

Appendix B

ERDF OFFER LETTER FOR MULTI MEASURE PROJECTS

April 2001

EUROPEAN REGIONAL DEVELOPMENT FUND (ERDF)

Programme Name:

Measure Names:

Project Applicant:

Project Reference Number:

Project Name:

SPECIMEN

Dear

1. On behalf of the Secretary of State for the Environment, Transport and the Regions I am pleased to inform you that your application for grant towards the eligible expenditure of the above project has been successful.
2. In this letter, the "Programme", and the "Applicant" are as shown in the heading. The "Project" is defined by the description of the project and its agreed costs and targets shown in Annex 1 of this letter, your application form and the associated business plan. The "Secretary of State" is as shown in the first paragraph. The "Department" is the Department of the Environment, Transport and the Regions. Where references are made in this letter to "you" and "your" this means the Applicant. References to 'we' and 'us' and to the 'Government Office' mean the (*insert name of Government Office*) acting for the Secretary of State for the Environment, Transport and the Regions.
3. Your application is approved on the basis of the details set out in the application form ERDF 1, which you completed on (*insert date*) and in the associated Business Plan and includes any amendments agreed by us in writing prior to the date of this letter. Specifically, grant is offered on condition that the project delivers its aims and produces the agreed quantified targets and pattern of expenditure set out in Annex 1 to this letter. Approval is subject to your acceptance of all the conditions set out in this letter and annexes.

ERDF GRANT PAYABLE

4. The amount of grant payable is calculated as a proportion of eligible expenditure up to a maximum level as set out below. The amount of grant is the maximum payable regardless of any increase in the total eligible expenditure which results from changes to the project – see paragraph 9 – unless the GO has approved the increase in writing.

Measure name:

type of expenditure	eligible project expenditure £	% grant rate	maximum ERDF payable £
capital			
revenue			
	Total eligible project expenditure £	Overall % grant rate	Total maximum ERDF £

Measure name:

type of expenditure	eligible project expenditure £	% grant rate	maximum ERDF payable £
capital			
revenue			
	Total eligible project expenditure £	Overall % grant rate	Total maximum ERDF £

For para 5 insert one of the following paragraphs

Either

You can only claim ERDF grant for eligible expenditure. Annex 2 explains what eligible expenditure means and how you can claim the grant. No expenditure on which grant is to be claimed may take place before the date you accept this offer.

Or

You can only claim ERDF grant for eligible expenditure. Annex 2 explains what eligible expenditure means, and how you can claim grant. Grant may be claimed on eligible expenditure from (*insert date*).

6. The project start date is (*insert date*), its practical completion date is (*insert date*) and its financial completion date is (*insert date*). The final claim and a copy of the statement of grant expenditure for the project sent to your auditor should be submitted no later than (*insert date*).

EUROPEAN COMMISSION REQUIREMENTS

7. You must comply with the following Regulations :

- Structural Fund Regulations 1260/1999 and 1685/2000**
- Commission Regulation 1159/2000**
- European Community State Aid Rules**
- Public Procurement Directives**
- Environmental Legislation**

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8. Annexes 3 and 4 give more information about these requirements.

CHANGES TO THE PROJECT

9. The following changes must be agreed in advance by the Government Office in writing:
- (i) any change that alters the nature of the project;
 - (ii) significant changes over the lifetime of the project to the individual categories of expenditure or expenditure profile or quantifiable targets set out in Annex 1;
 - (iii) any change to the project's use, its financing or ownership.
10. Failure to do so may result in the termination of grant and we may require you to repay any grant paid.

DOCUMENTATION

11. You must keep full records in a form agreed with us, of all the activities that generate eligible costs so as to provide the audit trails specified by the EC. You must retain these documents until three years after the EC has made the final payment for the Programme to the Government Office. If you intend to claim grant on eligible expenditure made by others acting on your behalf you must ensure that you have a legally binding agreement with them which specifies what information is to be provided and when. You must ensure that those acting for you have original documentary evidence to support all the payments they make for you and for which you wish to claim grant. Annex 5 gives more information.

