohesion Fund for Malta 2004-2006), and where applicable to the Community co-financing rate (without going into exact amounts).
15. In addition, the FBs are to ensure that the following wording is also included:
This project is helping to reduce economic and social disparities among citizens of the European Union

16.7 Billboards

16. When implementing an **infrastructural investment project**:
 - A billboard should be erected at or beside the site of the projects involved during construction which would be replaced by a permanent commemorative plaque within 6 months of completion of the project.
17. Billboards must be of a size which is appropriate to the scale of the operation and must include a space reserved for the indication of the European Union's contribution.
18. The section of the billboard reserved for the EU contribution must meet the following criteria:
 - it shall take up at least 25 % of the total area of the billboard;
 - it shall bear the Community emblem and the following text, to be set out as shown below:



19. The lettering used to indicate the financial contribution of the European Union must be at least the same size as the lettering indicating involvement of the national authorities, although the typeface may be different.

16.8 Publications and Information Materials

20. Publications (such as booklets, leaflets and newsletters) about projects part-financed by the Cohesion Fund must contain a clear indication on the title page of the European Union's participation and, where appropriate, that of the Fund concerned.

21. The Community emblem must also appear if a national or institution's emblem is used.
22. Publications must include references to the body responsible for the information content and to the Managing Authority responsible for the programme.
23. For websites and other electronic or audio-visual materials, the above principles shall also apply by analogy. Websites concerning the Cohesion Funds must:
 - mention the contribution of the European Union and, if appropriate, that of the Cohesion Fund at least on the home page;
 - include a hyperlink to the other Commission websites concerning the Cohesion Fund;
 - consult and obtain approval from CIMU.

16.9 Information events

24. Organisers of information events (such as conferences and seminars) concerning projects part-financed by the Cohesion Fund shall make the EU contribution explicit by displaying the European flag in meeting rooms and using the Community emblem on documents. The Commission's office in Malta shall assist, as necessary, in the preparation and implementation of such events.
25. It is important to note that costs such as catering for information events, are not eligible for financing through the Cohesion Fund.

16.10 Media Space

26. Air space (TV/ Radio) is very expensive and should be used only if it really adds value to the project. In general the use of air space should have the prior approval of the MA. FBs are however, encouraged to make use of air space that is offered for free (interviews, participation in programmes etc..)

16.11 Tender adverts issued by DoC

27. Project Leaders are to ensure that such adverts comply with the hereunder.

The following text is to be included in adverts issued and paid by the Department of Contracts featuring on the Government Gazette for tenders relating to the Cohesion Fund 2004-06:

- This tender is co-financed by the European Union under the Cohesion Fund (2004-2006);
- Din l-offerta hija ko-finanzjata mill-Unjoni Ewropea taħt il-Fond ta' Koeżjoni (2004-2006).

16.12 Eligible Expenses

28. It is highly recommended that the FB should consult the application form to ensure eligibility of expenditure undertaken for publicity. When in doubt, the FB should consult the MA.

16.13 Template of Publicity Report

29. The template below reflects the publicity report required in Section 10 of the Monitoring Tool. The FB of each Cohesion Fund project will update this report prior to each Monitoring Committee meeting as outlined in Section 9.1 of Chapter 9 of this MoP.

MEASURES ADOPTED TO FULFIL INFORMATION AND PUBLICITY REQUIREMENTS (ACCORDING TO COMMISSION DECISION (EC) N° 455/96 AND THE CF COMMUNICATIONS ACTION PLAN & GUIDELINES			
Billboards erected at the site?	Yes	<input type="checkbox"/>	No <input type="checkbox"/>
Media used to inform the public of the measure in hand:			
Press:	<input type="checkbox"/>	Television:	<input type="checkbox"/>
		Radio:	<input type="checkbox"/>
Other audio-visual media (please specify): eg. Internet WEB site			
Type of written documentation made available to the public:			
Press:	<input type="checkbox"/>	Brochures:	<input type="checkbox"/>
		Information sheets:	<input type="checkbox"/>
Other means used for information and publicity (please specify): e.g. conferences			
Number of photos attached to the report:			
Examples of measures used/made available to the public:			
Press articles:			
Television:			
Radio:			
Others:			

30. The FBs must retain both hard and soft copies of the publicity material produced for the project. The FB should also forward soft copies of the publicity material to the officer responsible at the MA.

