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Working document

Article 11.3 (b) of Regulation (EC) 1081/2006 as amended
Article 7.4 of Regulation (EC) N° 1080/2006 as amended

(i) Indirect costs declared on a flat rate basis
(ii) Flat rate costs calculated by application of standard scales of unit costs
(iii) Lump sums

DISCLAIMER:

"This is a Working Document prepared by the Commission services. On the basis of the applicable Community Law, it provides technical guidance to the attention of public authorities, practitioners, beneficiaries or potential beneficiaries, and other bodies involved in the monitoring, control or implementation of the Cohesion policy on how to interpret and apply the Community rules in this area. The aim of the working document is to provide Commission's services explanations and interpretations of the said rules in order to facilitate the implementation of operational programmes and to encourage good practice(s). However this guidance is without prejudice to the interpretation of the Court of Justice and the Court of First Instance or evolving Commission decision making practice."

INTRODUCTION

An important simplification introduced in the 2007-2013 ESF Regulation[1] allowed the Member States to declare indirect costs (overheads) on a flat rate basis, up to 20% of direct costs of an operation. The simplification of charging flat rates for indirect costs was welcomed by all stakeholders, including the European Court of Auditors.

The European Court of Auditors has suggested that the majority of errors found in structural actions expenditure are partly due to the complexity of the legal and implementing framework. For this reason it recommended in its annual report for 2007 to simplify *"the basis of calculation of eligible cost and making greater use of lump sum or flat rate payments instead of reimbursement of 'real costs*[2]*'"*. The Financial Regulation applicable to the general budget of the European Communities and its implementing rules[3] already allowed such approach for direct management expenditure.

In November 2008 the Commission published the Communication on a European Economic Recovery Plan[4], which called for a stepping-up of investments to stimulate Europe's economy. To this end, the implementation of the structural funds should be accelerated. The Commission committed itself to propose a series of measures, aiming *inter alia* "to widen the possibilities for eligible expenditure on a flat rate basis for all the funds"[5].

In this context, the Commission put forward a proposal for amending Article 11 of Regulation (EC) No1081/2006 (ESF Regulation) introducing the possibility of applying flat rate costs calculated by application of standard scales of unit cost and lump sums grants. The proposal was adopted on 26 November 2008. During the negotiations the Commission agreed to extend to ERDF the application of flat rate for indirect costs, standard scales of unit costs and lump sums grants by an amendment of Article 7 of Regulation (EC) No 1080/2006 (ERDF Regulation).

Therefore, the ESF Regulation as amended by Regulation (EC) N° 396/2009[6] and the ERDF Regulation as amended by Regulation (EC) 397/2009[7], include for both structural Funds the same possibility of applying flat rate for indirect costs, standard scales of unit costs and lump sums.

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[1] Regulation (EC) No 1081/2006, Article 11.3(b)

[2] Official Journal of the European Union – C286, Volume 51, 10 November 2008 "Court of Auditors – Annual Report of the Court of Auditors on the implementation of the budget concerning the financial year 2007, together with the institutions' replies", chapter 2, paragraph 42.

[3] Article 108a of Regulation (EC, Euratom) No 1605/2002 as amended, Article 180a of Regulation (EC, Euratom) No 2342/2002 as amended

[4] Communication from the Commission to the European Council on A European Economic Recovery Plan, COM(2008) 800 final, 26.11.2008.

[5] Idem footnote 1.

[6] OJ L 126, 21.5.2009, p.1

[7] OJ L 126, 21.5.2009, p.3.

These provisions are an important step towards simplification. It has been shown that a large proportion of the supporting documents inspected by controllers and auditors are needed to justify a minor part of expenditure. This means that a great deal of the human resources and administrative effort involved in the management of the structural funds is absorbed in accumulating and verifying documents, rather than focusing on the achievement of policy objectives. It is expected that the application of these provisions will lighten the administrative burden on beneficiaries and management bodies and will contribute both to a more efficient and correct use of funds.

1. Purpose of the working document

This Working Document was prepared by the Commission services in consultation with the members of the ESF Technical Working Group and the Coordination Committee of the Funds (COCOF). This documents reflects the discussions held with the National Authorities during the COCOF technical seminars on simplified costs (19 February, 23 March, 30 April and, exclusively for the ETC programmes, 29 June 2009) and in the framework of the seminar “Train the trainers” (9 June 2009).

It provides technical guidance on indirect costs declared on a flat rate basis, on flat rate costs calculated by application of standard scales of unit costs and on lump sums (herein after referred as "simplified cost options"). This document is to the attention of public authorities, programme managers and auditors, beneficiaries or potential beneficiaries, and other bodies involved in the management, monitoring, control or implementation of the Cohesion policy on how to interpret and apply the Community rules in this area. The aim of the working document is to provide guidelines in order to facilitate the implementation of operational programmes and to avoid legal uncertainty and financial risk for the beneficiaries.

In parallel, the note encourages good practice thanks to examples aiming at illustrating the main points of implementation and at presenting a few possibilities on how Article 11.3 (b) could be implemented. The numerical examples presented in this document are purely indicative: their presence in the note does not constitute a justification or a recommendation to use them in the implementation of the 2007-2013 operational programmes (OPs), even for similar operations.

2. The need for an audit approach

The use of simplified cost options is a concept with important implications for the management and control of the Structural Funds. All actors involved will have to adapt their working methods and practices, in order to achieve the positive effects of simplification, without compromising the legality and regularity of expenditure.

From the audit point of view, the provisions signify a departure from the principle of real costs. Flat or standard rates and lump sums involve approximations of costs based for example on averages and surveys of historical data or market prices. It is inherent in such fixed rates that they may on occasion overcompensate or "undercompensate" the costs incurred for the supported operation. Auditors will have to focus more on outputs rather than on inputs and costs of projects. It is important that Commission auditors make their audit methods as transparent as possible for these new simplified costs, in order to give Member States, namely the managing authorities, intermediate bodies and beneficiaries, confidence that they can proceed with the application of these concepts without hesitation and uncertainty.

It is equally important that all audit levels, the national audit authorities and the Commission, maintain a common approach for the audit of flat rates for indirect costs, standard scales of unit costs and lump sums, in order to ensure uniform treatment when drawing conclusions on the legality and regularity of the declared expenditure. For this reason, Member States' audit authorities are encouraged to use the same audit approach when auditing these simplified cost options.

3. REMINDER: GENERAL PRINCIPLES GOVERNING NATIONAL ELIGIBILITY RULES

For the programming period 2007-2013, eligibility rules are determined at national level: (Article 56 of Regulation (EC) 1083/2006). Moreover "*the managing authority shall be responsible for managing and implementing the operational programme in accordance with the principle of sound financial management*" (Article 60 of Regulation (EC) No 1083/2006).