AUDIT AND MONITORING

Insert the following paragraph for projects requiring an annual audit

12. Your expenditure on the project will require an audit after the end of each financial year. You must submit a statement of grant expenditure to your auditor and send a copy to the Government Office by 30 September of the following financial year and each year thereafter. The audited statement of grant expenditure must reach the Government Office by 31 December of the same financial year and each year thereafter.
13. The final audited statement of grant expenditure for the project must be received no later than (*insert date*).
14. We expect you to provide us with a report on the progress of your project quarterly using form ERDF20. However you must comply with the deadlines that we set for any requests for information in whatever form concerning the progress of the project.
15. The Secretary of State, the National Audit Office, the European Commission and the European Court of Auditors or their representatives shall have the right within the limit in Regulation 1220/1999 to the following:
- i) to inspect the project and to require such further information relating to the project as they think fit;
 - ii) to be provided with the original documents relating to the project.
16. The audit and monitoring requirements are set out in Annex 6 to this letter.

WITHHOLDING AND REPAYMENT OF GRANT

17. The Secretary of State may withhold any or all of the grant payments and/or require all or part of the grant to be repaid if the Secretary of State considers that you have not complied with:
- i) any of the terms and conditions in this offer letter;
 - ii) any European Community obligation which applies to the applicant or the project;
 - iii) you have failed to take sufficient measures to investigate and resolve any reported irregularity.
18. Any over-payment of ERDF grant must be repaid to the Secretary of State on demand by us, or if you become aware that ERDF assistance has been over-paid, whichever first occurs.

19. The Department will make every effort to pay claims promptly but accepts no liability in respect of loss attributable to delay in the payment of claims or to any suspension, reduction or cancellation of ERDF.

ORGANISATIONS MAKING PAYMENTS FOR THE PROJECT

20. The organisations who will be making payments against which ERDF grant will be claimed are:

(GO to complete)

AMENDMENTS TO THIS LETTER AND ANNEXES

21. No amendment or variation to the terms of this letter or its annexes will be effective unless agreed in writing by the Government Office. If you notify us that your project has changed in any way, we will write to you to tell you how we will treat the changes.

HOW TO ACCEPT THIS OFFER OF GRANT

22. This offer of grant remains open until *(insert date)*. If you wish to accept this offer of grant please sign and return the enclosed copy of this letter, together with the completed profile forms enclosed.

23. In accepting this offer of grant you are agreeing that you understand the guidance that accompanied your application and you will take the necessary steps to comply with the conditions contained in this letter and any guidance we subsequently issue. We cannot proceed with your application nor make any payments until you have agreed to accept the terms of this letter.

24. You should refer any queries on the nature and terms of this approval to *(insert name of contact)* at this office.

Yours sincerely

DIRECTOR EUROPE

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ACCEPTANCE

Programme Name:

Measure Names:

SPECIMEN

Project Applicant:

Project Reference Number:

Project Name:

I accept the offer set out in the letter dated and in annexes 1 – 8.

I agree to deliver the project titled on the terms and conditions set out in this letter.

Signed (please refer to section 28 of the application guidance notes for details on certification)

Name in Capitals

Position:

Date:

Table of Required Actions [example only]

Document	Action	By when
Copy offer letter	Signed and return to Government Office	25 December 2000

ANNEX 1

PROJECT COSTS, ELIGIBLE EXPENDITURE BROKEN DOWN BY SOURCE OF FUNDS, QUANTIFIED AND KEY N

Project costs

Your estimates of the costs of the project are set out below (using data supplied at section 21 of the application form ER by us)

Measure Name:

CAPITAL

ELIGIBLE EXPENDITURE CATEGORY AND BREAKDOWN WHERE APPROPRIATE	2000	2001	2002	2003	2004	2005
Eg Building Acquisition - valuation fees - purchase price - legal fees - etc						
SUB TOTAL						

Measure Name:

REVENUE

ELIGIBLE EXPENDITURE CATEGORY AND BREAKDOWN WHERE APPROPRIATE	2000	2001	2002	2003	2004	2005
Eg Overheads - rent - heating - lighting - telephone - etc						
SUB TOTAL						
GRAND TOTAL						

Measure Name:

CAPITAL

ELIGIBLE EXPENDITURE CATEGORY AND BREAKDOWN WHERE APPROPRIATE	2000	2001	2002	2003	2004	2005
Eg Building Acquisition - valuation fees - purchase price - legal fees - etc						
SUB TOTAL						

Eligible Expenditure broken down by Source of Funds

The expenditure profile for your project is set out below (using data supplied at section 25 of your application form and ir

Source of Funds		Eligible Expenditure						
		2000	2001	2002	2003	2004	2005	2006
Public	Actual							
	In-kind							
Private	Actual							
	In-kind							
Voluntary	Actual							
	In-kind							
EIB								
Planned income								
ERDF								
Totals								

Note: project income received above the planned amount will be deducted from the total eligible expenditure.

