

8. Project application, management and implementation

8.1 Application and selection

The application should be developed in close cooperation with the future project partners, as this is a requirement for projects financed under the “European Territorial Cooperation” objective of Structural Funds Programmes in the period 2007-2013. The preparation of a good application goes beyond the answer to the specific elements that are subject of the call and is based on the principles of *joint development* and *joint implementation*, where *joint* refers to the entire partnership.

Partners should carefully study the Programme documents and the information provided in this Programme Manual.

Applications have to be completed in English as this is the working language of the programme. Applications submitted in another language will be considered as ineligible.

The Application Form consists of standardised Excel and Word forms as well as separate annexes which type and number will depend on the legal status of the partner(s)¹ forming the partnership and the type of project you will be applying for. The standardised Excel form is characterised by a number of automatic links and formulas. Thanks to these functionalities, error messages will appear in the form if this is not properly filled in. The protection of the Excel document must not be removed. This will significantly reduce the risk of submitting ineligible applications. Detailed instructions on how to fill in the Application Form are provided in the Application Form itself. The Application Form is available at the ESPON website at www.espon.eu.

Applications can be submitted at any time between the launching of the call and its closing date. The characteristics of each call have to be carefully checked by applicants on the programme’s website www.espon.eu.

The application must be submitted:

- Electronically by e-mail **AND**
- In two paper versions, one duly signed ORIGINAL and one COPY of the original (unbound hard copy) by post. These paper versions will be considered as the official application.

The above documents have to be sent to the Coordination Unit within the set deadline for the call for proposals. The electronic version of the application has to be submitted at the latest by the end date of the call. Similarly, the paper versions signed, stamped and dated has to be sent at the latest by the same date. This eligibility criterion will be checked through the date of the postal stamp on the envelope.

In case further assistance is required on project development and/or the application procedure, applicants should not hesitate to contact the Coordination Unit. All the relevant information for project development and application including contact details for the Coordination Unit and for the ESPON Contact Points can be found on the programme’s website www.espon.eu

¹ In case of doubts on your legal status please contact the relevant MC Member. The wrong indication of the legal status is not a correctable omission and a wrong indication will cause the ineligibility of your proposal.

The CU will regularly organize individual consultations or workshops for potential applicants. Information will be provided on the ESPON website.

Eligible bodies

Following the decision of the MC on 17 March 2009, call for proposals are open to (1) public bodies and bodies governed by public law² as well as to (2) private bodies³.

According to Article 6 (4) of the Agreement, the CU, when assessing the eligibility of the application, will ask Member States and Partner States to verify that any Project Partner under private law meets all the established legal conditions. In particular member States and Partner States will have to certify, on the basis of documents provided as part of the application procedure, the solvency of any private partner involved. This condition is considered as an eligibility criterion and proposals including private partner(s) whose solvency will not be positively confirmed will be declared not eligible.

The updated list of country specific documents that have to be provided by each private partner will be made available on the ESPON 2013 website at the moment of the pre-announcement of the call for proposals.

Projects can only involve contributing partners. It is not possible to participate with an “observer” status. It is neither possible to participate as a “sub-partner” and to receive ERDF funding through another partner organisation/umbrella organisation officially listed in the Application Form. Any organisation that contributes to the implementation of the project and receives programme funding has to be listed as a formal project partner. In all other cases, any form of participation in the project would be considered as sub-contracting by one of the formal partners and requires the respect of national and European procurement rules and a full payment from the partner on the basis of a contract and invoices before asking the reimbursement of this cost by including it in a Project Progress Report.

8.2 Contracting

8.2.1 Subsidy contracts

A Subsidy Contract governing the obligations of the Transnational Project Group (TPG) and its relation to the ESPON 2013 Programme will be signed between the Lead Partner, as representative of the TPG, and the ESPON Managing Authority. The contract is concluded in Euro.

To ensure a sound and efficient implementation of the project, the Subsidy Contract may only be concluded after the MA has received the confirmation that adequate control systems according to Article 16 of Regulation (EC) No 1080/2006 have been set up in the respective Member States, as set out in § 1 (3) and § 5(2), and after the ultimate financial liability according to Article 17 of Regulation (EC) No 1080/2006 has been confirmed for the beneficiary by the respective Member State.

² According to Directive 2004/18/EC, Art. 1

³ Taking into account the different and higher responsibility of Lead Partner in relation to the implementation of the projects, private partners are advised to carefully consider the opportunity to take up the LP role.

8.2.2 Partnership agreement

Partner institutions/bodies in each TPG are required to sign a Partnership Agreement (in English language) laying down the division of mutual responsibilities and rights of partners and ensuring a smooth work mechanism. A template will be provided by the ESPON CU. The value added of having such an agreement is, on the one hand, to reinforce each partners commitment to cooperate on a contractual and legally binding basis, and to ensure compliance with decision-making procedures as well as with EU and national legislation. On the other hand, the Partnership Agreement lays the basis for an optimal understanding of duties and responsibilities by all signatories.

A template for the Partnership Agreement is available on the ESPON website (www.espon.eu). The template provides mandatory clauses (Part A) and leaves then space for the partnership to add more details in Part B).

Part A is **mandatory** and cannot be amended or changed.

Part B is to be implemented by the partnership, but can by no way limit any clauses in Part A. The Partnership Agreement has to be signed by the Lead Partner and all the Project Partners.

A copy of the signed Partnership Agreement must be submitted together with the Inception Report to the Managing Authority within twelve weeks from the kick-off meeting organised by the ESPON Coordination Unit.

8.3 Partnership in a Transnational Project Group (TPG)

8.3.1 General partnership requirements

ESPON projects are generally conducted in a partnership of several public, public equivalent and/or private bodies from at least three EU Member and/or Partner States (from three different countries taking part in the ESPON 2013 Programme). However, this requirement does not apply to projects with a budget up to € 200.000 for which a partnership is not required and proposals can be submitted by a single eligible body. Ideally, partners are experienced in cooperating in a transnational project setting and are acquainted with conducting applied research on a transnational level.

In general, eligible bodies of all Member and Partner States of the ESPON 2013 Programme can take part in a TPG to conduct an ESPON project.

Bodies from Third Countries that are not Member or Partner States can only be included in a TPG as external experts/suppliers of services and goods in case their specific expertise is required by the project.

Participation as external experts/suppliers of services and goods is always possible, but in all cases, relevant public procurement rules shall be respected.

The maximum number of project partners is up to the TPG. In order to guarantee a sound and efficient management, though, TPGs might consider restricting themselves to a total number of five partners. However, a higher number of partners might be necessary as competences can be better covered that way and/or if partners are already experienced in cooperating with one another and have done so successfully. Outsourcing to external experts or suppliers of services and goods is an option for minor and clearly defined tasks related to the project.

Finally, the TPG consortium should provide proof of the presence of sound management skills and awareness of EU Regulations and associated reporting, control and audit procedures.

8.3.2 Partnership requirements for projects under Priority 1, Priority 2 and Priority 3

The bodies making up a team should dispose of the required knowledge, analytical and research experience, resources and capacity to fulfil the task. The TPG undertaking an applied research project, targeted analysis and projects building the ESPON scientific platform should be well informed on the actual policy context of EU Cohesion Policy and territorial development (including in depth knowledge of relevant documents such as the ESDP, the CEMAT Guiding Principles for Sustainable Spatial Development, the Fourth Cohesion Report, the Green Paper on Territorial Cohesion as well as the Territorial Agenda of the EU and upcoming documents). In addition, staff members participating in the TPG should be familiar with all relevant Community policies and strategies (including the Lisbon/Gothenburg Strategy), and ideally with respective national policies, that are related to and/or have an impact on territorial development.

The TPG should accumulate expertise in such a way, that the entire ESPON territory can be analysed in terms of its geographical coverage, as well as its national and regional characteristics, development policies and languages. The project team should encompass a multidisciplinary competence to ensure that both territorial and socio-economic analysis can be carried out with sufficient levels of expertise. Preferably, partners taking part in a TPG should come from different countries participating in the ESPON 2013 Programme, which will help to meet the above mentioned requirements regarding geographical coverage, etc.

8.3.3 Partnership requirements for Transnational Networking Activities under Priority 4

Calls for proposals for transnational activities will be opened to the confirmed members of the ECP Network. Proposals will have to be submitted by a grouping of at least 3 ECPs and be formulated in the form of a strategy with objectives and a package of compulsory actions and, eventually, additional activities as indicated in section 5.3.2 of this Programme Manual. The Lead Partner principle will apply to this type of actions.

8.3.4 Role and responsibilities of Lead and Project partners

Each project must follow the so-called *Lead Partner principle*, which means that among the number of partners who carry out the project, one is appointed to act as Lead Partner (LP) and thus to form the link between the project and the CU/MA.

The Lead Partner takes over the responsibility for management, communication, implementation and co-ordination of activities among the involved partners.

The Lead Partner Principle does not confer all project responsibilities to the LP. The latter is considered as the administrative link between the project and the programme, namely the project expert in charge at the Coordination Unit as well as the Sounding Board (if relevant) assisting the project. The LP is responsible for reporting progress to the ESPON 2013 Programme and transferring the programme fund to the project partners.

However, the project partners are responsible for the correctness of their own actions and related expenditure.

The following list gives an overview of the LP's responsibilities ⁽⁴⁾ in preparing, implementing and closing the project:

⁴ According to Article 20.1 of the ERDF Regulation (EC) 1080/2006

- Signs and submits the Application Form on behalf of the partnership;
- Should the project be approved, signs a Subsidy Contract with the Managing Authority for the total amount of the subsidy;
- Establishes a Partnership Agreement (mandatory) setting mutual rights, obligations and duties between project partners;
- Ensures the implementation of the entire ESPON project being responsible for the division of tasks among the partners involved in the project and ensures that these tasks are subsequently fulfilled in compliance with the Application Form and Subsidy Contract,
- Ensures an efficient internal management and control system;
- Makes sure that the project reports timely and correctly to the CU and that the expenditures presented by the beneficiaries participating in the project have been incurred for the purpose of implementing the project and correspond to the activities agreed between those beneficiaries;
- Verifies that the expenditures presented by the beneficiaries participating in the project have been validated by the controllers;
- Requests and receives payments of programme funding;
- Transfers programme funding to the partners without delays in compliance with the amounts reported in the Project Progress Report and approved by the Programme. Project Partners through their Lead Partners have to provide confirmation to the MA/CU on reception of the funds in the Partner Progress Reports.

All partners in a TPG should play an active role in developing and implementing the project. Key conclusions, changes to the project's strategy and other important decisions should be made jointly.

Every partner is responsible for:

- Carrying out those activities assigned to it in the approved proposal and further outlined in the inception report;
- Ensuring that expenditure has been certified by the approved controller.

Additionally, project partners are required to sign the Partnership Agreement. The draft is provided by the ESPON 2013 Programme (see above 8. 2.2)

The partners must provide adequate ancillary and support staff to back up the LP and the management team assigned to performing the service so as to ensure high-quality services and products. The Lead Partner is responsible for the overall project delivery of the results.

The LP must make sure at the beginning of the project that the duties and requirements for implementation of the project in terms of validation and/or certification of expenditure by project partners are clear and communicated to all project partners. Moreover, it is advisable for the LP to tailor the financial management structure according to these requirements and the individual project partner profiles (size of budget, types of expenditures involved, types of audits required etc.).