Therefore, managing authorities should determine and document the eligibility rules at the appropriate level (national, regional, local, by OP), make them available to potential beneficiaries, and indicate them in granting decisions. As part of these rules, the framework for applying article 11.3(b) of Regulation (EC) No 1081/2006 or Article 7.4 of Regulation (EC) No 1080/2006 as amended should also be set out.

CHAPTER I:
(i) Indirect costs declared on a flat rate basis

This note (except point 1.6) was discussed and agreed by the ESF Technical Working Group and the European Court of Auditors in July 2006. The amendments introduced in the ESF and the ERDF Regulations do not change the implementation of this rule. This note is also applicable to ERDF operations

Preliminary remarks:

Experience from previous programming periods showed that the justification of indirect costs constituted a high source of risk for beneficiaries, and frequently a disproportionate administrative cost for ESF operations, particularly small projects.

Therefore the Commission proposed **to simplify the administrative and financial file pertaining to grant-assisted ESF operations** in relation to the treatment of indirect costs. In adopting the regulation, the Council welcomed the simplification and agreed on an **option -** not an obligation - for this provision. This simplification benefits both the beneficiary and the administration (management and audit).

I.1. Purpose of this note

In order to facilitate the implementation of the provisions of article 11.3(b) of the ESF Regulation [and Article 7(4) of the ERDF Regulation] and to avoid legal uncertainty and financial risk for beneficiaries, the practicalities of implementing this option are addressed below.

In the following text [an "ERDF" or] an "ESF operation" means an operation selected for funding, the costs of which are included in an operational programme co-funded by [the European Regional Development Fund or] the European Social Fund.

I.2. General principles governing national eligibility rules

For the programming period 2007-2013, eligibility rules are determined at national level: (Article 56 of Regulation (EC) N°1083/2006):

> 4. The rules on the eligibility of expenditure shall be laid down at national level subject to the exceptions provided for in the specific Regulations for each Fund. They shall cover the entirety of the expenditure declared under the operational programme.

Moreover "*the managing authority shall be responsible for managing and implementing the operational programme in accordance with the principle of sound financial management*" (Article 60 of Regulation (EC) N° 1083/2006).

Therefore, at the start of the programming period, managing authorities should determine and document the rules of eligibility for ESF operations, make these rules available to potential beneficiaries, and indicate all relevant rules in granting decisions. As part of these rules, the framework for applying [Article 7(4) of Regulation (EC) N° 1080/2006 or] Article 11.3(b) of Regulation (EC) N° 1081/2006 should also be set out.

In the case of grants, the ***options*** provided for in the regulation include:

- the declaration of indirect costs on the basis of real costs (i.e. no flat rate, with full justification of expenditure);

- the declaration of indirect costs at flat rate (i.e. without justification), at a rate to be set by national rules but inferior or equal to 20% of direct costs. The managing authority should clearly state which rate it applies, in which circumstance the rate may be 20% of direct costs and in which circumstances the rate is less than 20% of direct costs and whether the rate varies according to the type of [ERDF or]ESF operations, beneficiaries, size of entities or types of grants concerned, etc.

I.3. Definition of direct and indirect costs:

In the absence of a European accounting definition of direct or indirect costs, managing authorities or their intermediate bodies should identify clearly what constitutes direct and indirect costs for each type of [ERDF or] ESF operation concerned.

a) Direct costs are those costs which are directly related to an individual activity of the entity, where the link with this individual activity can be demonstrated.

b) Indirect costs, on the other hand, are costs which are not or cannot be connected directly to an individual activity of the entity in question. Such costs would include administrative expenses, for which it is difficult to determine precisely the amount attributable to a specific activity (administrative/staff expenditure, such as: management costs, recruitment expenses, costs for the accountant or the cleaner etc.; telephone, water or electricity expenses, and so on.).

Both direct costs, fully demonstrated by supporting documents, and indirect costs at flat rate are regarded as real costs, in line with Article 11 of Regulation (EC) 1081/2006.

I.4. Scope of the article:

The option of declaring indirect costs on a flat-rate basis concerns only operations managed in the framework of grants, where declared expenditure is normally justified by paid invoices and other accounting documents of equivalent probative value**.** The rule under Article [7(4) of ERDF] or 11.3(b) of ESF Regulations means that once direct costs have been clearly defined in the granting decision and properly justified by the beneficiaries by means of supporting paid invoices, **beneficiaries can apply the agreed flat rate to declare and justify indirect costs linked to this ESF operation, without any further justification.**

Within the same operation, only one of the options can be selected: either the indirect costs are declared on the basis of real expenditure (and justified with all the supporting documents, up to the amount declared[8]), or they are declared on a flat-rate basis (with no supporting documents / no justification needed), within the ceilings fixed by the granting decision.

I.5. Justifying indirect costs declared on a flat-rate basis:

It is important to note that the option of declaring indirect costs on a flat-rate basis must be foreseen at the stage of programming the [ERDF or] ESF operations.

The objective is to dispense with the need to justify in detail the individual costs (i.e. no provision of copies of paid invoices and no request for specific prorata breakdown for each type of expenditure), which make up the indirect costs. This simplifies matters both for the beneficiary and for the administration managing and controlling the ESF operation.

The simplification of the justification of indirect costs implies, however, **careful verification of the declared direct costs, in accordance with the granting decision**. This verification of direct costs allows to justify the amount of declared indirect costs and constitutes part of the management checks (Article 60.b of Regulation (EC) N° 1083/2006) and of audits on operations (Article 62.b of Regulation 1083/2006).

On a cautionary note, this simplification should not artificially inflate direct costs, nor increase indirect costs declared under ESF operations.

Finally, it is also clear that

– Since actually incurred direct costs serve as the basis for calculation of indirect costs, any reduction in these direct costs (i.e. in relation to the estimated budget or following a financial correction) will have an impact on the flat-rate amount of indirect costs, which can be validated by the managing authority;

Where the flat rate option is chosen, any (unexpected) income generated on the ESF operation ought to be deducted from total costs declared on this ESF operation (having calculated indirect costs at flat rate).

I.6. Audit approach

In the case of flat rate for indirect costs, the Member States may have submitted the system and calculation method to the responsible Directorate General (DG EMPL or DG REGIO) for *ex ante* agreement. The DGs will consider the systems submitted with regard to the principles described in Chapter IV point 2. Once the responsible DG is satisfied with regard to those elements, the Director General will write to the responsible national authority to confirm that the system is accepted. Any subsequent audits carried out by the Commission will aim to verify (1) the calculation method for defining the flat rate, (2) that the agreed system has been correctly applied and (3) the direct costs of the project – or their calculation method – to which the flat rate is applied. The national authorities and the Commission will not check the supporting financial documents for indirect costs.

