



INTERact

Sharing Expertise

First Level Control in Territorial Cooperation and IPA CBC programmes under shared management

FLC tasks and responsibilities

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Structure for this session

- Who is a First Level Controller?
- Past criticisms - new regulatory framework
- FLC in practice:
 - Tasks
- FLC and the Lead Partner Principle
- Main issues/challenges
- Timing
- Documentation of work
- Relationship FLC ↔ other programme bodies



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WHO IS A FIRST LEVEL CONTROLLER?



Other controls/ audits

- MS
- Cofin. institutions
- EC audit services
- ECA
- OLAF

AUDIT AUTHORITY

CERTIFYING AUTHORITY

MANAGING AUTHORITY / JTS

FIRST LEVEL CONTROL
(admin + on-the-spot)

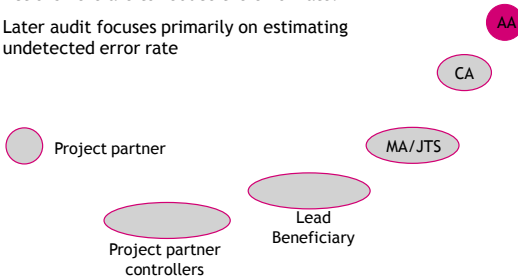
INTERNAL CONTROL of the PARTNER



Suggested relative responsibilities and workloads

Actions here are to reduce the error rate.

Later audit focuses primarily on estimating undetected error rate





- Controllers task is to **detect and correct errors** and to **prevent** the declaration of incorrect expenditure
- Controllers should provide **assurance to programmes** that there are no errors in the expenditure declared
- And **assurance to partners** that no errors will be found in their expenditure at a later stage
- Controllers are the **only people** in the programme carrying out this essential task
- In large part the future of the programmes will be decided by the **effectiveness of the controllers**



Our own definition for this event:

- Checks of project expenditure and activities to **complement monitoring** of the MA/JTS
- Checks are usually made **PRIOR to the reimbursement** of costs and are thus aiming at the prevention of errors
- FLC is primarily but not exclusively **the work of controllers**



First level control criticisms 2000-2006

- Not thorough enough - too many errors getting through
- Not wide enough - some issues not checked
- Not documented enough - auditors and programme authorities only see a short declaration
- Not good enough - too many projects have to repay funds because problems have not been detected
- Acceptable error rate after first level control is 2%
- European Court of Auditors estimates 11% error rate after second level control



**First level control criticisms
Problems with eligibility 2000-2006**

- **Complicated or unclear eligibility criteria** or complex legal requirements have a considerable impact on the legality and regularity of underlying transactions (ECA report)
- Some MS provided **very little information** on their additional eligibility requirements
- Extensive confusion at project level about what is and is not allowed - very **difficult to get reliable confirmation**
- ECA recommended to simplify regulations and rules!



The legal framework - what was done to improve and clarify the system?

- Designation + timeline (Article 16 Reg. 1080/2006)
- Eligibility rules to be made available beforehand
- Annual audit report to confirm functioning of the system (Article 62 Reg. 1083/2006)
- Role and responsibilities (Article 13 Reg. 1828/2006 amended): **FLC in ETC covers administrative and on-the-spot checks:**
'administrative, financial, technical and physical aspects of operation'
- Details provided in the „Guidance note on management verifications“ : extent/coverage, documentation, sampling method for OTS



Understanding the tasks of FLC:

Things to be checked and timing



Rules and Guidelines

- Community rules: General Regulation, Fund Regulations, Implementing Regulation
- Regularity - State Aid, public procurement, Community policies, publicity requirements
- **EU COM guidance document on management verifications**
- National laws and national rules
- Programme documents - negotiated and agreed with the European Commission
- Public finance accounting principles



Verification of soundness of expenditure

- Principles of **sound financial management** (EU-general budget)
- Expenditure is **real** (has actually been incurred)
- **Products and services** have been **delivered** in accordance with the approval decision
- **Application for reimbursement** by the partner is **correct**
- Operations complies with **national and community rules**
- Avoids **double financing**
- Expenditure is **eligible** and was incurred **within the eligibility period**
- **Public contribution has been paid** to partner (where applicable)
- **Revenues** have been deducted



Verification of soundness of expenditure (2)

- Compliance with **State Aid** rules
- Compliance with **Public Procurement** rules
- Compliance with **information and publicity** requirements
- **Sustainable development**
- **Equality** between men and women and **non-discrimination**



When in doubt - Essential eligibility questions

- Is the cost claimed real?
- Is there evidence it has been paid out?
- Is the price reasonable?
- Does it add value to the project?