It is of greatest importance that the regular input to required Project Progress Reports is guaranteed and that the project partners transfer the information in time to the LP. In order to ensure this, project partners shall add a respective clause in the Partnership Agreement according to which they have to transmit to the LP the necessary documents (e.g. First level

financial control documents, Partner(s) Progress Report) by at the latest two months before submitting the Project Progress Report.

In addition, the LP should inform all partners about the filing requirements and the storage of project accounting evidence. Lastly, it is important to adhere to project specific requirements.

The full administrative, financial and legal responsibility for the operation is with the Lead Partner. In order to ensure these tasks, the Lead Partner has to set up an efficient and reliable:

- Management and control system;
- Co-ordination system;
- Audit trail.

For this purpose each operation should appoint or sub-contract the following two positions for project management:

- A project coordinator

The coordinator is responsible for the organisation of the project's work. The coordinator should be qualified in management of transnational projects as well as in the thematic priority of the project. The coordinator should be able to act as a driving force in the partnership and to mobilise the partners in order to achieve the objectives laid down in the application within the given time.

- A financial manager

The financial manager is responsible for the accounts, financial reporting, internal handling of Programme financing. The financial manager should work in close contact with the coordinator, the partners and the first level controllers in order to enable efficient financial management of the operation. The financial manager should be familiar with accounting rules, international transactions, EU and national legislation for the management of ERDF, public procurement and financial control. The financial manager of the Lead Partner as well as the financial managers of each project partner will have to attend the compulsory training organized by the CU upon financial matters. The travel expenditure incurred in relation to the training are eligible and can be included in the project budget.

Both the coordinator and financial manager should be fluent in English for all communication with the CU and other bodies involved in the programme management.

Additionally, in order to set up an audit trail within the TPG, the LP and the project partners can ask for the advice and support of the first level controllers, who are responsible for the validation of the expenditure respectively at LP's and at project partners' level. The procedure for selecting the first level controller is described in Chapter 8.6.

The LP of a project funded by ESPON can be either located in a Member or a Partner State. Lead Partners located in Partner States are not entitled to use ERDF funding for own expenditure. They may receive ERDF funding from the Certifying Authority only for the purpose of administering and transferring it to other partners participating in the respective project.

8.3.5 Partners from Partner States

Upon invitation of the EU Member States, Norway, Switzerland, Iceland and Liechtenstein accepted to participate in ESPON 2013 as Partner States. As such, they will be considered full members of the programme and participate in decisions of the Monitoring Committee.

Agreements have been established between the Managing Authority and the Partner States (see also chapter 7 on Programme Management, c. Agreement with Member States and Partner States).

Eligible bodies from Partner States participate in the ESPON 2013 Programme under the same conditions as eligible bodies from EU Member States.

8.3.6 Bodies from Third Country Partners

During the programme implementation it is the intention to consider involving further countries in the applied research and targeted analysis. EU Candidate Countries and direct neighbours of the EU will be primarily taken into account. Such countries are considered as Third Country Partners.

Bodies located in these countries cannot take part in the activities as partners. Nevertheless, they can participate in a TPG as external experts on service contract base in case their specific expertise is needed by the project. Potential Lead Partners should contact the ESPON CU on this issue prior to including any individual or institution from a Third Country as external expert or supplier of services. The involvement of external experts or suppliers is subject to the respect of the relevant public procurement legislation.

8.4 Project budget

It is important that projects consider financial issues from the very beginning. This approach requires the involvement of all partners in the preparatory work and planning meetings during the development of the project application. Time invested prior to the submission of the application results in strong partnerships with clear responsibilities and well-justified budget allocations. Good preparation is one of the main factors to ensure a quick start of project activities after approval and smooth project implementation.

The detailed budget should always be prepared on the basis of the activities needed to meet the projects' objectives and the resources required to carry out these activities within the time allowed.

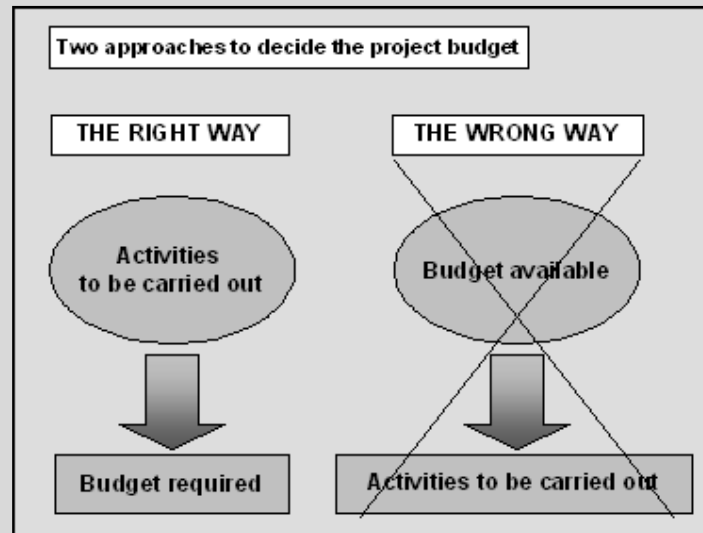
The Application Form requires a budget:

- With a breakdown per budget line (BL);
- With a breakdown per Work Package (WP): there will be three work packages, WP1 for Coordination, WP2 for Activities and WP3 for Dissemination;
- With a breakdown per reporting period (*payment forecast*);
- With a breakdown per partner (PP).

The CU strongly advises every project to develop a budget breakdown on Work Packages for each partner on a six-month period basis. This would ease the duty of the Lead Partner to

build the budget for the whole partnership in the application phase and to monitor the partners' performance in the implementation phase.

Figure 1 - Cost budgeting



(Source: Interact Point Qualification and Transfer: “Financial Management Handbook”; 2006; p. 80)

1. After having filled in the project time plan, the Lead Partner has an overview of the main activities by work package, the start date and end date of a project activity and the outputs.
2. The Lead Partner should precisely identify the partners which will be involved in carrying out the activities mentioned in the time plan.
3. It is advised to identify then
 - a) the resources needed by each partner to complete the activities by work package;
 - b) to approximate the related cost and to forecast the payment date;
 - c) to reorganise these figures by budget line.
4. This leads to the detailed budget by partner, work package, budget line and six-month period.
5. By aggregating the partners’ detailed budgets, the Lead Partner gets the total estimated amount per budget line, work package and six-month period for the whole partnership for the Application Form.

8.4.1 Eligibility period

With the exception of Preparation Costs (see hereunder), costs for the operations are eligible from the date of approval by the Monitoring Committee⁵ to the end date of the project. The Monitoring Committee is expected to select and approve the preferred proposal within 5 months after the end date of each call. Projects should normally be ready to start

⁵ If a project is approved under conditions, the costs can still be eligible from the decision date of the Monitoring Committee (MC) provided that the project is finally approved later on. The implementation of the project activities in the period between MC approval and fulfilment of the conditions is thus undertaken at the project’s own risk because it could theoretically happen that the project does not fulfil the conditions and thus is finally not approved.

implementation at the latest within 2 months following the date of approval by the Monitoring Committee.

End date of the project

The project will have two official end dates which will be specified in the Subsidy Contract:

- End date for content related activities (WP 2 *Activities* and WP3 *Dissemination*) and
- End date for financial management duties (WP1 *Coordination*).

In the application form the project will be asked to determine the end date of the content related activities. The application form will determine automatically the end date of the project by adding three months to the end date for content-related activities. This second date will have to be used by the project to close all administrative duties related to the financial management of the project closure (e.g. preparation of the Final Project Progress Report, payments of invoices, first level control of the expenditure, payment of the first level controller, etc.)⁶.

All payments of the TPG have to be made before this second date in order to be eligible, otherwise the non-declared expenditure will be de-committed due to the fact that the programme as such is subject to an n+2 and n+3 automatic de-commitment rules.

The last call for proposals will be launched on time to close all projects activities by 31 December 2014, as according to Regulation (EC) 1083/2006 Article 56, the programme has to end on 31 December 2015.

Preparation costs

Successful projects approved by the Monitoring Committee can receive programme funding for their costs related to the preparation of a project. Preparation Costs have to show a direct and demonstrable link to the development of the project.

Typical activities during the preparation phase of a project are the following:

- Development of the project idea and partner search in the Programme web site,
- Meetings with the project partners,
- Completion of the Application Form,
- Participation in events organized in relation to the call and to the preparation of the proposal, individual consultation with members of the CU.

These costs can be reported only under the budget lines (BL) *Staff, Administration, Travel and accommodation, External Expertise and services*

The preparation costs must be further described in the Application Form and broken down into the same budget lines as the other components of the project. The activities must have taken place in the period between the publication of the pre-announcement of the call and the date on which the Application Form has been submitted to the programme. These costs must be paid out before they are reported in the first Project Progress Report. The eligible preparation costs cannot exceed the **5% of the total project costs as stated in the Subsidy Contract**.

⁶ Considering that the first level control of the last progress report can be undertaken only after the project closure, the related first level control costs can be paid after the eligibility period of the project.

8.4.2 Budget lines

The budget table in the Application Form foresees a sub-division into the following budget lines (BL):

- Staff
 - Administration
 - Travel and accommodation
 - Equipment
 - External expertise and services
- } For the personnel **employed** by the partner institutions officially listed in the Application Form
- } For details please refer to section here below.

Staff⁷

The staff budget line involves personnel costs for the time that the partner organisations' staff spends on carrying out the project activities in accordance with the Application Form (full-time or a certain percentage of total working time).

The persons whose staff costs are budgeted and later on reported must be directly employed by the partner organisations officially listed in the Application Form (e.g. internal project coordinator, financial manager, and financial controller) in compliance with country specific control requirements.

It is not possible to report any staff costs of personnel external to the official partner organisations in this budget category. If the operation uses an external project coordinator, financial manager or external independent controller, the costs have to be specified, budgeted and reported under the budget line "External expertise and services".

Reporting staff costs

While for budgeting purposes it is possible to use average rates and estimates, the reporting of staff costs has to follow the following principles:

- The calculation has to be based on the actual salary rate (employee's gross salary + compulsory employer's charges in accordance with the national legislation) of the individual employee who is actually involved in the project activities. The calculation excludes any administration overheads.
- If the staff is working less than 100% of its actual working time for the operation, the calculation must be based on the hourly rate resulting from the actual salary rate divided by the total number of hours workable by the staff member (on a yearly basis) for the partner institution. This hourly rate is then multiplied by the number of hours actually worked on project activities (as registered in the time sheets of the staff member).
- Staff costs must be supported by documents that permit the identification of the

⁷ This section (and relevant examples) refers to standard cases and does not cover specific situations such as self-employed owners/partners of companies. In these non standard cases, staff costs (or their equivalent) shall be calculated according to a transparent, fair and equitable method. The audit trail needed will be specific to the equivalent solution adopted. Beneficiaries are advised to consult with the competent First Level Controller/Central Approbation Body about the proposed calculation method and/or find an agreement with them.

employment relationship with the partner organisation (working contract), the real costs by employee (pay slips, payment proofs, calculation evidence for the determination of the hourly rate), the overall workable time (according to national legislation) and the worked hours, spent on carrying out activities in the context of the operation (record of tasks, project specific time sheets). First level controllers must be provided with all these documents and must check their compliance before validating the expenditure.

Staff costs are considered as a cash contribution as they are actually paid by the partner institution.

Example

The project coordinator is employed by the Lead Partner from January 2009 to December 2010 (two year contract). She will be working 100% of her time in the project only.