In cases where systems have not been submitted and agreed by the Commission in advance, subsequent audits carried out by the Commission, in line with the general approach described in section IV.3, will cover both the calculation method - to ensure that the conditions "established in

[8] It should be noted that in certain Member States, under the 2000/2006 period, a maximum ceiling has been set for indirect costs justified on the basis of real costs, in relation to other well-defined cost categories.

advance, fair, equitable and verifiable" have been observed - and correct application of the flat rate, which will involve auditing the direct costs of the project to which the flat rate is applied. Verifications of the calculation method will be carried out at MA/IB level, whilst checking of the application of the flat rate will be at beneficiary level.

It is expected that the national systems will provide a clear and non equivocal definition of direct costs on which the flat rate is based. Auditors will, during on the spot visits to beneficiaries, verify the correct classification of costs and the absence of double declaration of costs both as direct and as indirect.

Cases where the bulk of "indirect costs" have been front-loaded, for example to avoid, n+2/n+3 losses, without underlying direct costs having occurred should be considered ineligible at the time of the declaration of related expenditure.

Findings which could be considered as irregularities are:

- If the results of the calculation method have not been respected while setting the rates;
- Where a beneficiary has not observed the rates set or has declared ineligible direct costs not included in the categories of eligible direct costs established by the managing authority;
- Should indirect costs be declared both on real cost and on flat rate basis, the part which is declared twice will be considered ineligible.

If auditors detect an irregularity in the direct costs of a project, a pro rata reduction should be applied to the indirect costs, as otherwise they will exceed the rate set with regard to eligible direct costs.

CHAPTER II
(ii) Flat rate costs calculated by application of standard scales of unit costs

II.1. GENERAL PRINCIPLES GOVERNING FLAT-RATE COSTS CALCULATED BY APPLICATION OF STANDARD SCALES OF UNIT COST

In the case of flat rate costs calculated by application of standard scales of unit cost, the operation will receive public grants on the basis of quantified activities, outputs or results multiplied by standard scale-of-unit costs established by the Member States. The option can be used for any type of grant and project or part of project when it is possible to define quantities related to an activity and standard scale of unit costs. Standard scales of unit costs apply typically to easily identifiable quantities, such as training hours, training days, certificates obtained, training modules finalised, consultant hours worked, hotel nights, or meals.

The standard scale of unit costs can be process-based, that is aiming at covering through a best approximation the real costs for delivering the operation.

<u>Example 1</u>: For an advanced IT training of 1,000 hours provided for 20 trainees, the public grant may be calculated on the basis of a cost per hour of training x number of hours of trainees. The cost per hour has been defined in advance by the Managing authority and is set in the grant approval. Assuming for example that the managing authority sets the training cost at € 7 per hour per trainee, the maximum grant allocated to the project would be 1,000 hours x 20 trainees x €7 /hr/trainee = € 140,000.

At the end of the operation the final grant will be paid on the basis of the real number of hours for each trainee (that could include some justified absences, see key point b in point 2 of this chapter for details), following real participation of the trainees and delivered courses. If finally only 18 people participated in the training, 6 of them 900 hours, 5 of them 950 hours, 5 of them 980 hours and the remaining 2 1,000 hours,, the number of hours x trainees will be equal to: 900x6 + 950x5 + 980x5 + 1,000x2 = 17,050 hours x trainees. The grant paid will be: 17,050 hours x €7 = €119,350 .

The payment scheme can also foresee intermediary payments on the basis of declared implemented hours. But in any case the grant is paid on the basis of the physical progress of the operation, without justification of underlying real costs.

Example 1a: A regional Chamber organises an advisory service for the SMEs of the region. This service is implemented by the advisers of the regional Chamber. Based on past accounts of the "advisory" part of the Chamber, a day of advice is estimated at € 350 / day. The assistance will be calculated on the basis of the formula: number of days x € 350.

The standard scale of unit cost can be process based, as in the above examples or outcome based, as described in the following example:

<u>Example 2</u>: a job-search assistance programme lasting 6 months (hereafter "the operation") could be financed on the basis of a standard scale of unit costs (for example €2,000/person) for each of the 20 participants on the operation who gets a job and retains it for a pre-established period, for example six months. Calculation of the maximum grant allocated to the operation: 20 persons x 2,000 €/placement = € 40,000.

The final public grant is paid on the basis of the real output of the operation: if only 17 persons were placed on the labour market and retained their jobs for the requested period, the final grant to be paid to the beneficiary is 17 x € 2,000 = € 34,000.

A managing authority can also foresee different scales of unit costs applicable to different activities (for example, one unit cost for an hour of theoretical training per individual, another different unit cost for an hour of practical training per trainee, and another for an hour of follow up per individual).

II.2. CONSEQUENCES IN TERMS OF FINANCIAL MANAGEMENT

In addition to advance payments to beneficiaries, the payment scheme of operations can foresee intermediary payments or only final payment, on the basis of real progress of the operation (declared and verified implemented hours x trainees as in example 1). In any case the final grant is paid on the basis of the physical completion of the operation only, duly certified by the beneficiary and verified by the managing authority/intermediary body, without the need for the beneficiary to justify its underlying real costs. One of the main differences with "real cost" based operations is that there is no reference to individual supporting financial documents for expenditure calculated on the basis of standard scale of unit costs. **In fact the application of the standard scale of unit costs gives by principle an approximation of the real costs of the operation.**

As a result, when using the standard scales for unit cost:

1) The basis for calculating the scale of unit costs used in the operation must be fair, equitable and verifiable. Setting up the "Standard scale of unit costs" (for example € 7 per hour of training per trainee or the €2000 allocation as in examples 1& 1a) should be substantiated.

2) Given that payments will be calculated on the basis of quantities, declared quantities should be certified by the beneficiary, substantiated and archived in view of future verifications and audits. Verifications by intermediary bodies / managing authority or audits will request supporting documents to justify the quantities declared by the beneficiary– that is, **to show that the activities or the outputs claimed were in fact realised**. In particular it means that the nature of Article 13 of Regulation (EC) N°1828/2006 verifications will move, especially for immaterial operations, from the predominance of financial verifications (justifying real costs but also giving concordant elements demonstrating that the operation took place) towards technical and physical aspects of operations, with a particular importance to on the spot checks.

Under such conditions the grant **calculated and reimbursed on the basis** of the application of a **standard scale of unit costs is considered to be proved expenditure just as real costs supported by invoices.**

II.3. KEY POINTS FOR THE MANAGING AUTHORITY

When a managing authority decides to use standard scales of unit costs it will require a specific attention to the following points:

(a) Calculation of the standard scales of unit cost that must be established in advance on a fair, equitable and verifiable basis (see Chapter IV, point 2).

(b) Correlation between the realised quantities and the payments:

By principle, when declared quantities decrease (in comparison with the maximum foreseen), the final payment should decrease, "independently" of the underlying real cost of the operation.