ANNEX 2

ERDF GRANT PAYABLE

Eligible expenditure

1. You must comply with the EC Regulations on eligible expenditure which are in the annex to EC Regulation 1685/2000. The EC may issue further regulations on this. In addition you should comply with the following definition of eligible expenditure.
2. Eligible expenditure must:
 - (1) not exceed the amounts stated in Annex 1;
 - (2) not be expenditure on the costs described as ineligible in Annex 8; and
 - (3) be project costs which have been paid by you and those organisations making payments for the project listed in the offer letter.
3. Before you can claim grant, the project costs must have been paid. "Paid" is defined as when the project has given money for goods and/or services and the money due has passed out of the control of the project by the time it is included in a claim for grant. In the UK the point at which this occurs is when the money is given or sent to the supplier by post or electronic instruction to the project's bank. As an example, for expenditure in relation to goods and/or services provided to the project by a supplier to be included in a claim for grant, an invoice must have been received, a transaction entered into the project's accounts and a cheque or equivalent sent to the supplier. The date the cheque or equivalent is sent will be the payment date.
4. GO monitoring staff will need to be satisfied that the systems used by the project are sound and that grant claims are correct. There will be a range of documentary evidence available to allow this to be done including the accounting records of the project which show the dates invoices were paid, receipts and statements from suppliers, bank statements, cheque stubs, and correspondence with payees and with the project's internal and external auditors. It will be for monitoring staff to determine which of these or which combination of these items provide the assurance that they require in specific cases.
5. You must keep records of all cash payments and their dates as these are part of the project's records. You must also ensure that all the organisations acting on your behalf and those listed in the acceptance form do the same. You are advised to encourage your payees to accept payment by BACS, rather than by cheque. You should contact us if you are in any doubt as to whether particular items of expenditure are eligible for grant.
6. ERDF grant is calculated as a percentage of eligible expenditure.

How to Claim grant

7. Claims for grant must be submitted at intervals specified in the profile below, on yellow grant claim forms ERDF20 that will be supplied by us. Failure to adhere to this schedule may result in the termination of grant.

Claim No	Period of Expenditure	Submitted to the Office by	Claim No	Period of Expenditure	Submitted to the Office by

8. Once we have received your fully documented claim, grant will normally be paid, or the claim rejected, within 30 days, unless it is necessary for us to seek further information to support the claim.
9. Each claim must cover the whole of the period in question and must include a breakdown of the amount of eligible expenditure that will be funded by grant and the amounts funded by each of the other funding sources (or in kind contributions) specified in your application.
10. Each claim must be accompanied by a detailed report (Project Progress report) describing progress made against the quantified targets set out in this offer letter and/or appropriate commentary against any other monitoring criteria agreed with us.
11. THE PROJECT PROGRESS REPORT MUST BE SUBMITTED TO US EVERY QUARTER EVEN IF NO CLAIM FOR GRANT IS MADE.
12. The total grant claim will be restricted to the overall % grant rate shown in the covering letter. The amount of grant paid will be based on the total eligible expenditure for the capital and revenue elements combined.

ANNEX 3

EC REQUIREMENTS

The following EC requirements apply:

1. STRUCTURAL FUND REGULATIONS

1.1 Council Regulations 1260/99 (General Regulations) and 1685/2000 (Eligibility) apply to this project. Other Regulations produced under relevant Articles in 1260/99 and notified by the Commission from time to time may also apply to this project.

2. EUROPEAN COMMUNITY STATE AID RULES

Principles

2.2 The European Commission has considerable powers to monitor, control and restrict the forms and levels of aid given by all Member States to their industries. The principles underlying State Aid are set out in Article 88(3) of the EEC Treaty. Detailed guidance on State Aid rules can be found in "European Community State Aids: Guidance for all Departments and Agencies" published by DTI in March 1999 and the various frameworks and guidelines issued by the Commission on the application of the rules. All State Aid (other than those covered by de minimis provisions – see below) must be notified to and approved by the Commission in advance of implementation, otherwise it is illegal.