The gross salary and compulsory charges for the employee amount to 45.000 euro/year. Since the Lead Partner is located in Germany, the national legislation allows a maximum amount of workable hours of 1760 per year.

The hourly rate for the coordinator will thus be:

45.000 euro : 1760 hours= **25,57 euro**

This amount will have to be multiplied by the number of worked hours reported each month in the time sheet, in order to report the eligible cost.

January: from the time sheet the total worked hours are 120 hours. Total cost per January is 25,57x 120=3068,4 euro.

May: from the time sheet total worked hours are 19 hours. Total costs per May are 25,57x 19=485,83 euro.

In November 2009 the project coordinator has her salary revised by the Management Board. The total charges for the employer increase from 45.000 to 50.000 euro per year.

The hourly rate will have to be recalculated on a yearly basis, in order to account correctly the costs of November 2009 and December 2009.

The hourly rate for the coordinator will thus be:

50.000 euro : 1760 hours= **28,41 euro**

November: from the time sheet the worked hours are 122. Total costs per November are 28,41 x 122=3466,02 euro.

December: from the time sheet the worked hours are 90. Total costs per December are 28,41 x 90=2556,90 euro.

Administration costs

Administration Costs may include cost items such as

- Stationary;
- Photocopying;
- Mailing, postage;
- Telephone, fax and Internet;

- Heating, electricity;
- Maintenance of the premises where staff working on the project is located⁸;
- Office rent.

These costs may be:

- Direct general costs or
- Indirect general costs.

While **direct** general costs can be identified as belonging directly to the project, **indirect** general costs (overheads related to the project activities) are calculated on a pro-rata basis. Please see the grey box here below for “Calculation of indirect general costs”.

Administration costs linked to services provided by external experts must be included in the budget line “External expertise and services”.

The following two thresholds must be taken into consideration both in the application phase and in the reporting phase:

- Administration costs (the sum of **direct** general costs and **indirect** general costs) cannot exceed **25% of the total staff costs**.
- Indirect costs, declared on a flat-rate basis cannot exceed 20% of the direct costs of the operation.

These thresholds apply both at partner level and project level.

Reporting administration costs (direct and indirect)

Administration costs have to fulfil the following criteria:

- They have to be eligible according to national rules and European regulations (in particular Regulations (EC) no. 1083/2006 Art. 56; no. 1080/2006 Art. 7; no. 1828/2006 Art. 48 to 53; (EC) no. 397/2009 – amending regulation (EC) no 1080/2006 Art. 1);
- They must be calculated on the basis of actual costs and capable of verification, i.e. based on factual elements in the accounting system which can be verified by an auditor. No lump sums, overall estimations or arbitrary keys are allowed!
- They must show a direct link to the operation’s activities;
- They mustn’t have already been financed from other EU-funds;
- They mustn’t have already been included in other budget lines or cost items.

When it comes to reporting these costs, it has to be demonstrated that the administration costs reflect only costs which

- **Were really borne by the organisation, and**
- **Were necessary for project implementation.**

If there have been problems with the reporting of administration costs in the past, it often resulted from partners trying to stretch the above-mentioned principles into grey areas. The reported administration costs have been artificially inflated through the inclusion of

⁸ Examples of maintenance costs: cleaning services, services provided by caretakers, housekeepers, IT maintenance etc.

overhead cost categories which lacked a clear project link. In case of doubt, it can only be advised to exclude the cost categories in question from the calculation to avoid problems later on.

Costs that **cannot be** reported under administration costs: office furniture, clothing, chauffeurs, maintenance cost for cars belonging to the institution (non exhaustive list).

Calculation of indirect general costs

In the case of indirect general costs (overheads related to the operation's activities) this means that the calculation is done pro-rata on the basis of the actual costs according to a duly justified, fair and equitable method that should remain the same during the whole implementation period. This means that the costs are charged to the operation to the extent that they represent a fair apportionment of the organisation's actual administration costs and have been necessary for the successful completion of the operation.

The allocation of the organisation's eligible administration costs to the operation can be done for example on the basis of the following ratio: the ratio "total number of people employed for the operation / total number of people employed by the organisation". This ratio should be properly documented and periodically reviewed.

Travel and accommodation

This cost category refers to travel and accommodation costs for employees of the partners incurred due to their participation in meetings, seminars, conferences taking place on the territory of the Member and Partner States.

Any trip must be clearly motivated by the project activities and necessary for the successful project implementation.

Travel and accommodation costs for EU partners for travelling outside the Member and Partner territory can be eligible if they:

- Are for the benefit of the operation,
- Are explicitly mentioned and justified in the approved application.

Travel and accommodation costs for non partner organizations travelling to the EU can also be co-financed in the context of the project if the costs are budgeted, paid and definitely borne by one of the partners located in a Member or Partner State.

Travels from and outside the Member and Partner States are subject to prior approval of the CU/MA. Please note that approval will be given only in exceptional and duly justified cases.

Travel and accommodation costs should be budgeted taking account of the national and/or internal rules of the respective partner organisation for reporting these costs later on. As a general rule the most economic way of transport and accommodation has to be chosen. Daily allowances for travel and accommodation are possible as long as the allowance is actually paid by the partner body to the employee and this is in line with the national or institutional conditions set for this partner body.

Similarly to the "Staff" and "Administration" budget lines, the travel and accommodation budget is also reserved to the personnel employed by the partner organisations officially listed in the Application Form. The travel costs of any external experts participating in

project activities and to be financed by the project have to be budgeted under “External expertise and services”.

Reporting of the travel costs

When it comes to reporting of the travel costs, it is necessary to keep proper documentation that provides justification for the travel:

- Agenda of the meeting/conference/seminar;
- Invitation to the meeting/conference/seminar;
- List of participants;
- Travel report related to the meeting/conference/seminar.

For the accounting of the costs, it is necessary to keep proof of the:

- Per diems, daily allowances;
- Travel costs (e.g. boarding cards, tickets);
- Invoices, receipts;
- Records of the payments.

Equipment

This budget line refers to the depreciation of equipment necessary for the successful implementation of the project. This category usually refers to IT equipment such as a computer or a printer necessary for project activities and management.

As project partners should already have the necessary equipment to implement the activities described in the application form, the purchase of equipment should remain exceptional.

The breakdown for this BL will have to be specified in the application phase: the nature of the equipment to be depreciated, the partner responsible for it and the budget envisaged.

The same level of detail will be monitored in the reporting phase.

Reporting equipment costs

Equipment items that have been initially planned in the Application Form must be reported by depreciating the cost of the equipment, by applying national accounting regulations.

It has to be ensured that the items:

- Have not already been financed by other subsidies (e.g. EU, national or regional), and
- Have not already been fully depreciated;
- Are not already included as indirect costs in another category such as the administration budget line.

The amount for equipment has to reflect the actual use of these items in the context of the project. If it is not exclusively used for project purposes, only a share of the depreciation quota can be allocated to the project. This share has to be calculated according to a fair, justified and equitable method.

An inventory of the purchased items as well as the documentation of the method for reporting them (depreciation method according to national legislation) has to be kept for accounting, control and audit purposes.

External expertise and services

The term “external expertise and services” is applied to expenses paid by the partners on the basis of

- Contracts/agreement and
- Invoices/request for reimbursement

to external service providers who carry out certain tasks for the operation because the partners lack the resources to carry them out themselves. These might include, for example:

- External project coordination or financial management,
- External independent financial control (in compliance with country specific control requirements),
- Website design and hosting,
- Writing, lay out, printing of promotion material,
- External event organisation,
- Meeting room rental and catering,
- Interpretation/translation,
- Studies and surveys,
- Data-sets,
- External speakers and external participants in project meetings and events if the added-value of their participation and taking over the costs can be clearly demonstrated and the cost will be definitely paid and borne by partners officially listed in the Application Form.

There are no fixed rates or ceilings established by the programme for budgeting and reporting external expertise and service costs. Normal market rates must be taken into consideration.

The contracting of experts and service suppliers must comply with the public procurement rules applicable to the project partner (see Chapter 8.4.4).

The external expertise or service has to be specified in the Application Form. In particular, the following elements should be described: the nature of the expertise or service, the partner responsible for contracting, the budget.

8.4.3 Eligibility of expenditure

In order to be considered eligible, the costs must comply with the legal framework set by the following documents:

- The Community rules at large (e.g. on public procurement, equal opportunities, environmental protection, competition on the common market etc.), and in particular the European Community Structural Funds regulatory framework i.e. Council regulation (EC)

No 1083/2006, Commission Regulation (EC) No 1828/2006, Regulation (EC) No 1080/2006.

- The national rules applicable in the countries where the project partners are located⁹.
- The Programme Manual and programme rules at large, included guidelines and any provision originating from the Authorities of the programme.
- The Project Specification for the respective call.
- The approved and contracted Application Form.
- The provisions of the Subsidy Contract.
- The content of the Partnership Agreement.

In case of discrepancies, the stricter rule applies.

8.4.4 Public procurement

The procurement rules aim at securing transparent and fair conditions for competition on the common market.

At the European Union level, a call for tender procedure is compulsory for contracts over a certain amount awarded by a public sector body (public supply, works or service contracts).

At the level of each member state, other rules may exist, and may be more binding, notably with regard to the amount of the contract which requires the issuing of a call for tender. In any event, in the case of a project implemented with financial assistance from the ESPON 2013 Programme, the European regulations must apply to all such contracts awarded within the framework of the project (¹⁰).

The purchase of goods and of services, as well as the order for public works, by public services or other public bodies is subject to Community and international/national rules. Thus all project partners and lead partners must comply with public tender/procurement regulations whenever they intend to contract an external organisation. **Only costs based on public procurement procedures will be considered eligible** for funding. These rules must also be applied by all the organizations listed as project partners in the application, if they are going to claim the costs in their Partner Progress Reports and want to receive funding from ESPON 2013 Programme on these costs.

In practice this means that all project partners must apply the European regulations to all such contracts awarded within the framework of the project (¹¹). In case national/regional rules set stricter requirements, then the stricter rules must be applied.

For amounts below the thresholds set by the stricter rules, the CU advises projects to request at least three offers from three different providers before selecting the supplier.

⁹ In case of doubt on national applicable eligibility rules Lead and project partners should contact their appointed first level financial controller.

¹⁰ Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004.

¹¹ Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004.

The European Commission has issued a Guidance Document determining the financial corrections that will be applied to expenditure co-financed by the Structural Funds for non compliance with the rules on public procurement. The document specifies the types of irregularities both in case of contracts regulated by EC public procurement directives and contracts outside the scope of EC public procurement directives. Lead and Project Partners are advised to take careful note of this document which is available on the ESPON 2013 Website under the section “*Legal Framework*”.

Call for tender procedure on a European level

The levels that trigger the obligation to issue a call for tender procedure are the following:

- **Call for tender on a European level**

A call at European level is necessary whenever the amount of a public service contract is equal to or greater than the relevant threshold. Note that the rules differ depending on the kind of goods and/or services that are purchased as well as the value of the purchase. There are various thresholds set up based on the value of the purchase, and consequently various procedures to apply depending on these thresholds.

Further information on the European rules concerning public procurement can be found in the “*Guides to the Community rules in the area of public procurement (supply contracts, public works, services)*”, which can be downloaded from the following link: http://ec.europa.eu/internal_market/publicprocurement/docs/guidelines/services_en.pdf.