However the management system should also be able to differentiate cases where the quantitative objectives are not met because of external factors out of the beneficiary's reach, rather than because of the beneficiary. For example, if the payment is made on the basis of "hours x trainees", the payment should be not reduced because of the justified absence of participants, for instance due to sickness leave. Moreover the grant approval should clarify the maximum number of authorised absences, the minimum number of training hours to be justified for a trainee to remain eligible on the operation, the type of training scheme (compulsory participation as from the start of the training, replacement of trainees who leave from the training, etc). Such "exceptions" must of course be clearly defined ex ante in the grant agreement or an act with an equivalent legal effect and be set up for all similar operations.

(c) Justification of declared quantities

It should be also underlined that some types of standard scales of unit costs could be more difficult to justify than others. Therefore the choice on the right unit cost to be used will have an important impact in terms of simplification, administrative workload and risk of errors for the managing authority and the beneficiaries.

Considering that the funding in examples 1& 1a is process-based, the need for accurate timesheets detailing the training activities and certifying the real presence of trainees/trainers will continue to exist.

On the other hand, if, as in example 2, unit prices are set to calculate the grant for the number of people who get a job and retain it for an agreed period, the only supporting evidence required would consist of the justification of the eligibility of the person against predefined eligibility criteria, the proof of the initial employment of the person placed and his/her employment during at least 6 months. These types of scales are clearly "output" oriented and lighter to justify, but cover only one aspect of the operation.

(d) Choice of the standard scales of unit cost:

As a general principle, the choice of the standard scale(s) of unit cost should reflect the activity(ies) of the type of operations funded. For example even if a standard scale such as "people in employment after 3 months" is politically important and is an expected outcome of many operations, it would not be appropriate to pay all the operations according to this criteria if the funded activity (training for example) is not directly linked to job placement, that could be affected by many other external events (financial and economic crisis for example).

Purely "outcome based" system of standard scales of unit cost is clearly risky. If part of the outcome does not depend on the outputs and quality of the operation, there is a risk to under-pay operations and beneficiaries. It is particularly relevant in the case of operations dedicated to public "in difficulty": expected results and outcomes are generally low; any granting system based on these results and outcomes would lead the beneficiary to have to chose between the following options: a) refusing to implement the operation with such a granting system; b) implementing the operation while knowing in advance that it will lose money unless it can find additional funding sources (risk of double funding); or c) "creaming" the participants (choosing the most capable of reaching imposed results and outcomes) or lowering the standards to reach the expected results.

A combination of different standard scales of unit (for example combining output and result based standard scale of unit) within the same operation is possible as far as the different scales of units cover different costs.

Finally, the choice of standard scale of unit costs could allow the beneficiary to cover its fixed costs, compared to variable costs linked to the effective participation of trainees or persons. In the example 1 above, the beneficiary will bear fixed costs for the training facilities, the trainers etc, independently from the daily and final number of trainees in the training room. The payment of the final balance on the operation with 2 trainees less than foreseen in the grant approval and almost 3,000 hours less than planned could result in a final grant paid-out below the underlying real costs incurred by the beneficiary.

In conclusion the choice of appropriate standard scale(s) of unit costs by the managing authorities will be of the utmost importance and should take into account all potential advantages and disadvantages. An ideal standard scale of unit cost would have the following qualities: clear& direct link with the operation, quantities easy to justify, ensure the economic balance of the operation and of the beneficiary, lower the risk of "creaming" participants, clear distinction between grants and public tendering.

II.4 AUDIT APPROACH

The national authorities and the Commission will not check the supporting financial documents for costs covered by the standard scale of unit costs. Audits will cover the calculation method for arriving at the standard scales of unit costs and the correct application of the method in the individual projects. Verifications of the calculation method will be carried out at MA/IB level, whilst checking the correct application of the rate will be at beneficiary level.

The main focus of the audits will be to verify whether the conditions set in terms of outputs for the reimbursement of costs have been fulfilled. This may be training hours (a predetermined amount paid per training hour executed, in which case the auditor should verify the number of training hours executed), hours worked (a fixed amount paid per hour of work in, for example, research programmes, in which case the auditor should verify how many hours have been worked), subsistence allowances (a fixed amount paid per day, in which case the auditor should verify the actual travel days) or other units set according to the type of projects.

In all cases, the auditor will verify whether the amount declared equals the standard rate per unit of product or service multiplied by the actual units delivered. If other conditions are set in the call for proposals or in the grant agreement, the auditors will also verify the fulfilment of those conditions.

The rates according to standard scales of unit costs for certain goods or services may include a component for indirect costs (overheads).

Findings which could be considered as irregularities are:

- Disregard of the results of the calculation method or the condition set for reimbursement of costs. For instance, if the standard rate that can be charged is €10 per hour of training, a financial correction will be applied where a higher amount is declared per hour;
- Lack of supporting documents to justify the outputs or outputs only partially justified but paid in totality. For example, if 100 000 hours x trainees are charged but only 85 700 are justified with supporting documents a financial correction will be applied on the difference.

CHAPTER III
(iii) Lump sums

III.1. GENERAL PRINCIPLES GOVERNING LUMP SUMS

For small operations and small bodies lump sums could constitute a considerable simplification as Structural Funds financial rules are quite strict. The system of reimbursing real costs has often required small, local beneficiaries to buy in very specialised expertise in this field. In consequence, these beneficiaries tend to be very reluctant to apply for structural Funds support even if their actions are fully in line with EU strategic priorities.

In the case of lump sums, all eligible costs or part of eligible costs of an operation are reimbursed on the basis of a pre-established lump sum (the setting up of the lump sum should be substantiated), in accordance with a pre defined terms of agreement on activities and/or outputs. The grant is paid if the pre-defined terms of agreement on activities and/or outputs are completed.

The lump sum possibility is an application of the proportionality principle aiming at alleviating the administrative workload for small operations and at enhancing the access of NGOs (but not exclusively NGOs) to the Structural Funds.

That is the reason why lump sums are restricted to small amounts below €50,000. This amount corresponds to the public contribution for the activity supported through the lump sum (excluding private participation if any). Even if several lump sums could be combined to cover different categories of eligible costs or different projects within the same operation (see Chapter 4 point 4) the total of the lump sums shall not exceed €50,000 for this operation.

Example 3: A NGO managing a "crèche" requires support to launch a new activity. It requests a lump sum by submitting an estimated budget to start the activity and run it over a period of one year. The activity would be maintained after the initial year independently. For example; the lump sum would cover expenditure related to the salary of one person in charge of looking after the children during one year, depreciation of new equipments, publicity costs linked to this new activity and indirect costs related to it management and accounting costs, water, electricity, heating, renting costs). On the basis of a draft detailed budget, compared with similar operations the managing authority grants a lump sum of 47 500 EUR covering all these costs. At the end of the operation, this amount would be paid to the NGO on the basis of the output, if a conventional number of additional (10) children were looked after. It would not be necessary any more to justify the real expenditure related to the activity.