2.3 Applicants are required to abide by any EC State Aid limits which are applicable. Where the applicant is a public authority, it should satisfy itself whether state aid rules apply to the project in consultation if necessary with the Department of Environment Transport and the Regions and should inform the Department immediately it has decided it does not need to notify the project to the Commission. In all other cases, no grant will be paid in respect of the project until the Department has been informed of the Commission's approval of the project under the notification of the state aids procedure pursuant to Article 88(3) of the EC Treaty, or the Department has formed the view that such notification is not required. Recipients of illegal aid will risk being held responsible for meeting the cost of any penalty applied by the EC in the event the project is found to have infringed the State Aid rules, and also risk actions for damages from third parties. If you are in any doubt contact the Government Office.

Notification

2.4 Where a project will use public expenditure (including structural funds) either directly or indirectly to provide subsidised benefits to the private sector, eg grants to firms for investment, R&D, training and a reduced cost business consultancy, the assistance provided to the project will normally need to conform to EC State Aids rules and be formally approved by the EC.

De minimis

2.5 There is a threshold below which aid need not be notified. This de minimis threshold applies if the project will not allow any private sector organisation to receive more than 100k Euros of state aid over any three year period taking account of all state aid that such organisations may receive from any source.

2.6 This threshold does not apply to the following sectors: agriculture, fisheries, transport, shipbuilding, coal, steel and to export aid.

2.7 Projects that include an element of aid to businesses and are proposing to operate a de minimis scheme must be mindful of the need to:

- (a) seek confirmation that those who are to receive the assistance are within the definitions of a small and medium size enterprise (SME);
- (b) obtain confirmation of a SME's receipt of state aid in the last three years; and
- (c) provide SMEs participating in the project with a record of the cash value of any assistance provided.

3. PROCUREMENT

3.1 The European Community rules on Procurement apply to contracts that are financed or part financed by Structural Funds grant. Within the coverage of the Directives set out below, contracts above certain limits are required to be advertised in the Official Journal (OJ) of the European Communities. Bids for contracts must be assessed on an objective basis and contract awards should be published in the OJ. Grant will be reclaimed if it is found subsequently that the procurement rules have not been observed.

3.2 Organisations that are not financed or supervised by public sector bodies and commercial organisations in the private sector may not be covered by the procurement rules but are nonetheless expected to use fair and open practices including competitive tendering when letting contracts for which they intend to claim Structural Funds grant.

3.3 If your organisation is not covered by the procurement directives we expect the following procurement procedures (or equivalent) to be adopted according to the estimated value (inc. VAT) of the contract at pre-tender stage. Your decision must demonstrate best value and you must keep records which support your decision. We also expect that public sector bodies awarding contracts below the thresholds to demonstrate best value for instance by following these procedures.

Estimated Value	Tender Action Required
Below £250	No quote required
£250 up to £500	Single oral quote
£501 up to £2,500	Minimum of three oral quotes
£2,501 up to £15,000	Minimum of three written quotes, based on a clear written specification of requirement
£15,001 up to £50,000	Normally minimum of 3 formal competitive tenders invited.
£50,001 and over	Normally 4 to 6 formal competitive tenders invited.

3.4 Private sector organisations letting any works contracts covering civil engineering, hospitals, sports facilities, recreation and leisure facilities in excess of 5,000,000 euros for which 51% or more of the costs are funded by a public body must meet the EC procurement rules.

