



Programme closure workshop

April 28, 2008

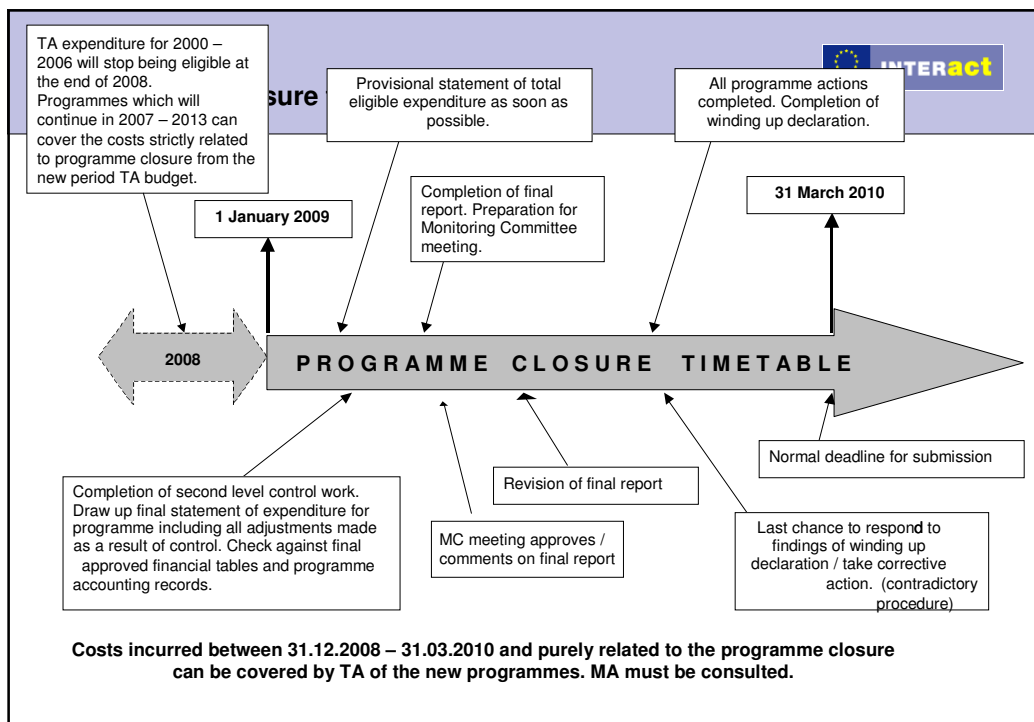
Brussels



Regulatory framework

Important principles

- Closure based on last approved Commission decision (deadline 31.12.06)
- Closure documents prepared for the whole programme – not by country
- Successful closure relies strongly on work that should already be happening now
- Complete overview of all audit targets, actions, findings and follow-up is essential



Regulatory framework

Paying for closure*

- Normal end date for eligibility of expenditure for INTERREG III is 31.12.08
- 30.04.09 for bodies granting assistance under aid schemes where the granting body is the final beneficiary
- Costs incurred after this date for the closure of an INTERREG III programme can be funded from the technical assistance budget of the following INTERREG IV programme
- Unless ineligible under national rules
- Should be kept as limited as possible – some audit, archiving, reporting etc
- Non-continued programmes will have to use national funding

* See Note of the Commission services No. 5 of 14.06.2007

From now until 31.12.08



Step 1 : Confirm the financial framework

You can fine-tune details of programme finances until 31.12.08 **but** you cannot change any of the priority totals in the programme financial tables

From now until 31.12.08



Confirm the financial framework

- Too late for changes to financial tables in CIP (deadline was 31.12.06)
- Cannot move money between priorities
- Cannot make any changes at measure level that would change totals at priority level

From now until 31.12.08



Confirm the financial framework

- Can still modify the Programme Complement (deadline is 31.12.08)
- Transfers between measures...provided the financing plan of the Commission decision does not require to be modified
- The co-financing rates of measures may be modified...provided that the total for each source of financing for the priority remains unchanged
- MSs may also make transfers between different sources of national public financing , provided that the national public funding at priority level remains unchanged
- Set realistic end date for all projects. 31.12.08 possible in theory – end of June in practice?