The lump sum arrangement could also be used in the case of grants where standard scales of unit costs are not an appropriate solution such as production of a toolkit, organisation of a small local seminar, etc.

Example 4: A Roma NGO requires to organise a local seminar and to produce a tool kit on the socio economic condition of the Roma community in a region of a Member State. The grant agreement will contain a detailed provisional budget and the objectives of the grant, (1) the organisation of the seminar and (2) the production of a toolkit to sensitise the employers of the region to the specific Roma problems.

Due to the size of the operation (small operation) and the nature of the beneficiary (local NGO) and due to the objective of the operation not quantifiable via standard scale of unit costs the Managing Authority decides to use the lump sum arrangement.

In order to calculate the amount of the lump sum, the Managing Authority will require a draft budget for each of the operation: after negotiation on the detailed provisional budget, the lump sum is established to: €45,000 split in two projects €25,000 for the seminar and €20,000 for the toolkit.

If the conditions of the grant are respected (organisation of the seminar, production of the toolkit) €45,000 will be paid at closure. The only supporting document to pay the grant (and then to be archived) will be the proof that the seminar was organised and the toolkit itself. If only one of the projects (for example the seminar) is realised the grant will be reduced to this part (€25,000), depending on the conditions of the grant (a conditional clause could exist according to the link between the two projects).

III.2. CONSEQUENCES IN TERMS OF FINANCIAL MANAGEMENT

In addition to advance payments to the beneficiaries, the payment scheme on operations can foresee intermediary payments or only final payment, in relation with provisions defined ex ante in the grant agreement between the beneficiary and the managing authority.

In any case the final grant is paid on the basis of the completion of the operation only, duly certified by the beneficiary and verified by the managing authority/intermediary body, without the need for the beneficiary to justify its underlying real costs. One of the main differences with "real cost" based operations is that there is no reference to individual supporting documents for expenditure calculated on the basis of the application of a lump sum. **In fact, as for standard scale of unit costs, the application of the lump sum gives by principle an approximation of the real costs on the operation.**

As a result, when using the lump sums:

1) The basis for calculating the lump sum used on the operation must be fair, equitable and verifiable. Setting up the "lump sum" (for example €45,000 as in example 4) should be substantiated and the background details for setting the lump sum is part of the audit trail of the operation.

2) Given that payments will be calculated on the realisation of an operation specified in the grant agreement, proof(s) of execution of the operation should be certified by the beneficiary, substantiated and archived in view of future verifications and audits.

Verifications by intermediary bodies/managing authority or audits will request supporting documents to justify actions declared by the beneficiary– that is, **to show that the actions claimed were in fact realised**. As for standard scales of unit costs, the nature of Article 13 of Regulation (EC) N°1828/2006 verifications will move, especially for immaterial operations, from the predominance of financial verifications (justifying real costs but also giving concordant elements demonstrating that the operation took place) towards technical and physical aspects of operations, with a particular importance to on the spot checks.

Under such conditions the grant **calculated and reimbursed on the basis** of the application of a **lump sum is considered to be proved expenditure just as real costs supported by invoices.**

III.3 KEY POINTS FOR THE MANAGING AUTHORITY

When a managing authority decides to use lump sums it will require a specific attention to the following points:

(a) Calculation of the lump sum that must be established in advance on a fair, equitable and verifiable basis (see Chapter 4, point 1).

(b) Correlation between the realised operation and the payments:

The main difference between the lump sums and the standard scales of unit cost system is the payment of the beneficiary that is not proportional to quantities. In the case of standard scale of unit cost, when quantities decrease the grant decreases proportionally. In the case of lump sums, this "proportional link" between quantities and payments does not apply. The calculation of the grant will be much more “binary”. In example 4 for instance, if the seminar is organised €25,000 of grant will be paid, if it is not organised, nothing will be paid.

Such an approach has an important consequence: even if it is not compulsory the possibility to have several levels of final payments should be envisaged in order to escape from a "too binary" approach: in the case of the organisation of a seminar for example, two stages could be introduced, a first one for the conceptual stage (programme to be defined, circulation of the invitations, …), a second one for the realisation of the seminar itself (room costs, meals, …).

For small operations where some quantities could be defined the authorities should chose between lump sums or standard scales of unit costs. For example in a “simplistic” example 3 on the crèche, the grant would be paid on the basis that the job in the crèche was created during 12 months. A binary approach could lead to pay €0 if the job was created for only 10 months. One alternative solution could be to use a standard scale of unit cost, based on the monthly costs that would be much more favourable than lump sums in such a case. Another solution with lump sums would be to pay if the job was created during 12 months within a period of 15 months.

(c) Justification of the final amount of the lump sum

The terms of agreement with the beneficiary should be drafted very carefully in order to define on which basis the payments will be issued and how it will be reduced in case the objectives are not reached. This issue of reduction of the grant is crucial in the case of lump sums because of the potential problems that could be created by a binary approach where there are no other choices than paying 0% or 100% of the grant. (see supra, paragraph b).

Specific attention should be put on the possibility to apply in practice the payment of the lump sum grant. Given that some lump sums could be totally independent from quantities, there is a risk of too general or too qualitative wordings about activities /outputs/outcomes to be implemented or reached to trigger the payment, that could lead to the impossibility to pay a grant on transparent and fair bases. Directly linked to the problem of wording of activities / outputs / outcomes is the question of supporting documents necessary to assess them: they should be specified in the terms of agreement too. In the case of immaterial operations this point is of the uttermost importance in order to give guarantees that the operation was really organised.

For example, if the payment of the lump sum grant is triggered by the organisation of a seminar, it should be specified by the managing authority in the terms of agreement what are the types of supporting documents to be produced in order to justify the organisation of the seminar: attendance lists, acts of the seminar, pictures of the seminar, press articles, etc.

(d) <u>Choice of the lump sum</u>:

The choice of activities / outputs / outcomes covered by a lump sum follows the same principles as standard scales of unit cost:

- It should reflect the type of operations funded, trying to mitigate external factors that could affect the implementation of the operation.

- Purely "outcome" based lump sums are risky and should not ad to the risk of a "too binary" approach.

In conclusion the choice of appropriate lump sum(s) by the managing authorities should take into account all potential advantages and disadvantages, including the question to use lump sums rather than standard scale of unit costs, real costs or flat rate for indirect costs. An ideal lump sum would have the following qualities: clear link with the operation, easy and univocal way to justify the activities / outputs / outcomes, ensure the economic balance of the operation and of the beneficiary (especially by introducing several levels of payments), lower the risk of "creaming" participants, clear distinction between grants and public tendering.