3.5 The Procurement rules are complex and the following list provides a very brief description. The following description is not intended to provide guidance on how the Directives should or should not be applied. If there is any doubt about the application of the Procurement rules you should seek legal advice. In general, where doubt remains (after consultation with lawyers or other experts) about the application of the Procurement rules, it may be better to err on the side of caution and apply the procurement process. Note that Directives are implemented in the UK by Statutory Instruments (SIs). Applicants should examine the appropriate SI to ensure they comply with the requirements. The thresholds were revised on 1 January 2000 and will continue until December 2001. The Directives are:

The Public Works Directive

3.6 **Directive 93/37/EEC** amended by **Directive 97/52/EC**, implemented in the UK by Statutory Instrument (SI) 1991/2680. The organisations covered are Government Departments, local authorities and a wide range of public bodies not of an industrial or commercial nature. Included are organisations established for the specific purpose of meeting needs in the general interest that are financed for the most part by other bodies, subject to management supervision by them or having an administrative, managerial or supervisory body more than half of whose members are appointed by them. The rules apply to contracts for building or civil engineering works, the award of works concession contracts and works contracts funded by the above organisations. Works concessions contracts are those where the contractor has the right to exploit the works (e.g. to levy road tolls), although they may be paid as well.

Government Procurement Agreement sector contracts

3.7 For Government Procurement Agreement (GPA) sectors, (ie water, electricity, urban transport, ports and airports), the threshold is 5m Standard Drawing Rights SDR, (which equates to 5,358,153 euros).

3.8 The threshold for non GPA sector contracts is 5M euros. This refers specifically to gas and heat, extraction of oil and gas, extraction of solid fuels, transport by railway but excluding urban railways and telecommunications sectors.

Subsidised Works Contracts

3.9 If the organisation awarding the contract contributes more than half the contract value, where the total contract value exceeds 5,000,000 euros for any works contract covering, in general, civil engineering (roads bridges, railways, tunnels etc), hospitals, sports facilities, recreation and leisure facilities, school and university building or buildings for administrative purposes, then the contribution must be conditional on the subsidised body complying with the rules as if it were a Contracting Authority.

The Public Supplies Directive

3.10 **Directive 77/62/EEC** (amended by **Directive 93/36 EC** and **97/52/EC**, implemented in the UK by SI 91/2679. This covers the purchase or hire of goods by the same organisations covered by the Public Works Directive.

3.11 The thresholds are 600,000 euros for the telecommunications sector, 400,000 euros for non GPA sectors and for GPA sector contracts 400,000 SDR,(which equates to 428,653 euros).

The Public Services Directive

3.12 **Directive 92/50**, (as amended by **Directive 97/52/EC**, implemented in the UK by SI 1993/3228. Based on the Works Directive, but allows greater freedom to use the negotiated procedure with a prior call for competition. Includes rules on design contests and quality assurance. Does not apply to public service concession contracts.

3.13 The thresholds are 600,000 euros for the telecommunications sector, 400,000 euros for non GPA sectors. The thresholds for GPA sector contracts are either 400,000 euros or 400,000 SDR, depending on the nature of the service contracts.

The Utilities Directive

3.14 **Directive 93/38/EEC** (replaced **90/531/EEC** and includes services) on procurement procedures of entities operating in the water, energy, transport and telecommunications sectors as last amended by **Directive 98/4/EC**, implemented in the UK by SI 1996/2911.

3.15 This Directive shall apply to contracting entities:

- (a) which are public authorities or public undertakings and which pursue one of the activities referred to in Articles 3 to 6¹;
- (b) which, when they are not public authorities or public undertakings, have as one of their activities any of the activities referred to in Articles 3 to 6, or any combination thereof and operate on the basis of special or exclusive rights granted by a competent authority of a Member State.

3.16 A contract, which is intended to cover several activities, and which cannot be split up shall be subject to the rules applicable to the activity for which it is principally intended.

3.17 This directive shall apply to contracts where their estimated value, net of VAT, is equal to or greater than:

- (a) 428,653 euros in the case of supply and service contracts
 - i 400,000 euros for oil, gas, coal and railway sectors
 - ii 600,000 euros for telecoms sectors
- (b) 5,358,153 euros in the case of works contracts
 - i 5,000,000 euros for oil, gas, coal, railway and telecoms sector

¹ Directive 93/38/EEC as amended; Scope: Definition of the activities and entities covered; Section 2; Activities referred to; p60-62

Supply, Works and Service Contracts

3.18 Supply, works and service contracts mean contracts for pecuniary interest concluded in writing between one of the contracting authorities or entities referred to in Article 2 (2)², and one or more suppliers, contractors or service providers, having as their object:

- (a) in the case of supply contracts, the purchase, lease, rental or hire-purchase of products, with or without the option to buy;
- (b) in the case of works contracts, which have as their object either the execution, or both the execution and design of building and civil engineering activities (referred to in Annex XI³). In addition, these contracts may cover the execution of these activities, by whatever means, as required by the contracting authority;
- (c) in the case of service contracts, contracts concerning services are mentioned in Annex XVI⁴

Compliance and Remedies Directives

3.19 There is also a **Compliance Directive (89/665)** for the general public sector and a **Remedies Directive (92/13)** for the utilities. These deal with remedial action for breaches of the rules. They are implemented in the UK via the main SIs.