In addition, please refer to Commission interpretative communication on the Community law applicable to contract awards not or not fully subject to the provisions of the Public Procurement Directives which can be downloaded from the following link: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2006:179:0002:0007:EN:PDF>

- **Call for tender procedure on a regional/national level**

Please consult your first level controller, the Internal market web site (see link below) and/or your **national public procurement** authority for further information. http://ec.europa.eu/internal_market/publicprocurement/index_en.htm

A detailed list of the **applicable national rules** related to public procurement will be provided by the Member and Partner States of the Programme on the web site of the Programme www.espon.eu

8.4.5 Other eligibility considerations

When projects prepare their budget, it is important to take into account the eligibility rules for ERDF funded expenditure defined in

- Regulation (EC) No 1083/2006, Art. 56,
- Regulation (EC) No 1080/2006, Art. 7;
- Regulation (EC) No 1828/2006 Articles 48 to 53 and
- The rules laid out in the Programme Manual.

In this context, the following points should be highlighted:

a) VAT

VAT does not constitute eligible expenditure unless it is genuinely and definitely borne by the partner. VAT which is recoverable by whatever means cannot be considered as eligible even if it is not actually recovered by the partner. In the application phase partners will be asked to provide a confirmation about their VAT status. In reporting, first level controllers will have to confirm if the VAT has been really borne by the controlled project partner.

b) Financial Charges

Charges for transnational financial transactions are eligible but charges for national transactions, interest on debt are not. Bank charges for opening and administering the project account are also eligible. Fines, financial penalties foreign exchange losses are not eligible. Eligible costs can be reported under the budget line *Administration costs*.

c) Revenue generation

ESPON Projects in principle are not supposed to lead to any revenue generating activities. However, projects which total costs exceeds €1.000.000,00 generates revenue for example through services, conference participation fees, sales of brochures or books, it must be deducted from eligible costs in full or pro-rata depending on whether it was generated entirely or only partly by the co-financed operation. The ERDF funding is calculated on the basis of the total cost after deduction of the revenue.¹²

d) Expenditure already supported by other EU or other national or regional subsidies

Expenditure which is already co-financed from another EU-funding source is not considered an eligible cost for this Programme. If an expenditure item is already fully supported by another national or regional subsidy, it is not considered eligible, as it would result in double-financing.

e) Fees for auditing

Legal consultancy fees, notaries fees, costs of technical and financial experts, and accountancy and audit costs are eligible, provided that they are directly linked to the co-financed operation and are necessary for its preparation or implementation or, in the case of accounting and audit costs, if they relate to requirements imposed by the MA/CU. These costs can be reported under the budget line *External experts and services*.

f) Guarantees

The costs of guarantees provided by a bank or other financial institution are eligible to the extent to which the guarantees are required by national or Community legislation. These costs can be reported under the budget line *Administration costs*.

8.4.6. Publicity and information requirements

All operations must comply with the publicity and information requirements laid down in the **Commission Regulation (EC) No 1828/2006 (Articles 8 and 9) and its Annex I**. The Regulation can be downloaded from the ESPON Web site.

All communication materials and tools produced within the framework of the project (e.g. articles, reports, seminars and workshop programmes, Power Points, attendance lists, promotional items etc.) must carry the following:

¹² Guidance note on Art. 55 of Council Regulation (EC) No. 1083/2006: Revenue-Generating Projects; Council Regulation (EC) No 1341/2008: amending Regulation (EC) No 1083/2006

1. Emblem of the EU (the flag) **AND**
2. Reference to the European Union **AND**
3. Reference to the contribution of the European Regional Development Fund **AND**
4. “Investing in your future” statement, which has been chosen by the Managing Authority to highlight the added value of the intervention of the European funds

The following box shall be inserted centred at the bottom of the first page only of the document:



In addition to the requirements set by the Regulations, projects must also implement the ESPON publicity requirements:

5. ESPON 2013 Logo **AND**
6. The wording “ESPON 2013 Programme” **AND**
7. The disclaimer sentence quoted in Chapter 8 of the Subsidy Contract

The ESPON logo shall be placed in centre position at the top of the first page and on this page only. None of the two (ESPON logo or EU publicity measures) may ever be used alone.

For small promotional items only points 1, 2 and 5 apply. Project-related websites must contain, in addition to the above mentioned measures, hyperlinks to other related Commission websites and websites of the ESPON 2013 Programme and related projects.

Use of the EU logo is also obligatory when using any other emblem. The EU emblem should be at least the same size as the other emblems being used.

The EU and the ESPON 2013 logos are available for download on the ESPON website. A link to the official website of the European Union where different versions of the EU emblem can be downloaded is also provided here.

Should any of the above conditions not be met by any of the project partners, this would imply a **recovery** of the funds unduly paid. The recovery will be applied in percentage to the aid given, according to the table reported in the “Guidelines for determining financial corrections to be made to expenditure co-financed by the Structural Funds or the Cohesion Fund for non-compliance with the rules on public procurement”, available on the web site of the Programme.

It is strongly advised that each operation designs an internal plan for information and publicity activities in order to ensure proper dissemination of information. In this context, the objectives and actions of Priority 4 of the ESPON 2013 Programme “Capitalisation, ownership and participation: Capacity building, dialogue and networking”, make use of these facilities and opt for complementarity.

Finally, all selected Lead Partners will at the project start be provided with further guidance on additional elements of the corporate identity of the ESPON 2013 Programme and on how to implement these elements at projects level.

8.4.7 Payment forecast

Programmes need to know **how much** will be claimed and **when** for two purposes:

1. Every year on 30 April, the CU has to provide the European Commission with a spending forecast.
2. The programme financial tables indicate the ERDF allocations per year, which have to be spent within a certain time frame or will otherwise be lost (de-commitment rule). The projects' payment forecasts give information on the contribution each project will make towards meeting the financial targets each year. If sufficient ERDF commitments are made already at an early stage of the programme and the projects report as forecast, the programme should not have any major problems in meeting these targets.

The Decommitment Rule (n+3/n+2)

At the beginning of every year the Commission allocates a certain ERDF amount to the ESPON 2013 programme. The allocation of 2007 is spread equally among 2008-2013 and added respectively to those allocations. For the allocations of the years 2008, 2009, the ERDF amounts have to be spent within four years of the year when it is committed (n+3, where 'n' is the year of commitment)

For the allocations of the years 2010, 2011, 2012, 2013, the ERDF amounts have to be spent within three years of the year when it is committed (n+2).

Any of these allocations which at the end of 3/2 years are not covered by programme expenditure will be lost. If this loss results from certain projects lagging behind their spending targets, the programme will be obliged to reduce the budget of these projects. Therefore, the payment forecast becomes part of the Subsidy Contract, which also foresees that any amounts which are not reported in time and in full may be lost.

The spending forecasts should take into consideration the following elements:

- The reporting periods are contracted with the projects and might vary from project to project;
- The spending forecast should be an estimation of the actual payments to be done in a certain period. Therefore, it only partly reflects the activities taking place in a certain period. Indeed, if an activity is carried out close to the end of a reporting period, the related payment risks to be done only in the following period and the costs should thus be budgeted only for the following reporting period.

Projects will be monitored on the basis of the payment forecast. If the programme does not meet its annual spending target because some projects are lagging behind their spending forecast or do not report in full and in time, it is likely that these projects will lose funds. It is therefore important that projects:

- Carefully prepare a realistic spending forecast,
- Are ready to start project implementation very quickly after project approval,
- Monitor this effectively during implementation and
- Ensure regular, timely and full reporting.

8.5 Reporting

As a basic rule, only costs incurred by organizations listed in the Application Form as “partners” are eligible for funding.

The period of project implementation is subdivided into six-month periods. The six-month periods’ schedule is defined in the Subsidy Contract.

For each six-month period, a Project Progress Report related both to activities and to finances has to be submitted by the LP to the CU.

For this purpose the CU sends out partly pre-filled forms to the Lead Partner. The Project Progress Report has to be returned to the CU both electronically as well as in paper form **within four months after the end of the reporting period.**

8.5.1 Procedure

The Project Progress Report consists of an activity part and a financial part. It has to be also accompanied by the following documents issued by the first level controllers:

- Control Certificate-Lead Partner
- Control Certificate(s)-Project Partner
- Control checklist(s)
- Control report(s)

For those Lead and Project Partners located in Member/Partner States implementing a decentralised First Level Control system, the Designation Checklist and Certificate(s) used for the approval of the First Level Financial Controller have also to be attached to the Project Progress Report. For further details on the above documents please consult Chapter 8.6.3.

The Project Progress Report has to be provided both in digital and paper version to the CU. The paper version has to carry the signature and stamp of the Lead Partner and Lead Partner’s first level controller.

The reporting procedure can be summarised as follows:

- a) Each partner sends its Partner Progress Report to the Lead Partner within the deadlines agreed with the Lead Partner (by at the latest two months before submitting the Project Progress Report) and ensures that its part of the reported activities and expenditure has been independently validated by a first level controller in compliance with the country specific requirements. For the full list of the documents that project partners have to send to the Lead Partner, please refer to Chapter 8.6.3.
- b) On the basis of the individual Partner Progress Report, the Lead Partner compiles the Project Progress Report for the whole partnership.
- c) The Lead Partner’s first level controller performs the checks on Lead Partner’s activities and expenditure.
- d) Taking into account that the Lead Partner should ensure that both the expenditure presented by each of the beneficiaries participating in the operation has been incurred for

the purpose of implementing the operation and corresponds to the activities agreed between those beneficiaries, and that the expenditure presented by each of the beneficiaries participating in the operation has been validated by the controllers, the controller of the LP therefore include a verification of how the lead beneficiary has complied with these obligations¹³.

- e) The Lead Partner’s first level controller verifies that the partners’ information has been accurately reflected in the Project Progress Report.
- f) For the audit trail the Lead Partner retains copies of the inputs to the Partner Progress Report received from the partners.
- g) The Lead Partner submits the Project Progress Report to the CU, who checks it and if necessary sends requests for clarification to the Lead Partner (¹⁴).
- h) Once all points have been clarified, the Project Progress Report is approved by the CU and sent to the Managing Authority.
- i) The Managing authority sends it to the Certifying Authority.
- j) The Certifying Authority executes payment to the Lead Partner.
- k) The Lead Partner transfers the funds to the partners.

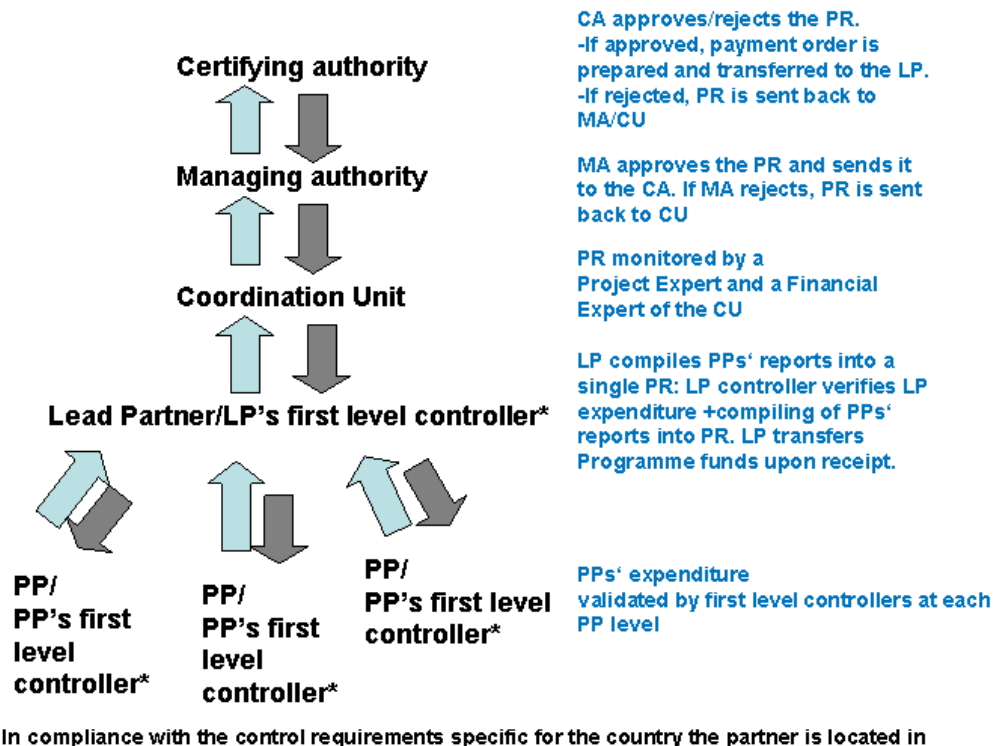


Figure 2 – Reporting Procedure

¹³ As indicated in the European Commission “Guidance document on management verifications to be carried out by Member States on projects co-financed by the SF and CF for the 2000-2013 programming period”.