III.4 AUDIT APPROACH

The national authorities and the Commission will not check supporting financial documents for costs covered by the lump sum. Audits will cover both the calculation method for arriving at the lump sums for particular outputs and its correct application in the individual project. Verifications of the calculation method will be carried out at MA/IB level, whilst checking the application of the lump sum will be at beneficiary level.

As in the case of standard scales of unit costs, the main focus of the audit will be the verification of the output required for the reimbursement of the lump sum. For example, if the payment of a lump sum concerns the conclusion of a training programme within a specific timeframe, the audit should verify whether indeed the programme has been concluded within the required period, whether it has been carried out in accordance with the conditions set out in the grant agreement, etc.

As in the case of standard scales, lump sums may include a component for indirect costs.

It is generally expected that payments of lumps sums are linked to the execution of the project. Auditors should not accept lump sums that have been paid and declared to the Commission in advance and in full, without prior implementation of corresponding part of the project.

Usually, the payment of lump sums will be linked to the delivery of certain product or service. The payment of the beneficiary is not proportional to quantities, in that delivery of a product or service leads to a 100% payment, whilst non-delivery or delivery of part of the service or product leads to a non-payment of the grant (except if intermediary steps are clearly specified in the grant agreement, with payments related to these intermediary steps). The auditors will verify whether provisions of the grant letter have been correctly applied and the sums paid and certified reflect the payment foreseen in the grant agreement. A finding which could be considered as an irregularity is that the beneficiary does not deliver in full services or products provided for in the grant letter. In such cases a full correction of the lump sum paid and declared is applied.

CHAPTER IV
Common horizontal provisions

IV.1 A PROVISION RESTRICTED TO GRANTS

The simplified costs options concern only operations (or projects) managed in the **framework of grants**, for which the real costs principle is usually of application, i.e. declared expenditure is justified by paid invoices and other accounting documents of equivalent probative value.

In order to assess correctly which is the appropriate scheme for the operation, it is important that the Managing Authority defines whether the implementation of the part of the operation in which simplified costs would apply falls or not within the scope of the National and/or EU legislation on public procurement.

The first question is: is a project or part of it subject to public procurement rules?

The following criteria could be considered to determine whether a service falls under public procurement (as opposed to grant):

– the service responds to a public entity need, linked to its legal competencies,

– the specifications of the service to be performed by an external operator are defined in detail by the public entity.

The key point here is: which entity defines the detailed specifications of the service to be performed?

– if an operator asks the public entity for a grant for a particular project following a call for proposals or on its own initiative, then the public entity may decide to grant this project(contribution to another entity's project without any direct return for the public entity);

– if the public entity requires a particular service (which it cannot/does not want to perform itself) whose specifications are defined in detail by the public entity (see 3.2.2. for details), then the service falls under the public procurement procedure (purchase of defined services for a price).

The table below presents shortly the distinctions between grants and public procurement.

	Grants	**Public Procurement**
Definition	Grants are direct financial contributions, by way of donation, from the budget in order to finance an operation intended to help achieve an objective forming part of a European Union policy (for example in the framework of an Operational Programme).	Public contracts are contracts for pecuniary interest concluded in writing between one or more economic operators and one or more contracting authorities, and having as their object the execution of works, the supply of products or the provision of services (Article 1(1)(a) of Directive 2004/18/EC) [within the meaning of the EU Directives and/ of the national legislation].
Ownership of results	= Body supported by the grant = the beneficiary in the case of structural Funds	The contracting authority= the beneficiary in the case of structural Funds
Financial participation of the beneficiary (not related to co-financing)	100% or less	100%
Applicable procedure	Call for proposals (for projects) and/or direct grants	Call for tenders (open, restricted, negotiated)
Legal support	Grant agreement, grant letter, approval decision etc.	Contract

However in order to assess correctly the situation from a simplified cost options point of view, it is also important to consider what the actual nature of the project is.

For instance, a grant is given to a public employment service to organise 100 trainings (= the operation). Every training is tendered and could be considered as a self standing project. By restricting the simplified cost options to grants, the legislator aimed at avoiding cases where the amount tendered would give rise to an automatic management "fee" for the body organising the tender, proportional to the amounts tendered. However it could be considered that the costs incurred by the public employment service for organising the tenders could be eligible, as a self standing project of this operation. In that case, if this "management project" is not tendered, <u>the simplified costs options could be applied within this project</u> only.

This case where the whole project is tendered should be differentiated from cases where the project is supported via a grant, but where part of the costs is outsourced (for example trainers with specific knowledge or curriculum, interpretation services). In that case the simplified cost options are applicable under the following conditions:

(1) The Managing Authority shall satisfy itself that the beneficiary has the capacity to fulfil the conditions under which the grant is given including its capacity to implement the operation (article 13 of Regulation (EC) N° 1828/2006);

(2) The simplified cost options can be applied only if the outsourcing and /or subcontracting does not imply a change in the nature of the project (see distinction in the table above);

(3) If the outsourced activities are subject to Community or national law which requires conformity with public procurement rules, it has to be demonstrated that these rules have been observed. Verification of conformity with public procurement rules may be part of an audit or control by a national authority or other competent body, or Commission services.

The Managing Authority should examine whether the subcontracted expenditure in the project concerned has an impact on the direct costs that serve as the basis for calculating the flat rate (in the cases of flat rates for indirect costs). It should also take account of the impact of the outsourced expenditure while setting the flat rate, the standard scale of unit costs or the lump sum.

IV.2. CALCULATION OF FLAT RATE FOR INDIRECT COSTS, STANDARD SCALES OF UNIT COSTS AND LUMP SUMS

The Regulation sets out four conditions to be met by the methods to establish flat rate for indirect costs, lump sums and standard scales of unit costs, rather than setting out a method to calculate them: the calculations must be done in advance, and must be fair, equitable and verifiable. These conditions allow the management of grants to be simplified, while maintaining an effective control of expenditure. Indeed, while with the real cost system the control of both the value and the quantity of project inputs is done ex-post, with the proposed provisions on standard scales of unit cost and lump sums**, the control of the value of the input is done ex-ante and only the control of the quantity is done ex-post**.

This implies the following:

IV.2.1 *It must be* ***established in advance:***

Simplified cost options have to be defined ex ante and must be included for example in the call for proposals or at the latest in the grant agreement or an act with an equivalent legal effect. The relevant rules and conditions should be incorporated in the national eligibility rules applicable to the operational programme[9]. It also means that once the standard scale of unit, the rate or the amount (in the case of lump sums) are established, it cannot be changed during or after the implementation of an operation to compensate for an increase in costs or underutilisation of the available budget

The scope of the simplified cost options to be applied, i.e. the category of projects, activities of beneficiaries for which they will be available, should be clearly specified.

Member States should try to strike a balance between a wider scope of application, ensuring conformity with the principles "fair and equitable", and a narrower scope, which risks over-differentiation of rates and might defeat the object of simplification.