Common problems spotted during FLC (1)

- Costs declared for services contracted before start of the programme period or eligibility date
- Project partners' budgets are exceeded
- Budget lines are exceeded
- Costs are reported under wrong budget lines
- Costs do not correspond to the activity report
- Changes in the partnership
- Wrong exchange rate used



Common problems spotted during FLC (2)

- VAT
- Lack of adequate evidence for costs
- Calculation of overheads not transparent
- Wrong calculation of staff cost
- Failure to comply with procurement rules
- Failure to comply with publicity rules
- Same cost included twice



Common problems spotted during FLC (3)

- No evidence/control for co-financing part of budget
- Expenditure reported for organisations not in the partnership
- Especially at project end, unused funds are used on new equipment unrelated to the project
- Project includes costs for non-agreed/non-relevant activities
- Project includes costs that have not yet been paid
- Project includes non-approved travel outside the area



FLC in practice

- Check lists are used to make sure everything is covered
- But: no exhaustive list of eligible or ineligible expenditure (ever)
- Eligibility can often only be assessed case-by-case depending on the project objectives, financial plan and approved application
- Projects involve partners from various MS with different rules, languages, practices and understanding of eligibility
- Other countries, programmes and funds (for example ESF) have different rules which may cause confusion



- Many FL controllers check 100% of the items of expenditure. Though desirable this may not always be feasible.
- FLC usually certifies 100% correctness of expenditure but does NOT certify that 100% of the items of expenditure were checked.
- Especially for on-the-spot checks, a sampling method and risk factors must be used (e.g. value of items, type of partner, past experience).
- Any risk-based sampling method must be well reasoned and documented



- FLC takes place every time project makes a payment claim
- FLC takes place at the partner level
- Expenditure which has not been certified by FLC cannot be included in programme payment claim to EC



Documentation through:

- Check lists, memos, control reports, marks on controlled documents, etc.
- Copies of controlled documents
- Copies of ineligible invoices etc

Goal:

- Transparency and plausibility of conclusions and follow up of findings



Timing of FLC work

Some aspects need to be tackled early to avoid serious problems later:

- Check **set-up of partner accounting and payment systems**
- Check that **staff hours** are being properly recorded
- Check that a correct calculation method is in place for **overhead costs**
- Check that beneficiaries are aware of the applicable rules (especially **publicity and procurement**)
- Check that an adequate **audit trail** is being maintained



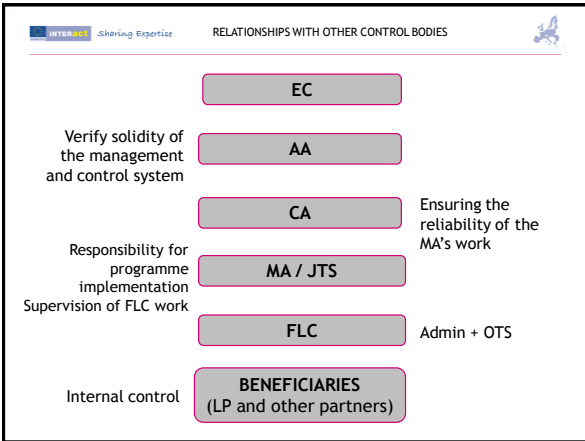
Lead Partner Principle and FLC



- 1) All beneficiaries are responsible (and liable) for their expenditure
- 2) Control is **carried out at partner level** (including LP) by the controllers designated in each partner's country
- 3) LP responsibility:
 - To ensure that satisfactory **certified statements of expenditure** have been received from each partner and certification has been carried out by the designated body
 - To ensure that *'the expenditure presented by the beneficiaries [...] has been incurred for the purpose of implementing the operation and corresponds to the activities agreed...'*



Lead Partner Principle and FLC in practice

- Lead Partner controller does not generally control the expenditure of beneficiaries in other countries - Because this did not work very well in the past
- BUT in some programmes Lead Partner controllers must provide a consolidated project claim
- **Conclusion:** often Lead Partner control is not different to checking other beneficiaries



INTER  RELATIONSHIPS WITH OTHER CONTROL BODIES 

Relationships between control bodies

- ALL: Should be seen as **one cooperating system** with end goal of below 2% error rate
- MA/FLC: Feedback loops are essential - each part of the system needs to learn from the other parts
- FLC/SLC: Control audit trail allows auditors to enter at any point and trace back to the actual control work carried out
- MA/CA/AA/MS: Supervisory roles have been toughened in the new regulations to address previous weaknesses