17. Communication

1. The following lines of communication must be followed.
2. Only the MA, the PA (on issues pertaining to forecasts and payment requests) and IAID (on issues related to audit matters) will directly communicate with the European Commission on all issues concerning Cohesion Fund.
3. As secretariat to the MC, it is only the MA that will communicate with the Monitoring Committee on issues pertaining to the Cohesion Fund.
4. FBs should seek to communicate in the first instance with the IB copying in the MA.at MITC. Queries and replies may be copied to the MA.
5. The FB must consult with MEPA on environmental and planning issues.
6. The FB must consult with the Department of VAT on issues pertaining to VAT. Any clarifications should be submitted in writing (even by e-mail) and should be copied to the relevant Programme Manager at the MA, PA, IB, the DoC and Assistant Director (Capital Expenditure) MFEI.
7. Any queries sent to the MA and/ or IB must be sent in writing. Clarifications to these queries must be done in writing and should be filed in the project dossier.
8. If an officer working in a stakeholder organisation, is transferred to another stakeholder organisation, the officer must inform the MA accordingly. The respective line Ministry must ensure that the MA has been informed accordingly. The MA will change the rights to the Structural Funds Database for the officer in question and will give rights according to the officer's new post. If the officer takes up a new post which does not involve the management/implementation of the Cohesion Fund or Structural Funds, the officer must inform the MA accordingly and access rights to the SFD will be terminated.

18. Delegation of Authority

1. It is highly recommended that due to the tight deadlines set by the verification and certification processes, the project leader should delegate authority to officials at the appropriate levels defining the specific responsibilities. In addition the project leader should delegate authority when:
 - Abroad
 - On Sick Leave
 - On Vacation Leave
2. If the Director, EU Affairs of the respective line Ministry will be away from the office, it is recommended that authority is delegated to an officer of the EU Affairs Directorate.
3. It is recommended that template 18.1 is used when delegating authority and both parties should sign the form.
4. Given that the covenant is signed between the MA and the Permanent Secretary of the respective IB, a delegation of authority has to be sent to the MA in the case that a specific Directorate has been designated to carry out the functions of the IB.
5. With respect to point 4 above, the relevant delegation of authority is to be signed by both sides that is the Permanent Secretary and the Head of the delegated Directorate. The MA is to be informed through a letter (template 18.1) which Directorate will carry out these functions and the official/s responsible and relevant copies are to be kept in the IB's files.

18.1 Delegation of Authority Form

To Whom It May Concern	
<p>This is to notify that <u> (name of person) </u>, who holds the position of <u> (position of person being authorised) </u> within <u> (name of organisation/Ministry) </u>, is hereby authorised to act and sign on behalf of <u> (name of person delegating the authority) </u> who holds the position of <u> (position of person delegating the authority) </u> within <u> (name of organisation/Ministry) </u>, on all matters related to the EU co-financed project <u> (name of project) </u> while the latter is away from the office on duty travel overseas, on vacation leave or on sick leave.</p> <p>In addition, <u> (name of person delegating the authority) </u> delegates the authority to <u> (position of person being authorised) </u> to participate in meetings related to the above mentioned EU co-financed project.</p> <p>Delegated by: <u> (Name in block letters) </u></p> <p>_____</p> <p>Signature Position</p> <p>Acceptance by: <u> (Name in block letters) </u></p> <p>_____</p> <p>Signature Position</p>	
Date	

18.2 Termination and Change of Project Leadership

6. Should there be a change in project leadership, the current project leader and the newly appointed project leader, should draft a letter informing the MA and copying in the IB, that the current project leader will be terminating his/her project leadership, specifying the name of the officer who will be taking over the project leadership and the date when the project leadership is handed over. The letter must be signed by both outgoing and newly appointed project leaders. This procedure also applies to project leaders who will be retiring from their post within the FB organisation. The respective Line Ministry must ensure that the above procedure has been undertaken whenever there is a change in project leadership.

Annexes to the MoP

Please refer to the attached document for the following annexes:

Annex 1 – Checklists

Annex 2 – Treasury Forms

Annex 3 – Covenants and TORs

Annex 4 – Monitoring Tool

Annex 5 – Cohesion Fund Guidance Notes

Annex 6 – SMSC Reports