IV.2.2 It must be ***fair****:*

[9] Either at national or regional level or specific to the particular programme.

The calculation has to be reasonable, ie based on reality, not excessive or extreme. If a given standard scale of unit cost has in the past worked out at between 1€ and 2€ the Commission services would not expect to see a scale for 7€. From this point of view the basis used for identifying the unit cost or the flat rate or the lump sum will be of the utmost importance. The Managing Authority must be able to explain and to justify its choices.. An "ideal" fair calculation method should adapt the rates to specific conditions or needs. For example, the execution of a project may cost more in a remote region than in a central region because of higher transport costs; this element should be taken into account when deciding on a lump sum or rate to be paid for similar projects in the two regions. In any event, simplified costs should not be misused (eg the flat-rate rule should not lead to inflation of costs of the operation and operations should not be split in order to permit the systematic use of lump-sums).

The objective of the audit work will be to examine the basis used for establishing the rates and whether the rates finally set are indeed in line with this basis.

*IV.2.3 It must be **equitable**:*

The main notion underlying the term "equitable" is that it does not favour some beneficiaries or operations over others. The calculation of the standard scale of unit cost, lump sum or flat rate has to ensure an equal treatment of beneficiaries and/or operations.

Examples would be differences in rates or amounts that are not justified by objective features of the beneficiaries or operations, or by express policy objectives.

Auditors will not accept calculation methods which unjustifiably discriminate against particular groups of beneficiaries or types of operations.

*IV.2.4 It must be **verifiable***

The determination of flat rates, standard scales of unit costs or lump sums should be based on documentary evidence which can be verified. The Managing Authority has to be able to demonstrate the basis on which it has been drawn up. It is a key issue to ensure a sound financial management. This verification will be part of the audit trail. It will not be accepted to define "ex nihilo" standard scales of unit costs, flat rate or lump sums.

In setting the standard scales of unit costs, the lump sums or the flat rates for indirect costs the Managing Authority should take a documented decision (rather than an informal acceptance), and this reasoned decision should set out the basis applied. In fact the experience gained on the "flat rate rule for indirect costs" demonstrates that many methods can be used to establish lump sums and standard scale-of-unit costs in advance, the most commonly among them being the analysis of historical data (survey, statistical analysis, etc).

However, other methods basing the calculation on an analysis of current real costs structure linked to the scale of unit cost, such as daily allowances, training scholarships, market prices, similar scales used by public authorities could also be used as far as they comply with the conditions of the Regulation and apply for similar cases.

Even if this creates additional administrative workload for their determination, it is also possible to calculate unit costs or lump sums on the analysis of a draft budget proposed by the candidate beneficiary, compared with the expected outputs and with comparable operations.

It could also be envisaged that Member States work by call for proposals: Member State would publish in advance the basis on which it is going to calculate lump sum grants and that this is, again, *fair, equitable and verifiable*. This means that applicants should know the criteria on which the grant will be based, and that these criteria should be standard and apply to all applicants for the same types of projects. For example in the case of a call for proposals, the Managing Authority should be able to answer such questions: is the call for proposals complete in the details needed? Are the elements needed to determine the lump sum well specified and explained in advance? Does the Managing Authority check that the costs included in the provisional budget submitted, for example, are reasonable and acceptable in view of determining the lump sum in the grant decision?). Another solution could be that the Member State define a lump sum for a specific activity and call for proposals on the basis of this amount, funding the best proposals.

IV.2.5 Audit trail

While auditing the calculation method, the Commission will focus on verifying the respect of the abovementioned conditions and will not question the reasons for selecting a specific method over another. The responsible authorities should keep adequate records of the calculation method and should be able to demonstrate the basis on which the flat rates, standard scales of unit costs or lump sums have been decided. The records kept for documenting the calculation method will be subject to the requirements of Article 90 of Regulation (EC) N° 1083/2006.

IV.2.6 Adaptation of flat rate for indirect costs, lump sums and standard scales of unit costs

The Regulation does not specify any provision on the adaptation of flat rate for indirect costs, lump sums and standard scales of unit costs. Therefore adaptation is not compulsory. However a Managing Authority may consider necessary to adapt the rates when launching a new call for proposal or it may do so periodically in order to take account of indexation or economic changes e.g. in energetic costs, levels of salaries, etc. The rates may be linked to an appropriate index or reviewed periodically[10].

Adapted rates should apply only to projects to be implemented in the future, not retrospectively (see point IV.3).

For any revision which is undertaken, there should be adequate supporting documentation to justify the adapted rates or amounts.

IV.3 GENERAL AUDIT APPROACH

The application of the simplified cost options signifies a departure from the approach of tracing every euro of co-financed expenditure to individual supporting documents. Therefore, in cases where these options are used, for the purposes of determining the legality and regularity of expenditure the auditors will not audit the real costs underlying the flat rate for indirect costs, standard scales of unit costs or lump sums. Where the simplified cost options are applied, the Commission and national audit authorities will continue to verify the costs of co-financed operations and perform legality and regularity audits. Nonetheless, these audits will be carried out

[10] The review may also be based on the "success" of the rate. For example, if there is insufficient or no interest in training long-term unemployed persons for a given rate, that may mean that the rate is incorrectly set (bad balance between payments for process and payment for success factors).

in a different manner, on the basis of the calculation method used to set the flat rates and lump sums and not on the basis of supporting financial documents per project.

It is crucial to underline that, provided that the Member State has put in place a well established methodology respecting the principles of sound financial management and there are no indications of fraud or abuse, the Commission will not call into question the national system.

The audit methodology that will be applied in cases where flat rates for indirect costs, standard scales for unit costs and lump sums are used will consist of:

1. Verification of the calculation method for establishing the flat rates, standard scales of unit costs or lump sums, which should be established in advance and be fair, equitable and verifiable;
2. Verification of the correct application of the established method through examination of outputs/outcomes of the project ;
3. Verification on the basis of the "real cost" principle of the direct costs (or of their calculation in case of use of other simplified cost options to calculate them) in the case of flat rates for indirect costs.

It is important to note that the simplified cost options aim at reducing the burden of keeping detailed supporting financial documents. This does not waive the obligation to fully observe all applicable Community and national rules, such as publicity, public procurement, equal opportunities, sustainable environment, etc.

IV.4. RETROSPECTIVE ENTRY INTO FORCE OF THE STANDARD SCALES OF UNIT COSTS AND LUMP SUMS

The entry into force of the provision on standard scales of unit costs and lump sums (and for indirect costs on a flat rate basis for ERDF) is possible with effect from 1 August 2006, date of entry into force of Regulation (EC) No. 1081/2006.

This possibility of retroactive entry into force was created in order to ensure legal certainty in relation to the eligibility of expenditure for some operations that already used some particular cases of standard scales of unit costs under national schemes.