4. ENVIRONMENTAL IMPACT

4.1 All projects awarded ERDF funding must comply with EC Environmental legislation. Grant aid may be withheld until any necessary consents, including planning permission have been obtained. Please contact this Government Office for information about the legislation.

² Directive 93/38/EEC as amended; Definition of the activities and entities covered; Article 2 Contracting entities; p59

³ Directive 93/38/EEC as amended; Statistical obligations, implementing powers and final provisions; list of activities as set out in Article 1 (b), point B; p131

⁴ Directive 93/38/EEC as amended; Statistical obligations, implementing powers and final provisions; services within the meaning of Article 30 & 31; p150

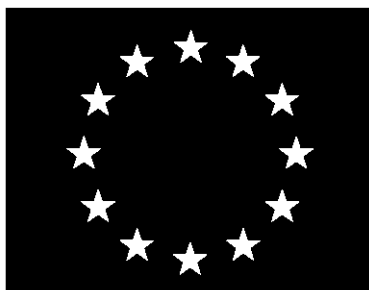
ANNEX 4

COMMUNITY PUBLICITY REQUIREMENTS

This is a brief summary of the main points. Full details are contained in the Commission Regulation 1159/2000 with which you must comply.

Billboards

1. Billboards must be erected on the sites of infrastructure projects with a cost exceeding 3 million euros and 500,000 euros for operations part-financed by Financial Instruments for Fisheries Guidance (FIFG). Billboards must be of a size appropriate to the scale of the operation.
2. The billboard must include a space reserved for the European Union's (EU) contribution. This section must:
 - a) take up at least 25% of the total area of the billboard;
 - b) bear the standard Community emblem - twelve five-pointed gold stars in a circle on a blue background - and the following text, to be presented as below:



PROJECT PART-FINANCED BY THE
EUROPEAN UNION

- c) the lettering used to indicate the EU's financial contribution must be at least the same size as the lettering used to indicate national participation, although the typeface may be different.
 - d) the Fund concerned may be mentioned (e.g. European Regional Development Fund (ERDF)).
3. Billboards must not be removed until at least 6 months after completion of the work.

Commemorative plaques

4. A permanent commemorative plaque shall replace the billboard, where the infrastructure project is accessible to the general public (e.g. congress centres, airports, stations, etc.). Such plaques must include the Community emblem, mention the EU's contribution and may mention the Fund concerned, (e.g. ERDF). In the case of physical investments in commercial business premises, commemorative plaques shall be installed for a period of a year.

Other points

5. If a billboard is erected, a commemorative plaque placed, a poster displayed, or any other type of publicity is used for the project, the Community's contribution must also be noted. This requirement applies even if the costs of the project do not exceed the amounts mentioned in paragraph 1.
6. Forms issued concerning the announcement of, application for and grant of assistance to final beneficiaries shall indicate the part financing by the Community and the European Regional Development Fund. The notification of aid sent to beneficiaries shall mention the amount or percentage of the assistance financed by the ERDF. If national or regional emblems are included, a European emblem of the same size must also be included.

ANNEX 5

RETENTION OF DOCUMENTS AND INVENTORY OF ASSETS

Retention of documents

1. Original documents relating to the implementation of the project and its financing should be retained until the three years after the EC has made the final payment in respect of the programme under which your project is funded. We will inform you when you can destroy your documents.

2. The retention of documents for inspection is an EC requirement and forms part of the terms and conditions under which ERDF has been agreed (EC Regulation 1260/99 Article 38 (6)). As well as being made available to the UK auditors of a project, grant recipients must produce the original documents or verified true copies when required to do so by the European Court of Auditors, European Commission auditors or the Secretary of State. Failure to produce the original documents or satisfactory agreed substitutes could result in repayment of grant.