¹⁴ Please note that as a general rule, LP should always keep copy of what has been sent to the CU.

8.5.2 Use of the Euro

Project accounting of the Lead Partner must be held in EURO, also in states not belonging to the EURO-zone.

Financial reporting of the project from the Lead Partner to the CU will have to be made in EURO.

In case of expenditure incurred in currency other than EURO:

- The amounts of expenditure must be directly converted into EURO. Partners located outside the EURO-zone cannot convert the expenditure to their own currency and then again into EURO.
- Invoices reporting amounts in EURO must be reported in the Project/Partner Progress Reports as such (no conversion into national currency and back to EURO).

The amount must be converted into EURO using the monthly accounting exchange rate of the European Commission in the month during which the expenditure was registered in the accounts of the project partner ⁽¹⁵⁾.

This rate is published electronically by the European Commission each month under:

<http://ec.europa.eu/budget/inforeuro/index.cfm?Language=en>

8.5.3 Accounting and filing reporting documents

The partners must ensure that all accounting documentation related to the project is available and filed separately, even if this leads to a dual treatment of accounts (for example if it is necessary to file accounting documents centrally).

It is the Lead Partner's responsibility to ensure an adequate audit trail which implies that the Lead Partner has an overview of:

- Who paid,
- What was paid,
- When was it paid,
- Who verified,
- Where the related documents are stored.

The Lead Partner must ensure that all partners store the documents related to the project in a safe and orderly manner at least until 2020, if not longer, in case there are national rules that require a longer archiving period. The documents are archived either as originals or as certified copies on commonly used data media (in compliance with national regulations). If deemed appropriate, the Lead Partner may ask for copies of accountancy documents from the partners.

¹⁵ In compliance with Council Regulation (EC) No 1083/2006, Art.81

Accounting documents

The following list gives an overview of the documents that should be available for financial control and audit purposes and retained at least until 2020:

- Approved Application Form;
- Subsidy Contract;
- Partnership Agreements;
- Relevant project correspondence (financial and contractual) ;
- Project/Partner Progress Reports;
- First level control documents (Control certificates, control checklists and control reports, designation checklist and certificates);
- List of declared expenditure;
- Bank account statements proving the reception and the transfer of Programme funds;
- Invoices/receipts;
- Bank account statements / proof of payment for each invoice;
- Staff costs: calculation of hourly rates, information on actual annual working hours, labour contracts, payroll documents and time sheets of personnel working for the project;
- List of subcontracts and copies of all contracts with external experts and/or service providers;
- Calculation of administrative costs, proof and records of costs included in overheads;
- Documents relating to public procurement, information and publicity;
- Public procurement note, terms of reference, offers/quotes, order form, contract;
- Proof for delivery of services and goods: studies, brochures, newsletters, minutes of meetings, translated letters, participants' lists, travel tickets, etc.;
- Records of assets, physical availability of equipment purchased in the context of the project;
- For travels: boarding cards, travel tickets and all documents reported under 8.4.2 in the description of the budget line *Travel and accommodation*.

It must be possible to clearly identify which expenditure has been allocated and reported in the context of the project and to exclude that expenditure is reported twice (in two different budget lines, reporting periods, projects/funding schemes). This clear identification must be ensured by complying to the following compulsory requirements:

- The opening of a specific bank account or subaccount or unique codification for the project payments.
- The introduction of project specific cost-accounting codes to record project costs by budget line, component and payment date/reporting period in the accounting system.
- Recording costs in expenditure lists by budget line, component and reporting period.

- Noting the allocation (project title and project number) directly on the invoices/equivalent documents.

Expenditure can only be reported if the following principles are fulfilled:

- The calculation is based on actual costs.
- The costs are definitely borne by the partner and would not have arisen without the project.
- The expenditure has actually been paid out. Expenditure is considered to be paid when amount is debited from the partner institution's bank account. The payment is usually proven by the bank statements. The date when the invoice was issued, recorded or booked in the accounting system does **not** count as payment date.
- The expenditure is directly linked to the project. Costs related to activities that are not described in the Application Form are generally ineligible.

8.6 First level financial control

In the programming period of 2007 - 2013, the terms "audit" and "control" (and thus auditor and controller) are not interchangeable since they refer to two different categories of controls.

The word **control** refers to the check performed by the first level controller (FLC) in compliance with Art.16 of Regulation of the European Parliament and Council (EC) No. 1080/2006 (ERDF Regulation). The main duty of the first level controllers designated by the Member and Partner states is to validate the expenditure declared by each beneficiary participating in the operation (¹⁶).

The word **audit** (or second level auditing (SLA)) refers to the checks performed in compliance with Art. 62, (1), a and b of Council Regulation (EC) No 1083/2006. The duty of the second level auditors is to carry out the audits on operations on the basis of an appropriate sample to verify the expenditure declared.

The word **controlled beneficiary** refers to the terminology used by Art. 16(1) of Regulation of the European Parliament and Council (EC) No. 1080/2006 (ERDF Regulation). The term *beneficiary* thus addresses both LP and project partners.

8.6.1 First level controls established by Member and Partner States

Member/Partner States participating in the programme have set up their systems for the first level controls: A description of their national systems is available in the web site of the programme (www.espon.eu). Please consult these pages and verify the nature, features and costs of the first level control system established in each Member/Partner State.

Please consult these pages also for the instructions given for the designation of the first level controllers for the project: The first level controllers at the PP and LP level must be chosen

¹⁶ The term **operation** stands for project. The two terms, operation and project, are by all way equivalent.

according to the rules that have been set by the countries where the PP and LP are located respectively, otherwise the validation provided is considered inadmissible.

There are two different first level control system applied by the countries that participate in the ESPON 2013:

- Centralized system;
- Decentralized system.

Centralized system

In centralized systems a central body is appointed by the Member/Partner State to carry out the first level controls in accordance with Art. 16 Regulation (EC) No 1080/2006. This body can be designated at a federal, national, or both federal and national level and acts under the supervision of a governmental body (e.g.: ministry).

First level controllers are civil servants working within the designated organization or might also be external controllers appointed for this specific mission by the Member/Partner State. Only the designated controllers working for the designated organization can certify the expenditure and sign the first level control documents for the validation of the expenditure required in each project/partner progress report.

First level controllers hold the qualifications required by the Member/Partner State and in the performance of their duties are obliged to fulfil the requirements for the first level controls laid down in the Structural Funds regulatory framework and in the national legal framework.

Lead/Project partners must submit their Project/Partner Progress Report to the designated organization in order to have their expenditure validated.

The list of the Member/Partner states participating in the programme that have decided to implement a centralized control system is available on the Programme web site www.espon.eu

Decentralized system

In decentralized systems, the partners are free to select their controller and to propose the name to the Central Approbation Body, which is established at the central level by the Member/Partner State. The Central Approbation Body has the duty to check if the controller fulfils the requirements set by the Member/Partner States for being designated as such. If the controller proposed matches the requirements, the Central Approbation Body designates it and delivers the designation to the controller and to the project that has proposed him/her.

The Central Approbation Body holds a list of the first level controllers designated in accordance with Art. 16 Regulation (EC) No 1080/2006. The list is available for public consultation and is regularly submitted to the CU and the Audit Authority (AA).

The controller must in all cases fulfil the following conditions:

- He/she must be independent from the controlled beneficiary;
- He/she must hold the qualifications and fulfil the requirements set by the Central Approbation Body;

- He/she must perform the first level control in compliance with the requirements set by the Central Approbation Body, by the Programme and the legal framework mentioned in chapter 8.4.3.

In this system it is the Central Approbation Body of the Member/Partner State that monitors and controls the performance of the first level controllers in its territory and thus guarantees that the first level controllers are acting in compliance with the Structural Funds regulatory framework and in the national legal framework for the validation of the expenditure and activities of the controlled beneficiary.

The list of the Member/Partner states participating in the programme that have decided to implement a decentralized control system is available on the Programme web site www.espon.eu

8.6.2 Qualifications of first level controllers

The first level controller validates the expenditure incurred at the beneficiary's. Controllers can be either internal (e.g. employed by the project partner) or external (e.g. not employed by the project partner, but hired according to an external contract) to the organization subject to control.

In order to check and validate the expenditure, the first level controller must be properly qualified.

More specifically:

- He/she must hold professional skills and experience in international and national auditing standards and accountancy in general.
- He/she must hold professional skills and experience in the field of control of projects co-financed by EU-funds (Structural Funds and ERDF in particular).
- He/she must hold knowledge of the ESPON 2013 programme manual, operational programme, control guidelines and any document that the Programme might consider binding for the projects.
- He/she must hold sufficient knowledge of the English language, in order to read and understand all relevant documents.
- He/she must be professionally independent from the unit dealing with the activities and finances (accounting, salary calculations and payment orders). This implies that the controller must not be involved in project approval, project activities (incl. signing the project report as project partner), project finances (project accounting and payment orders).
- He/she must ensure that his/her work is properly documented and accessible to ensure an efficient review of the work in a way that any other controller/auditor can perform again the control with the only use of the control file.
- He/she must ensure that the work will be carried out within 2 months after receipt of the documents from the controlled partner (¹⁷).

¹⁷ Three months are requested by the regulation 1080/2006, but the Lead Partner will also need two months after reception of the certification from the Project Partners to establish its own certification. This will allow the project to present a reimbursement claim four months after the completion of the six months reporting period).

In addition to the above requirements, there are some requirements that vary depending on if the controller is external or internal.

If the controller is external:

- He/she can be either a private or a public controller.
- He/she must be registered as a member of a professional organisation (this requirement is mandatory for private external auditors).
- He/she must perform his/her tasks according to a professional code of conduct or other rules defining his/her function and independence.
- There must be a basis for the controller to carry out the control (e.g. a service contract, a mandate, or contracting document).
- All experts working as tax *advisors* or financial/accounting *advisors* (or similar categories of advisors) cannot be considered qualified controllers, since the same term that is defining their status, “advisors”, is not providing assurance of their independence from the controlled organization.