Given that the flat rate, lump sums and the standard scales of unit costs have to be defined in advance, a retroactive application for operations that are already on their way on the basis of real costs, in principle, is not permitted. In fact such a retroactive application would mean a modification of all the legal acts and the opening of the possibility to all the operations in order to ensure equal treatment. This would imply an important workload for the national authorities and the beneficiaries, with potential inconsistencies between real costs and the simplified cost options.

However, in the case of multiannual operations it is possible to settle the accounts and the corresponding activities of the operation after a first part of the operation has been carried out and then to introduce the option of standard scales of unit costs or lump sums for the remaining part/period of the operation. In such cases, the period for which real costs are declared should be clearly separated from the period for which costs are declared on the basis of the simplified cost options, in order to avoid project costs being declared under both systems and double declaration.

IV.5. COMBINATION OF OPTIONS

The amended Structural Funds regulations create the possibility for a managing authority to choose between four options to manage grants co-financed by an ERDF or ESF programme:

(a) real costs, including both direct and indirect costs,
(b) indirect costs calculated on a flat rate basis of direct costs
(c) flat rate costs calculated using standard scales of unit costs,
(d) lump sums.

The options may be combined only in the following cases, in order to <u>prevent any double financing of the same expenditure</u>:

(1) they must each cover different categories of eligible costs,

or (2) they must be used for different projects in the same operation (by definition an operation is a project or group of projects).

<u>Case 1</u>: Different categories of eligible costs

Example of a training session combining:
- a standard scale of unit cost for the wages of the trainers, for example € 450 / day ;
- real costs: room rented = €800 / month during 6 months
- a flat rate for the indirect costs, for example 10% of direct costs.

At the end of the training if 100 days of trainers were justified, the grant will be paid on the following basis:

<u>Direct costs:</u>

wages of the trainers 100 days x €450 = €45,000
training room: 6 months x €800= €4,800

subtotal direct costs : €49,800

<u>Indirect costs:</u> 10% of direct costs = 10% x €49,800 = € 4,980

Grant to be paid: [€45,000 + €4,800] + € 4,980 **= €54,780**

In that case different categories of costs seem to be concerned: wages of trainers, rent costs for the room, indirect costs. However in order to verify the absence of double financing the authorities must ensure that the standard scale of unit cost does not relate to any costs linked to the renting of the room or to other indirect costs (salary of administrative staff or of the accountant for example). Reciprocally the same applies for the definition of indirect costs that should not relate to costs covered by the standard scale of unit costs or real costs of renting the room.

If there were risks of overlaps the MA would have to choose the more appropriate option to grant the operation in order to suppress any (risk of) double financing.

Given that the standard scales of unit costs or the flat rate for indirect costs shall be verifiable, it will be possible at any time to check the absence of double financing. However this check should already be done ex ante by the MA, at the moment the option of management is chosen.

<u>Case 2</u>: Funding of different projects in the same operation

Example of an operation in two steps, combining a training project for young unemployed people, followed by a seminar for potential employers of the region:
The costs related to the training could be paid on the basis of standard scales of unit costs (for example 1 000 € / day of training). The seminar would be paid on the basis of lump sums.

Given that they are two different projects within the same operation, there is no risk of double financing as far as each project costs are clearly separated.

From an audit point of view, in case of combination of options, in addition to the checks required for the individual types of "simplified costs" described in the previous chapters the audit should verify that parts of an operation have not been charged for under more than one type of options, thus leading to a double declaration of costs.

IV.6. IMPACT OF SIMPLIFIED COST OPTIONS ON THE CERTIFICATION OF EXPENDITURE

The simplified cost options modify the concept of expenditure "paid" by beneficiaries that have to be certified in the statement of expenditure. Member States have still the possibility to make advance payment to the beneficiaries in addition to interim payments or final payment but the definition of what is considered as an advance payment will be different. In the case of flat rate for indirect costs, indirect costs are considered as "paid" in due proportion of direct costs: if 50% of the direct costs are paid by the beneficiary, 50% of the indirect costs (in any event, not exceeding the 20% of the direct costs) may be considered as paid. Reciprocally where the bulk of "indirect costs" have been front-loaded, without underlying direct costs having occurred, they should be considered ineligible to be certified to the Commission at the time of the declaration of related expenditure because they would be considered as an advance payment to the beneficiary.

In the cases of standard scale of unit costs and lump sums there is also no paid expenditure in the usual sense. "Paid expenditure" will be calculated on the basis of declared and certified quantities and not on payments made to the beneficiaries. Even if they could coincide, expenditure to be certified to the Commission is calculated on the basis of certified quantities, not payments made to the beneficiary. For example payments to the beneficiaries could be done on a monthly basis (1/10 of the grant each month during 9 months + final payment) without any justification of quantities, except for the final payment. Such a system should be deemed acceptable but the monthly payments are considered as advances and shall not be certified to the Commission (except in the case of State Aids under the conditions of Article 78(2) of Regulation (EC) No1083/2006). National authorities would have to wait for the final payment where quantities are certified and verified in order to declare this operation.

Annex: legal basis
Article 11.3 (b) of Regulation (EC)No 1081/2006 as amended

3. The following costs shall be expenditure eligible for a contribution from the ESF as defined in paragraph 1 provided that they are incurred in accordance with national rules, including accountancy rules, and under the specific conditions provided for below:

…

(b) in the case of grants:

(i) indirect costs, declared on a flat-rate basis, of up to 20 % of the direct costs of an operation;

(ii) flat-rate costs calculated by application of standard scales of unit cost as defined by the Member State;

(iii) lump sums to cover all or part of the costs of an operation.

The options referred to in points (i), (ii) and (iii) of point (b) may be combined only where each of them covers a different category of eligible costs or where they are used for different projects within the same operation.

Costs referred to in points (i), (ii) and (iii) of point (b) of the first subparagraph shall be established in advance on the basis of a fair, equitable and verifiable calculation.

The lump sum referred to in point (iii) of point (b) shall not exceed EUR 50 000.

Article 7(4) of Regulation (EC) No 1080/2006 as amended

4. In the case of grants the following costs shall be expenditure eligible for a contribution from the ERDF, provided that they are incurred in accordance with national rules, including accountancy rules, and under the specific conditions provided for below:

(i) indirect costs, declared on a flat-rate basis, of up to 20 % of the direct costs of an operation;

(ii) flat-rate costs calculated by application of standard scales of unit cost as defined by the Member State;

(iii) lump sums to cover all or part of the costs of an operation.

The options referred to in points (i), (ii) and (iii) may be combined only where each of them covers a different category of eligible costs or where they are used for different projects within the same operation. The costs referred to in points (i), (ii) and (iii) shall be established in advance on the basis of a fair, equitable and verifiable calculation. The lump sum referred to in point (iii) shall not exceed EUR 50 000.".