From now until 31.12.08



Step 2: Completion of projects and first level control work

- Early completion of all project controls
- Important to finalise not only control but all follow-up actions (resolve or quantify all problems)
- Depending on programme, final project control may require certification of total project expenditure and/or assessment of general budgetary performance
- May reveal new problems. No longer possible to 'wait and see'
- Project retention now limited to amount claimed with final report and only until approval of project closure

MA supervisory role includes

- Have all operations in the whole programming area been covered?
- Is there an adequate audit trail down to final recipient level for Community and national funds?
- Have all errors and irregularities been treated satisfactorily?

Step 3: Problem projects

The regulations contain several provisions for dealing with projects that cannot be closed satisfactorily. Nevertheless, do everything possible to close all projects !

Monitoring and reporting of irregularities

- May be detected and acted on at various level (auditors, national authorities, MA etc.)
- Keep consistent (centralised) list of all irregularities and follow-up
- Develop procedure for consistent follow-up of all financial corrections in all data systems
- All audit results (national, European etc) need to be included and acted on
- No closure possible without harmonised data

Projects suspended due to judicial or administrative proceedings at closure

- **Option 1**: Withdrawal from programme
- Commission must be notified
- Any replacement projects must be selected and approved according to normal criteria and procedures ('over-programming')
- Must comply with same eligibility rules as all other projects
- Check rules for declaring expenditure

Projects suspended due to judicial or administrative proceedings at closure

- **Option 2**: Retained in programme
- Member States must keep Commission informed of progress and outcome
- Will result in partial closure pending final decision (change from previous period)

Amounts awaiting recovery at closure

- Appendix on recoveries effected required with statement of final expenditure (as per CDRR/05/0012/01)
- Continue to inform Commission of on-going recoveries

Unfinished and non-operational projects at time of closure

- Must be completed up to a 'functional milestone' allowing clear identification of the part of the costs eligible under the programme
- Can be completed or 'rendered functional' with MS funds within two years of submission of closure documents (or project costs recovered)
- Can be completed in new programme with Community funds (with safeguards to prevent double-funding)

Step 4: Completion of second level control (audit) work

- Urgent need to complete (and report) last Article 10 (second level control) checks
- Urgent need to ensure 'satisfactory treatment' of all control and audit findings (particularly irregularities)
- Need to identify and correct any systemic failures as soon as possible
- Delay in one country endangers closure for the whole programme

How to ‘finish’ second level control?

- Determine whether any errors are ‘systemic’ (recurrent due to failings in management and control systems)
- If systemic errors are present, quantify the problem
- If the error rate in sample checks exceeds 2%, consider extra audit to determine the true error rate for the programme
- Ensure implementation of all audit findings (including Commission + Court of Auditors)

What’s ‘treated satisfactorily’?

- Irregularity reported if necessary
- Recovery procedures completed and amount deducted from final statement of expenditure or amounts correctly notified to Commission
- For systemic errors, appropriate steps have been taken to identify all cases and make corresponding reductions
- Systemic error = “recurrent error due to serious failings in management and control systems designed to ensure correct accounting and compliance with rules and regulations”

No later than 31.03.10



Step 5: Closure documents

- Final report on implementation + List of unfinished, suspended projects and irregularity cases (template available)
- May provide details on all projects but not required
- Final declaration of programme expenditure and request for payment
- Winding up declaration (with final audit report) + List of cases reported to OLAF (template available)

No later than 31.03.10



Step 5: Closure documents

- Submission deadline 15 months after final date of eligibility. You cannot alter the documents after the deadline

Completion and submission of closure documents

- Most common error is inconsistencies between data in different documents
- Make sure all changes to figures are reflected in all systems
- Aim to be finished well before deadline to allow time for programme response to any problems

Final report

- Prepared by MA
- May also include annual report 2008 as a separate section
- May be better to submit separate 2008 report – In case of problems programme will be closed based on last annual report accepted
- Must be approved by the Monitoring Committee before submission
- Leave time for making modifications before submission to Winding Up Body
- Minimum content requirements in Closure Guidelines Annex 1

Final report – Content points

- Must include reporting on use of interest earned on the account (replacing national co-financing or additional to programme)
- 'charges for transnational financial transactions are eligible for co-financing...after deduction of interest received on payment of account*'. Use of interest therefore needs to start here. **To be checked because not sure of this!**
- Details of all receipts – level of detail required here still unclear
- Draft Commission checklist focuses on **what** the programme has done, **why** and **how**

- May also be asked for '3 projects' annex
- May also be asked for achievement on measure level