Inventory of Assets

3. The applicant must establish and maintain an inventory of all fixed assets acquired, built, or improved wholly or partly using ERDF grant, whether owned by Partnership members or third parties. An asset is defined as an item that will not be used up within 12 months and which is not intended to be sold before the end of its useful life. Assets below £2,500 can be excluded.

4. The inventory should show the:

- i) date of purchase;
- ii) description of asset;
- iii) price paid net recoverable VAT;
- iv) amount of ERDF grant paid;
- v) location of the title deeds;
- vi) serial or identification numbers;
- vii) location of the asset;
- viii) date of disposal; and
- ix) sale of proceeds net of VAT.

ANNEX 6

AUDIT AND MONITORING REQUIREMENTS

1. Audit

Audit requirements

- 1.1 All projects receiving in total £10,000 or more of ERDF grant must be audited before the final claim is paid.
- 1.2 10% of the total eligible grant is retained until the project is completed and a satisfactory final audit report has been received by the Government Office.
- 1.3 Projects receiving £250,000 or more of ERDF grant and lasting more than one year, must be audited annually for the year ended 31 March. Projects receiving £250,000 or more of ERDF grant and lasting for a year or less must be audited before the final claim is paid. The Government Office may, at its discretion, request annual audits of projects with less than £250,000 of grant.

Accountants' qualifications

1.4 You must appoint a registered auditor (or firm of auditors) to carry out these audits. You are responsible for completing the Statement of Grant Expenditure (ERDF60 or ERDF70) on which these audits will be based.

1.5 Where the grant recipient is a local authority, the statement should be audited by the Audit Commission's appointed auditors.

Forms and Guidance

1.6 For local authority projects, form ERDF60 (Statement of Grant Expenditure) must be used for audit purposes. For non local authority projects, form ERDF70 must be used. Booklet ERDF70G provides explanatory notes for those auditing statements of grant expenditure provided by private sector bodies. Audit Commission Guidance LG9 sets out the procedures to be followed by those auditing statements of grant expenditure provided by local authorities.

Audit deadlines

1.7 Annual audits must be completed and submitted to the Government Office by 31 December of the following financial year. Grant recipients must send a photocopy of the unaudited ERDF statement of expenditure form to the Government Office by 30 September of the following financial year so that the GO knows the request for audit has been made.

1.8 Audits of final statements of grant expenditure must be completed and submitted to the Government Office by the date shown in the offer letter. Grant recipients must send a photocopy of the unaudited ERDF statement of expenditure form with the ERDF20 claim form to the Government Office also by the date shown in the offer letter. Normally grant recipients are allowed one month after the financial completion of the project to submit the final claim and unaudited ERDF statement of expenditure to the Government Office. A further three months is usually allowed for the audit to be carried out.

1.11 For annual and final audits, non-receipt of the audited statement of expenditure form by the prescribed deadline may lead to the withdrawal, suspension or recovery of grant already paid.

1.12 You must ensure that supporting documentation is maintained and made available to auditors to ensure that the audit is not delayed.

2. Monitoring

2.1 Article 38 of EC Regulation 1260/1999 sets out the general provisions for financial control.

The Government Office takes responsibility in the first instance for financial control of ERDF assistance. The measures the Government Office takes shall include:

- (a) verifying that management and control arrangements for individual projects have been set up and are being implemented in such a way as to ensure that Community funds are being used efficiently and correctly;
- (b) carrying out on-the-spot checks, including sample checks, on the operations financed by ERDF funds and on management control systems;
- (c) ensuring that all assistance is managed in accordance with all the applicable Community rules and the funds are used in accordance with the principle of sound financial management.

2.2 As an ERDF project manager you must comply with the deadlines set for any requests for information concerning the project. The Government Office, the National Audit Office, the European Commission and the European Court of Auditors or their representatives shall have the right with a minimum of one working day's notice, to inspect the project and to require such further information as they think fit; and to be provided with copies of such documents or items as they shall require.