If the controller is internal:

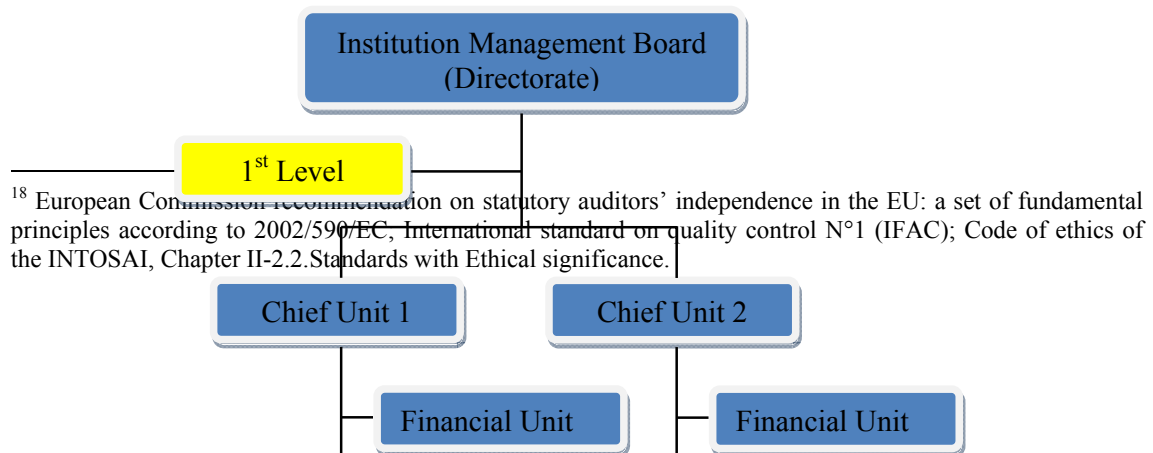
He/She must be independent both from the unit involved in the project management and from the unit involved in activities implementation. This requirement must be absolutely ensured in the terms of reference indicated by the European Commission ⁽¹⁸⁾. Please note that an organizational chart must be provided to give evidence of compliance with the above requirements.

Additionally:

- The controller’s independence must be regulated by law or local or internal rules in the country where the controlled partner is located (e.g. rules regarding internal controller’s function, code of conduct).
- An organisational chart must be provided where it is shown that the controller is absolutely independent from the units where the activities and finances are managed, where the payments are ordered and where the control is carried out.
- There are no relationships by blood or marriage between the controller and employees/managers of the unit in charge of project activities and finance.
- The controller must be *independent of mind*, meaning that he/she doesn’t feel dependent on the entity/unit to be controlled.

Example of a correct positioning of the first level controller (yellow box).

CORRECT!



¹⁸ European Commission Recommendation on statutory auditors’ independence in the EU: a set of fundamental principles according to 2002/590/EC, International standard on quality control N°1 (IFAC); Code of ethics of the INTOSAI, Chapter II-2.2. Standards with Ethical significance.

Any other situation of the following type must be considered not acceptable.

WRONG!

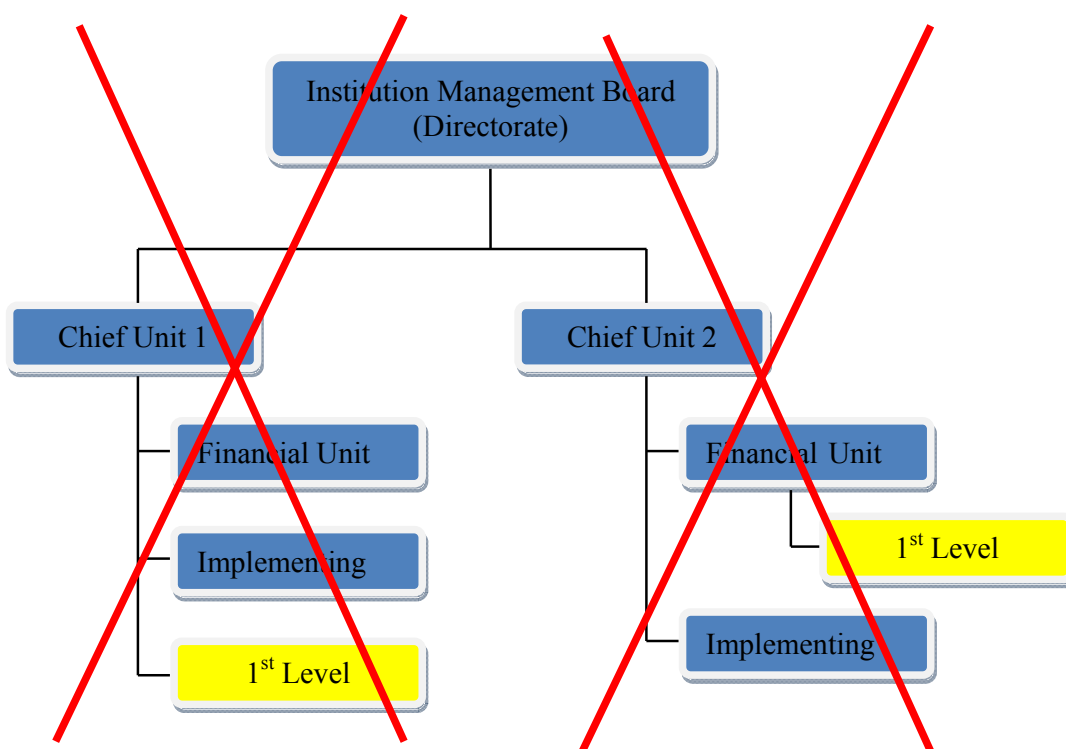


Figure 3 – Position of the first level controller

The first level controller must maintain a close contact with the CU in order to ask for assistance whenever there are doubts linked to the above points. Special additional requirements on qualification of first level controllers designated in each Member/Partner State are published at the programme's website.

8.6.3 Validation of the expenditure by first level controllers

Despite the control system chosen by the Member/Partner State, it is the first level controller's duty to validate the expenditure declared by each beneficiary participating in the operation and its activities.

The validation by the FLC follows a two-step approach:

- Validation of expenditure declared by the project partners in the respective reports at the project partner level (validation at PP level);
- Validation of the expenditure declared by the project in the respective report at the lead partner level (validation at LP level).

Validation must be based on a control of the total reported expenditure and it must be based on on-the-spot checks whenever necessary.

The detailed procedure for the validation of the expenditure is listed below. Each project/partner progress report is made up of two parts: the activity part and the financial part. The controller validates both parts of the report with its certificate.

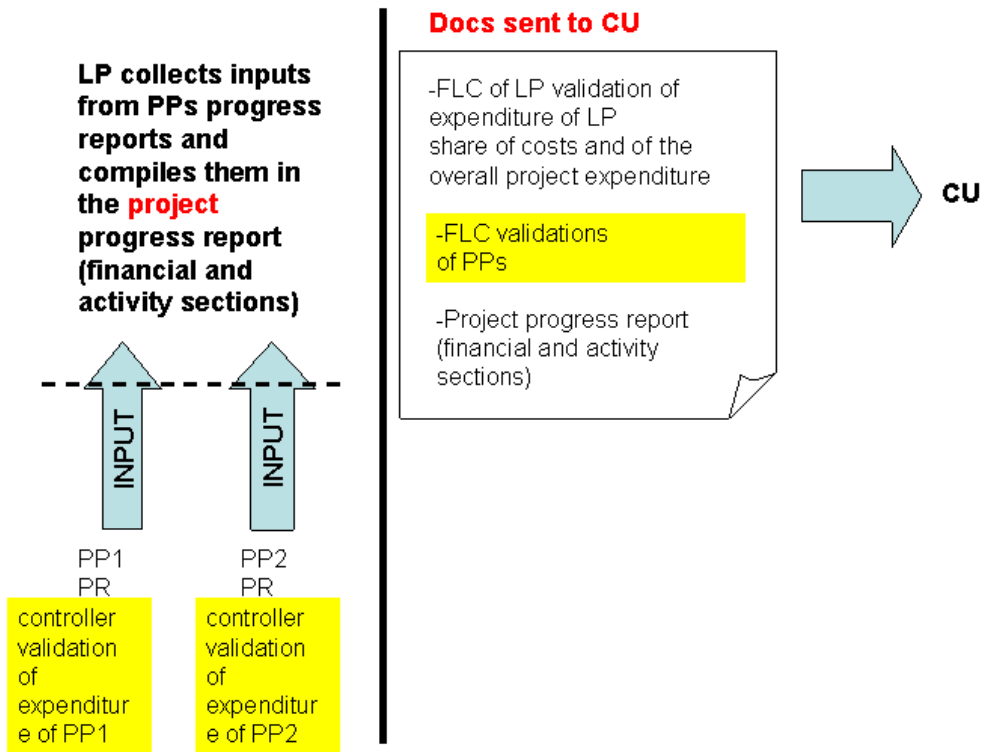


Figure 4 – Validation of the FLC at the PP and LP level

Validation at the PP level

All expenditure and activities must be validated at a project partners' level by **national** first level controllers.

First level controllers of the project partners will be appointed according to the provision set by the Member/ Partner State where the partners are located and must perform their controls on the basis of the first level controlling system established in that particular Member/ Partner State.

First level controllers at the project partner level are required to:

- Validate the expenditure incurred by the controlled project partner.
- Validate the contents of both the activity and financial component of the Partner Progress Report.
- Draft a report and a checklist on the control performed (*Control Checklist and Control Report*).
- Sign the declaration of the validation of the expenditure (*Control Certificate-Project Partner*).
- Provide the Project Partner with the following documentation in order to be able to submit it to the Lead Partner: the declaration of the validation (Control Certificate-

Project Partner), the Control Checklist, the Control Report, the signed and stamped Partner Progress Report (financial and activity reports).

As a general rule, a copy of the documents sent to the LP should also be archived at the PPs' premises.

Validation at the LP level

The first level controller of the LP must perform a control on the LP share of expenditure and of the LP activities according to the provisions set by the Member/Partner State where the Lead partner is located.

Taking into account that the Lead Partner should ensure that both the expenditure presented by each of the beneficiaries participating in the operation has been incurred for the purpose of implementing the operation and corresponds to the activities agreed between those beneficiaries, and that the expenditure presented by each of the beneficiaries participating in the operation has been validated by the controllers, the scope of the work of the controller responsible for the lead beneficiary should therefore include a verification of how the lead beneficiary has complied with these obligations.

Once the first level controller finalizes its control, the LP has to submit to the CU the following documentation:

- The overall *Project Progress Report* which is composed of a *financial report's* sections (excel sheets: Checklist for Submission to the ESPON CU, **A, B, C, D**) and an *Activity Report*;
- *The individual Partner Progress Reports with the bookkeeping list* of expenses of the LP and of the PPs with entries in English (excel sheets: Checklist for Submission to the Lead Partner, Partner Financial Claim, **D1, E, F, G, H, I**, of the Partner Progress Report's financial part);
- The *declaration of validation* of the LP expenditure (Control Certificate-Lead Partner);
- The *declarations of the validation* of the PPs (Control Certificate-Project Partner);
- *Control checklists* of LP and PPs;
- *Control reports* of LP and PPs;
- Any other document the CU might request for in depth checks.

In case the first level control system is decentralized in any of the participating partners' states in a way that the control is undertaken through internal or external controller who is proposed by the project partner and approved at national level the following document is also necessary to be submitted by the LP to the CU together with the Project Progress Report:

- *Designation Checklist and Certificate for designation* of the FLC of each PP;
- *Designation Checklist and Certificate for designation* of the FLC of the LP;

8.6.4 Tools

The Member/Partner States in cooperation with the CU have developed tools for the financial management and for the validation of the expenditure by the first level controllers:

- Template for partner and project progress reports (financial report's sections and activity report);
- Template for *declaration of the validation* of the expenditure (control certificate)
- Template for *control checklist*.
- Template for *control report*.
- Template for designation of the FLC (*designation checklist and certificate*)

In addition, the detailed procedure for the validation is explained in the "Guidelines for Certification According to Art . 16 of Reg. 1080/2006".