• Closure Guidelines 4.1.2

Final report – Submission

- Some desk officers will comment informally on drafts – worth checking

MA and intermediate bodies duties include:

- Compile final statement of eligible expenditure
- Ensure that this statement can be reconciled with programme accounting records and that the audit trail is in place down to final beneficiary level
- Ensure that all findings and recommendations have been fully implemented and all errors/irregularities have been satisfactorily treated

PA supervisory role in closure

- Requires information from MA and all IBs that allows assurance on the accuracy, eligibility and regularity of all amounts declared
- Sample check of operations (and work of any sub-PA)
- Confirm that all control / audit findings have been satisfactorily treated
- See Article 9 Good Practice Paper for types of checks expected from PA

Declaration of expenditure and final application for payment

- Prepared by Paying Authority
- Template is 438/2001 Annex 2
- Accompanied by appendix on recoveries (as set out in Annex II 438/2001 and in line with CDRR/05/0012/01)

Declaration of expenditure – Past weaknesses

- Inconsistencies in figures
- Private expenditure declared in measures with no private co-financing in financial tables
- Ensure respect of maximum ERDF rates
- Make sure everyone is using the right exchange rates
- Even tiny errors require a formal Commission response – and will result in delay
- Claim all eligible expenditure – Even if Commission calculates you are entitled to more, it will not pay more than is claimed (smallest sum principle)

Step 6: The Winding Up Declaration

Serious work on this document cannot start until earlier steps and other documents are complete. May also take time to work towards an 'unqualified opinion'. Make sure WUB can start as soon as possible.

Winding up declaration (WUD)

- Joint declaration – the final cooperation challenge?
- Requires coordinated effort of national authorities, second level control in each country, Managing Authority and perhaps separate winding up body
- More Intermediate Bodies = More complexity
- Declaration of assurance that final programme statement of expenditure is correct and underlying transactions are legal and regular
- Irregularity list

Who is the winding up body?

- In many cases, the second level control body of the Managing Authority MS
- May be a cooperative task between MSs through e.g. Financial Control Group (must be mentioned in the Winding Up Declaration)
- In some cases a separate independent body
- MSs may attach a separate opinion if they consider it necessary (1260/1999 §38.1 (f)) – but this will lead to delay if it disagrees with the opinion of the WUB

Time is the greatest enemy

- Each MS is responsible for its share of the programme and has to contribute with the necessary information and documents in due time
- Unsatisfactory documents may lead to financial correction
- If deadline is missed all open amounts face automatic de-commitment
- Real need for joint effort and respect of all deadlines by all sides (time is actually very limited)

Third Level Control tasks

- Check of systems audit
- Check of sample audits
- Check of any other audits
- Audit of procedure used by MA and PA for drawing up final statement of expenditure (Filled in right? Correct calculations? Fit with MA and IB statements? Fit with latest financial tables? Fit with content of final report?)
- See sections 3.1-3.7 of Annex to INTERREG Closure Guidelines for list of questions to answer in final audit report – Minimum closure requirement that all programme bodies provide this information

Requirements for Winding Up Declaration

- Obtain assurance on coverage and scope of all audits (Articles 10 to 12 of 438/2001) and in particular:
 - Complete systems audit and follow-up
 - Representativeness of sample checks (type, size, main beneficiaries etc.)
 - Coverage of whole programme area
 - Spread of checks over funding period
 - Adequate fulfillment of audit objectives as laid out in 438/2001 §11 and minimum 5% sample

Content of Winding Up Declaration

- Winding-up declaration (indicative template available in 438/2001 Annex 3 – any changes must be agreed with Commission services)
- Report of all audit results and financial corrections and calculation of percentage (min. 5%) of audited expenditure
- Effect on final declaration of expenditure has to be calculated

Limitations to scope of the examination

- Systemic problems, management weaknesses, lack of audit trail, lack of supporting documents, cases under legal proceedings, inadequate sampling procedures, insufficient independence of bodies carrying out checks, insufficient access to data for all or part of the programme area etc.
- Quantify amount affected
- This amount will be cut from final claim unless convincing counter-evidence is provided

High frequency of errors and irregularities

- Materiality level (= acceptable error rate) generally set at 2%
- Low frequency = Estimated financial impact of errors is below materiality level
- High frequency = Over materiality level and suggests no confidence can be placed in whole system
- Calculated on findings of second level control but taking account of other audit findings
- High frequency = 'No opinion' (even if individual cases have been treated satisfactorily) + more audit until true extent of problems can be accurately determined

Some account should be taken of the type of errors.