2.3 Further details of document retention are set out in Annex 5.

ANNEX 7

WITHHOLDING AND REPAYMENT OF GRANT

1. The Secretary of State reserves the right to withhold any or all of the payments and/or to require part or the entire grant to be repaid if:
 - a) the Secretary of State considers that:
 - i) there is a material change in the nature, implementation, scale, costs or timing of the Project such that the project no longer complies with the description set out in the application and any amendments that may have been agreed subsequently;⁵ or
 - ii) the future of the Project is in jeopardy and there is a risk of it not completing by the agreed date; or
 - iii) there is unsatisfactory progress towards completing the Project; defined as a failure to meet the aims, forecast quantified targets or profile of expenditure set out in Annex 1; or
 - iv) the applicant has not followed the EC procurement directives for contracts within scope; or
 - v) the applicant has not demonstrated that contracts outside the scope of the EC procurement directives were awarded after a satisfactory competitive tender process; or
 - b) any of the information provided in the application for grant or in supporting or subsequent correspondence is found to be substantially incorrect or incomplete; or
 - c) the applicant receives grant from other Community Institutions or any public authority towards project costs funded by this offer letter, unless the grant was explicitly taken into account in making this offer; or
 - d) the assistance exceeds European Community State Aid limits to the extent that any grant paid should not have been paid or if a decision of the European Commission or of the European Court of Justice requires payment to be withheld or recovered; or
 - e) there is an unsatisfactory report from the grant auditors. This will be the case if the auditors refer to a fundamental uncertainty, a disagreement or a limitation to their opinion, or if the auditors are unable to form an opinion, or if they report that the statement of grant usage does not give a true and fair view; or
 - f) during its economic life, the project undergoes substantial change defined as being used for purposes other than those specified in the application or having a change of owner.

Note

 - i) The economic life of the project is taken to be 20 years for fixed assets, unless otherwise agreed by us;
 - ii) For all other projects the economic life is the period up to the last payment of grant or achievement of the last of the targets specified in Annex 1 or 5 years from date of the grant offer letter whichever is the later.
 - g) assets wholly or partially funded by grant are disposed of during their economic life; in this event, the proceeds or an appropriate part of them may be required to be repaid to the Secretary of State; or
 - h) the applicant:
 - i) being an individual becomes bankrupt, has a receiving order or administration order made against him or her, makes any composition or arrangement for the benefit of creditors, makes any conveyance or assignment for the benefit of creditors or purports to do so, or is the subject of an application under the Insolvency Act 1986 (or superseding legislation) for the sequestration of his or her estate or of a trust on behalf of creditors;
 - ii) being an unincorporated body is dissolved;

⁵ For projects awarded grant of up to £250,000, a material change is a one of 10% or more over the lifetime of the project to an individual expenditure category, the expenditure profile and quantifiable targets. The 10% is a guideline and for larger projects, you should seek advice from the GO.

iii) being an incorporated body passes a resolution that it should be wound up, is ordered by the High Court to be wound up, has an administrator appointed by order of the Court, has an administrative receiver appointed, or being a company is struck from the register at Companies House.

2. You must tell us in writing immediately if any of the circumstances described in this Annex apply to your project. You should not wait until the next Project Progress report is due.
3. Any over-payment of grant, must be repaid to the Secretary of State forthwith on his/her first demand or upon the Applicant becoming aware that grant has been over-paid, whichever first occurs.
4. If an associated Structural Fund project operated or effectively controlled by the same sponsor becomes subject to investigation, payment of grant for this project may be suspended whilst the necessary actions are carried out on the project in question by the appropriate body.

ANNEX 8

LIST OF INELIGIBLE EXPENDITURE

overheads allocated or apportioned at rates materially in excess of those used for any similar work carried out by the applicant

costs incurred prior to the date of the offer letter

notional expenditure

payments for activity of a political nature

depreciation, amortisation and impairment of assets purchased with the help of ERDF grant

provisions

contingent liabilities

contingencies

profit made by the applicant

dividends

interest charges unless under an approved State Aid scheme

service charges arising on finance leases, hire purchase and credit arrangements

costs resulting from the deferral of payments to creditors

costs involved in winding up a company

payments for unfair dismissal

payments into private pension schemes

payments for unfunded pensions

compensation for loss of office

bad debts arising from loans to employees, proprietors, partners directors, guarantors, shareholders or a person connected with any of these

payments for gifts and donations

entertainments

reclaimable VAT

statutory fines and penalties

criminal fines and damages

legal expenses in respect of litigation