These documents cannot be modified. All templates and the guidelines are available on the Programme web site www.espon.eu

8.7 Monitoring

Monitoring of the Project Progress Report

Each project progress report is monitored by a project expert and a financial expert within the CU.

The project and financial experts of the CU monitor the project progress reports submitted by the LP in all its components (e.g. control certificates, control reports and checklists, description of the activities, listing of the expenditure) by cross checking the coherence of the activity report and the financial report (plausibility checks) and that what the first level controller has validated complies with the provisions of the Subsidy Contract, the Programme documents and the contracted application form.

The CU reserves its right to ask the LP and the first level controllers to provide more in-depth documentation (e.g. the detailed list of all the expenditure incurred, copies of the invoices and bank transfers etc.).

After the closing of the clarifications, a second financial manager is checking again the whole report in order to validate it. The validated report is then sent to the Managing Authority.

8.8 Project changes

According to the Subsidy Contract, the Lead Partner is obliged to request approval from the Managing Authority if any change in the set up of the project occurs.

Changes related to **contact details** such as address, phone number, e-mail and to the **bank account** must be communicated timely to the CU (by simply submitting the modified Application Form – Part A in an electronic version).

Changes that affect **activities, outputs, partnership** (partners dropping out or joining the TPG) are subject to a formal request to the MA and must be negotiated with the MA and the Monitoring Committee and are subject to the approval of the MA or MC, depending on the content of the change. When approved, an addendum to the Subsidy Contract will be released and will have to be signed by the LP and the MA.

Changes that might concern the **extension of the period needed for the financial closure of the project**, or that are related to **budgetary issues**, or might affect the spending schedule (payment forecast) require a formal request to the MA and are subject to the approval of the MA. It is important to note that modifications in the payment forecast might affect the programme target and expose the project to decommitment of funds. Thus asking for a delay in the spending schedule is at project's own risk.

The CU is responsible for the practical administration of changes within the running operations. As a general rule, Lead Partners should inform the CU **timely** about the possibility to request a change in written.

Form for the request for budget reallocation is available in the programme web site www.espon.eu

Changes concerning budgetary issues

The budget in the Application Form should be as precise as possible. However, as projects are not static entities, changes may become necessary during project implementation. It is therefore important to know that the ESPON 2013 Programme provides the following rules for budget reallocations and thus gives some budget flexibility. Shift of budgets between different budget lines, between different work packages and between different partners are allowed as long as the following conditions are all fulfilled:

- The maximum amount of funding awarded remains the same;
- No budget line, work package or partner budget drops down to zero;
- Overall projects' and individual partners' budget line "Administration" stays within the threshold of 25% of the total staff costs.

a. Changes without prior request to MA/CU (flexibility rule)

During the implementation of the activities, the Lead Partner is entitled to reallocate between:

- a) The project budget lines,
- b) The work package budgets,
- c) The project partners' budgets

The excess in spending must be **limited to a maximum of 20,000 EUR, or up to 10 % of the budget line/work package/partner budget respectively contracted amount, whichever is the higher. The limits are calculated on the basis of the latest approved budget.** If changes stay within these limits they do not have to be notified to MA/CU but will be just reported in the project progress reports indicating all components of the changed

budget.

<u>Flexibility rule: 20 000 € /10 % overspending</u>			
Budget line	Original amount in the approved application form	Maximum possible overspending on this line	Explanation
Administration costs	€ 50,000	€ 20,000	<p>As 10 % of the original amount (i.e. 10% of 50,000 euro is 5,000 euro) is smaller than 20,000 this budget line can be exceeded by a maximum of € 20,000.</p> <p>The project can thus report up to 50,000+20,000=70,000 euro in its project progress report. No request to the MA/CU will be necessary.</p> <p>The increase of this BL must stay within the threshold of 25% of total staff costs</p>
Staff costs	€ 500,000	€ 50,000	<p>As 10 % of the original budget (i.e. 10% of 500,000 euro is 50,000 euro) is higher than 20,000, this budget line can be exceeded by 50,000 euros</p> <p>The project can thus report up to 500,000+50,000=550,000 euro in its project progress report. No request to the MA/CU will be necessary.</p>

If the changes exceed the limits reported above, a request for approval has to be submitted to the MA/CU. The procedure is described in the paragraph here below.

Be aware that in case your spending is going to exceed the 20,000/10% threshold, it is the duty of the Lead Partner to submit a formal request to the CU for a budget reallocation, following the procedure listed in the next paragraph. The request will be evaluated by the CU and only in case of positive assessment the overspending can be allowed.

b. Changes with prior request to MA/CU

The LP is entitled to reallocate the budget between:

1. Work packages
2. Partners
3. Budget lines

As explained in the above paragraph, if the changes exceed the 20,000/10% threshold, the Lead Partner has to submit a formal request to the MA/CU for a budget reallocation before the changes are implemented. The request will be evaluated by the MA/CU and only in case of positive assessment the reallocation can be allowed.

Reallocation up to 20% of the total costs is accepted.

Please note that a project can ask for this kind of changes only **twice** in its lifetime, **adding up to a maximum of 20%** of the total cost stated in the Subsidy Contract.

Here you find three examples of shifts among work packages (example 1), partners (example 2) and budget lines (example 3).

20 % budget reallocation

If the operation needs to deviate from the original budget by more than what is allowed by the € 20 000 /10% flexibility rule, then the Lead Partner should ask for a budget reallocation.

In the case of a budget reallocation, the shifts allowed to increase work packages, budget lines and partners budgets (using the under-spending of other budget lines/workpackages/partners) are of a maximum of **20 %** of the **total costs** as stated in the Subsidy Contract.

Example 1: Shifting budget from one work package to another

During the project implementation the partnership realizes that in WP2 there is a strong under spending while in WP1 and WP3 there is need for more funds.

The partnership would be interested in reallocating the 20% of the total budget between WPs, within the limit given by the rule of the 20%. In this case, since 800,000 euro is the total budget, the 20% is **160,000 euro**.

The solution adopted in the case here below is the following: WP2 is decreased of 160,000 euro and this amount is redistributed to WP1 and WP3 by adding 100,000 euro to WP1 and 60,000 to WP2.

Work packages	Original amount in the approved application form	Spending situation	How to apply the 20% rule	New budget
WP 1	€ 250,000	Spending higher than expected, need of more budget	This component can be increased by a maximum of € 160,000.	250,000+100,000 = 350,000
WP 2	€ 500,000	Under spending	This component can be decreased by a maximum of € 160,000 in order to allocate more budget to the other WPs	500,000-160,000= 340,000
WP 3	€ 50,000	Spending higher than expected, need of more budget	This component can be increased by a maximum of € 160,000.	50,000+60,000= 110,000
Total	€ 800,000		The total shifted amount cannot be higher than 160.000 euro	€ 800,000

The reallocated budget can again be subject to deviations within the limits of the flexibility rule.

Example 2: Shifting budget from one PP to another PP

The total budget of the project is 2 million euro. Originally the budget was divided as follows:

- PP1: € 1,000,000
- PP2: € 500,000
- PP3: € 500,000

But PP1 is not able to spend its whole budget, while PP2 and PP3 are in need of more budget than expected. The partnership decides to reallocate 20% of the total budget of the project (20% of 2 million euro= 400,000 euro) by decreasing the budget of PP1 of 400,000 and by increasing the PP2 and PP3 budget of 200,000 euro each.

PP	Original	Spending	How to apply the	New budget
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	budget in the approved application form	situation	20% rule	
1	€ 1,000,000	Under spending	This partner budget can be decreased by a maximum of € 400,000 in order to allocate more budget to the other partners	$1,000,000 - 400,000 = 600,000$
2	€ 500,000	Spending higher than expected, need of more budget	This partner budget can be increased by a maximum of € 400,000	$500,000 + 200,000 = 700,000$
3	€ 500,000	Spending higher than expected, need of more budget	This partner budget can be increased by a maximum of € 400,000	$500,000 + 200,000 = 700,000$
Total	€ 2,000,000		The total shifted amount cannot be higher than 400,000 euro	€ 2,000,000

In this case a new addendum to the Subsidy Contract will have to be signed by MA and LP.

Example 3: shifting budget from one Budget Line to another Budget Line

The partnership realizes that there is need for more budget in BL5 “External expertise” and that there are some savings in BL4 ”Travel and accommodation”.

Considering that the **total budget of the project is 2 million euro**, there is the possibility to reallocate from BL4 to BL5 a maximum of 400,000 euro (i.e. 20% of 2 million euro).

BL	Original budget in the approved application form	Spending situation	How to apply the 20% rule	New budget
4	€ 600,000	Under spending	This budget line can be decreased by a maximum of € 400,000 in order	$600,000 - 400,000 = 200,000$

			to allocate more budget to the other budget line	
5	€ 500,000	Spending higher than expected, need of more budget	This budget line can be increased by a maximum of € 400,000	500,000+400,000=900,000

The reallocated budget can again be subject to deviations within the limits of the flexibility rule.

Documents to be submitted to the MA/CU for requesting a reallocation:

- Form for the request, signed and stamped by the LP.
- Cover letter with the justification of the changes
- Full digital version of the Application Form.
- Print-outs of the changed Application Form, signed and stamped by the LP.
- Whichever document the CU might request to prepare an assessment of the request.

Depending on the extent of the changes, a decision will be taken by the MA or in written procedure by the ESPON Monitoring Committee. After the approval, the Lead Partner will receive a notification. The change will enter into force from the date of the request and will be attached to the Subsidy Contract as an addendum.

8.9 Project closure

With regards to project closure, it is important to be aware of the following points:

- End date for the eligibility of expenditure: all activities must be finalised and the related expenditure paid out (including payment for the financial control of the final project progress report) before the end of the month stated as finalisation month in the Application Form in order to be eligible.
- Final Project Progress Report: as for all other reporting periods, projects also have to submit a certified project progress report for the last reporting period. This last project progress report has to be submitted within four months following the end date of the activities.

- Information and publicity requirements (see also section 4.4): the rules laid down in Regulation (EC) 1828/2006 Articles 8 and 9 on information and publicity must be respected for all products produced with the assistance from ESPON 2013, also after closure of the operation.
- Archiving of documents: The Lead Partner is at all times obliged to retain for audit purposes all files, documents and data about the operation on customary data storage media in a safe and orderly manner at least until 31 December 2020. Other possibly longer statutory retention periods, as might be stated by national law, remain unaffected.

8.9.1 Specific requirements

Ownership

Any substantial modification of the project within **five years** from the project completion must be avoided (¹⁹). More in details, the project must not undergo any substantial change:

- Affecting its nature or its implementation conditions **or** giving to a firm or a public body an undue advantage; **and**
- Resulting either from a change in the nature of ownership of an item of infrastructure or the cessation of a productive activity.

The partnership agreement must clearly state the ownership of outputs. Conditions set by these documents must be kept for five years from the project completion.