- Formal vs substantive
- Financial impact
- Systemic

In general, errors with a financial impact will count towards the error rate and it should be decided if they are 'one-offs' or likely to be repeated (systemic)

Unqualified opinions, qualified opinions and no opinion / adverse opinion

- Three possible judgements for WU Declaration
- Unqualified opinion = Only very minor problems
- The preferred solution – Closure procedures should give MA and PA chance to ‘work towards’ unqualified opinion

Qualified opinions

- Caused by e.g. weak risk analysis for sample check, sample non-representative (especially weak coverage of parts of programme area), lack of procedures for identifying and treating systemic errors, low quality of Article 10 reports, insufficient independence of Article 10 staff
- Quantify amount affected and reduce final claim accordingly
- **NB** Commission has recently highlighted e.g. poor quality of Article 10 reports as a problem that has been noted – take action to demonstrate effective identification and correction of irregularities

No opinion / adverse opinion

- Caused by e.g. failure to sample check at least 5%, failure to check down to final recipient level, failure to check main IBs and/or beneficiaries, serious management weaknesses not addressed – leading to inability to form an audit opinion or negative opinion based on checks carried out
- Quantify amount affected and reduce final claim accordingly
- Demand for further audit more or less certain

Submission of documents

- Formally (in regulation) Winding Up Declaration submitted by Member State with all other documents requested
- Winding Up Body has to certify correctness, completeness and consistency of all documents – so WUB often submits documents

Step 7: Commission responses and final actions

Possible Commission responses

- Must respond to the final report within 5 months (1260/1999 § 38.1) – otherwise documents are deemed to be accepted
- Can request additional checks in accordance with 438/2001 §17 – based on 1260/1999 §38.2)
- Can request clarification from programme management
- If any follow-up required, there will be an interruption of procedure and closure procedure may be considerably extended
- Once satisfied will calculate the final payment

Calculation of final payment

Commission simulation with payment capping and use of 2% flexibility rule available soon on INTERACT website

Calculation of final payment – Excess private funds

- Where public expenditure is lower and private expenditure higher than in the last approved financial plan
- Initial calculation on programme level based on public co-financing as % of total public expenditure (ERDF + public co-financing)
- Compares ratio in financial tables to ratio in declared expenditure. Capping if ratio of actual public expenditure is lower than ratio in financial plan
- See examples in conference pack

What is the formal date of closure?

- Commission sends letter informing on the final balance to be paid / recovered
- Commission makes payment or recovery (if relevant)
- MSs must respond within two months (accept or appeal)
- After this date, if MS agrees the Commission will decommit the remaining balance from the programme. If appeal, financial correction procedure
- Formal date of closure (start of document retention period etc) is the date of the payment/recovery.
- MSs should consider potential impact on final beneficiaries before appealing over small amounts

Final payments to programmes

- Commission retains 5% of total programme ERDF under satisfactory completion of closure
- Remember that advance payment has to be justified by payments effected by final beneficiaries at latest when final balance is claimed
- No N+2 de-commitment exercise at end of 2008

Final payments to programmes

- Keep submitting claims for payment even after programme has reached the 95% level
- In the event of problems with closure documents, programme will be closed on basis of last submitted and accepted claim

Final payments to projects

- Programmes must make full payments to projects as soon as possible after successful project closure for as long as there are funds remaining in the programme bank account
- Last projects will not be reimbursed until payment of final balance by Commission
- Warn projects which may be waiting to claim large amounts?
- Costs for bridging funding (e.g. interest payments) are not eligible

After closure – continuing tasks and responsibilities

- Inform all projects of closure date – three year document retention period starts from then (1260/1999 §38(6))
- Make sure Lead Partners inform all partners (and sub-partners)
- Change of ownership etc within 5 years (1260/1999 §30.4)

Relevant issues in some programmes but not covered in depth here

- Extension of eligibility period for bodies granting State Aid
- Soft loan, interest subsidy, venture capital and loan funds
- *Force majeure*
- Details of irregularities and recoveries

Essential also to be fully aware of different reporting and accounting requirements of irregularities and recoveries before, during and after closure

CLOSED