With the last Project Progress Report, the Lead Partner will be asked to submit to the CU a declaration where he/she will guarantee the fulfilment of the above conditions by the whole partnership for a period of five years after the project closure. The text for this declaration can be downloaded from the web site of the programme www.espon.eu

Should any of the above conditions be met by any of the project partners, this would imply a recovery of the funds unduly paid (²⁰).

Revenue generation

ESPON projects should, in principle, not generate revenues as all results are public. However, revenues might be generated from any activity (e.g. sales, rent or any other provision of services against payment). A project can be revenue-generating, though the generated revenues must be deducted from the total expenditure before submitting the reimbursement claim. The Programme financing will be thus calculated on the total expenditure cleared from any revenue created during the reporting period (²¹).

¹⁹ Council Regulation (EC) No 1083/2006 Article 57 (1)

²⁰ Council Regulation (EC) No 1083/2006, Articles 98 to 102.

²¹ Council Regulation (EC) No 1083/2006, Art.55 (1) to (2).; According to Council Regulation (EC) No 1341/2008: amending Regulation (EC) No 1083/2006 only projects with a total budget exceeding €1.000.000,00 will have to report and deduct generated revenues.

Additionally, projects are requested to give evidence of the revenue that might be generated within five years from the closure of the project. The revenue generated within **five years** from the completion of the project must be communicated to the CU. The revenue generated will have to be deducted from the total expenditure declared by the project and the correspondent amount of funding will have to be timely repaid to the CA via the CU ⁽²²⁾.

With the Final Project Progress Report, the Lead Partner will be asked to submit to the CU a declaration where he/she will guarantee the fulfilment of the above conditions by the whole partnership for a period of five years after the project closure. The text for this declaration can be downloaded from the web site of the programme www.espon.eu

Keeping records

All accounting documents (book-keeping) and supporting documents (e.g. Subsidy Contract, application form, service contracts, public procurement documentation, rental agreements/contracts, important communication with CU/MA), documents related to the expenditure, controls, audits, and audit trail have to be identified and must be retrievable and accessible.

These documents must be grouped together, archived and preserved at the LP premises until 31st December 2020 for Programme purposes. The accounting and supporting documents related to the PPs must be kept at the PPs' premises for an equal period of time. The LP must also preserve copies of all supporting documents which have been submitted by PPs so that they can be shown in the case of controls or audits.

The documents can be kept either in the form of originals or in versions certified to be in conformity with the original on commonly accepted data carriers ⁽²³⁾. The procedure for the certification of the conformity of these documents held on data carriers with the original documents must be in line with the provisions set by the national authorities and must ensure that the versions held comply with the national legal requirements and can be relied on for audit and control purposes.

In case of retaining the documents electronically internationally accepted security standards must be met ⁽²⁴⁾.

Representatives of the MA, CU, CA, AA, GoA, intermediate bodies, auditing bodies of the Member states, authorized officials of the Community and their authorized representatives, European Commission and the European Court of Auditors ⁽²⁵⁾ are entitled to examine the project and to access all relevant documentation and accounts of the project.

Expenditure already supported by other EU or other national or regional subsidies

During the period running from the 1st January 2007 and the 31st December 2015 the project *may receive funding under only one operational programme at a time* and more extensively project *must not receive any financial assistance from any other Community financial*

²² Council Regulation (EC) No 1083/2006, Art.55 (3).

²³ As defined in Commission Regulation (EC) No 1828/2006 Article 19(4).

²⁴ Commission Regulation (EC) No 1828/2006 Article 19(6).

²⁵ Commission Regulation (EC) No 1828/2006 Article 19(2).

instrument (e.g. Framework Programme for Research and Development, other INTERREG funding, other Structural Funds funding...)⁽²⁶⁾.

In this sense, projects will be asked to declare to the CU:

- In the application form, other sources of funding they are going to apply for (should this apply).
- In each Project Progress Report, other sources of funding that have been received to cover the total expenditure of the project.

Donations and sponsoring

In case the project receives donations from sponsors or donors and this does not correspond in an increase of the activities at the project level, the amount of the donation will have to be deducted from the total eligible costs. Funding will be thus decreased proportionally.

8.10 Other controls

8.10.1 Coordination Unit on-the-spot checks

The CU is also entitled to perform quality checks on behalf of the MA at the project level to ensure that a sound management and control system has been implemented. These quality checks will be done on-the-spot, on the basis of a risk analysis.

The selected project/lead partners are obliged to give full cooperation to the CU in the performance of its duties, to give access to premises and documentation and to provide requested documentation.

The aim of the check is to ensure that the implementation is in accordance with the criteria applicable to the ESPON 2013 Programme and that the project complies with the applicable Community and national rules for the entire implementation period.

More specifically, checks will be performed in order to check compliance with Commission Regulation (EC) No 1083/2006, Art.60 a), b), c), d), e), f), j) and to verify that a proper management and control system and an audit trail is in place.

Additionally, the CU might also be involved by the Member States in quality checks in order to verify the efficiency of the management and control system set-up at Member State level. This implies that some quality checks might be performed by the CU and the MS representatives jointly on projects.

8.10.2 Other controls

In the programming period 2007-2013 new auditing bodies have been introduced in the management and control system of Structural Funds' programmes: the Audit Authority (AA) and the Group of Auditors (GoA).

²⁶ Council Regulation (EC) No 1083/2006, Art.54 (3) and (5).

In compliance with the Art.62 of Council Regulation (EC) No 1083/2006, the AA of this Programme is responsible for:

- Ensuring the effective functioning of the management and control system in the Programme, by performing audits on the MA, CA, CU and on the first level controllers and
- Ensuring that audits are carried out on the operations on the basis of a sample, in order to verify the expenditure that has been declared.

In these tasks, the AA is supported by the Group of Auditors, a group comprising the representatives of each Member and Partner State participating in the programme and carrying out the duties of the second level auditing⁽²⁷⁾.

According to the Structural Funds regulatory framework, the auditors must be independent of the first level control system implemented in compliance with Art. 16 of Regulation (EC) No 1080⁽²⁸⁾.

Second level auditing

The provisions of the Art. 62 of Council Regulation (EC) No 1083/2006 imply that the operations might undergo a second level auditing in case they are sampled. Every year between 2008 and 2015, sample checks on operations will be carried out to verify if the projects correctly declared expenditure in the Project Progress Reports.

In case a project is sampled, the project will be checked both at the LP and PP level by the national competent auditors.

The national auditor of the country where the LP is located (lead auditor) will be in charge of leading the audit and organizing the schedule of the audits at the PPs level: Each national auditor will be responsible for auditing the partners located in its territory, unless agreed differently by the GoA.

The audit starts when the lead auditor launches the audit and informs the Lead Partner about the aim and schedule of the checks. The national auditors involved will get in contact with the project partners and schedule audits accordingly. The audits implies both desk checks and on the spot checks.

It is the duty of the LP and of all the PPs involved in the sampled project to facilitate the audit activities and to provide requested documentation and accesses to locations and premises.

Auditors will check:

- Compliance of the implementation with the approved conditions;
- Compliance with rules of the regulatory framework of the Structural Funds, of the national legislation and of programme rules;
- Soundness of the management and control system implemented at a project level;

²⁷ Art. 14 (2) Regulation (EC) No 1080/2006 of the European Parliament and of the Council.

²⁸ Art. 14 (2) Regulation (EC) No 1080/2006 of the European Parliament and of the Council.

- Soundness of the first level controls performed.

After closing of the desk checks and on the spot checks each audited partner will receive a report from its national auditor and will have a limited period of time to debate upon the auditors' findings. This procedure is named "the contradictory procedure", its length might vary in time according to the rules set by the GoA.

Comments from the audited partner will be reported in the auditors' reports. Once all the contradictory procedures have been closed, the lead auditor will compile the *lead auditor report* and inform the AA, the GoA and the CU/MA/CA about the outcomes and suggest follow up actions, if needed.

The CU/MA will address the Monitoring Committee (MC) of the programme for the approval of necessary follow up actions. The follow up actions approved by the members of the MC will be implemented by the CU/MA/CA. The CU/MA will relate directly to the LP in the follow up process and also channel the proper data to the CA.

Costs incurred during the second level auditing by the LP and PP might be reported to the CU and considered eligible for funding, within the thresholds set by the budget of the project and if complying with the eligibility rules set in this Programme Manual.

Other checks might also be performed on projects by other auditing bodies of the European Commission services, the European Court of Auditors, other auditing bodies of the participating Member and Partner States or other national public auditing bodies.

The Managing and Certifying Authority of this Programme are also entitled to perform checks at the project level to ensure that a sound management and control system has been implemented.

The projects are obliged to give full cooperation to these bodies in the performance of their duties and to offer accessibility to premises and documentation.

8.11 Irregularities and follow-up actions

If during the first level controls, the second level audits, the CU on-the-spot checks or other controls an irregular use of granted funds is detected, the following actions could be adopted with respect to the project:

- Cancelling the whole subsidy,
- Cancelling part of the subsidy,
- Recovering of subsidy.

In case there is a suspicion of an irregularity, fraud or bankruptcy, or detection of a systemic error in reporting, the MA and CA are entitled to withhold the payment of the funding.

According to the Subsidy Contract, the Lead Partner is financially responsible for the management of the project and liable for any infringements pursued by the partnership.

In case of confirmed irregularities, the Member States where the liable project partners are located will have to decide upon a cancelling of the subsidy or a recovery. The MA and the

CA, supported by the CU, will undertake the necessary follow-up actions with respect to the Lead Partner to pursue the Member States' decision.

Recovery of funding will be done in accordance with the provisions laid down in Art.27-36 of the Commission Regulation (EC) No 1828/2006. Cancelling of whole or part of the subsidy will have to be pursued according to the Art.98 to 102 Commission Regulation (EC) No 1803/2006.

In the case Member States decide to release the Lead Partner from any repayment of the subsidy, the losses will be borne by the Member States. It will be then up to the Member States to seek to recover the losses from the negligent partners located in their territories.

8.12 Appeal procedure

In case an application is considered not eligible or it is not approved, the Lead Applicant will get an official letter informing about the results of the eligibility check and/or the evaluation process (the is letter advanced by fax and send as well by registered mail). The Lead Applicant, in case it is not satisfied with the decision of the Programme Authorities, has the possibility to appeal the decision of the Monitoring Committee by asking an assessment of the rejection of the project application (whether is due to non eligibility or to unsuccessful evaluation). The right to appeal is limited to the formal procedure established for the eligibility, evaluation and decision making processes as described in the application pack provided for the call in question.

An appeal should be lodged by the Lead Applicant by addressing a communication in writing to the MA (by fax and registered mail, faxing as well a copy to the Coordination Unit) within 5 working days counting from the day following the receipt of the faxed copy of the rejection letter. The appeal shall include an argumentation about where the Lead Applicant sees a violation of which procedure.

Following an appeal lodged within the given deadline, the Coordination Unit (CU) will reassess the relevant procedure which regularity has been questioned by the Lead Applicant. The reassessment will be done within 7 working days starting from the day following the receipt of the appeal by fax.

The MA and CU will forward the reassessment to the Monitoring Committee and ask the Committee for a formal decision through a short written procedure of 7 working days.

The MA will inform by fax and registered mail the Lead Applicant about the decision of the MC within 21 working days after the submission of the appeal by fax by the Lead Applicant.

In case that the MC finds that a procedural error occurred, the MC will re-open the relevant procedure which regularity has been question by the Lead Applicant.

An appeal is possible only once per application per call.

The decision of the MC following a request for appeal and the relevant follow-up will be published on the web site of the Programme at www.espon.eu.