

**CHAPTER 4
ERDF INDIVIDUAL PROJECTS
PROJECT MONITORING**

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CHAPTER 4

ERDF INDIVIDUAL PROJECTS

PROJECT MONITORING

4.1 THE PURPOSES OF PROJECT MONITORING

4.1.1 The word "monitoring" can cover several processes within the Structural Funds. This chapter on project monitoring covers the work involved in ensuring that the project proceeds as required in the offer letter and that grant payments are only made when justified. It does not, for instance, cover monitoring of the overall level of Programme or Fund payments (financial monitoring) or assessment of the overall effects of the Programme or Fund (evaluation). Where the text refers to "monitoring", it will refer to project monitoring as covered by this Chapter.

4.1.2 The principle objectives of project monitoring are:

- a) to check that grant is used for the purposes for which it is made available and that the terms and conditions of grant are complied with;
- b) to ensure that grant is paid when it is clear that a claim meets the terms set in the offer letter and that the project is proceeding and can be expected to proceed according to plan;
- c) to deal with projects which fail to meet forecasts. Action can range from recovery or reduction of grant to full payment where expenditure targets are met and the outputs represent sufficient value for money;
- d) to provide the basis from which the evaluation of the benefits achieved by ERDF support can be assessed.

4.2 THE BASIS OF PROJECT MONITORING

4.2.1 Monitoring should be required until the project attains its stated outputs or the completion of the Programme - whichever is earlier. See [Section 4.19](#) on subsequent monitoring.

4.2.2 The offer letter sets out the detailed terms and conditions under which the offer is made. An integral part of the offer is the information supplied in the application and in subsequent correspondence with the Department. Monitoring must therefore take account of all the information provided by the applicant during appraisal, particularly when considering project achievements, timing and viability. Variations from either the offer

letter or the information provided by the applicant before the offer are therefore likely to need particular investigation.

4.3 RESPONSIBILITY FOR PROJECT MONITORING

4.3.1 In principle there should be separation of duties between those responsible for different aspects of the provision of assistance to safeguard against the possibility of personal involvement in a project or of fraud. This reflects the requirements of Government Accounting. Whenever possible, monitoring of a project should be undertaken by different officers to those involved in the working up of the application, project appraisal or approval of the grant. Similarly officers authorising payments to a project should ideally be different to those involved in any of the earlier stages of work.

4.3.2 It is for government offices working within delegated responsibilities to determine the level at which monitoring and its associated steps are authorised and in what circumstances the officers involved should refer projects to higher authority. The grade of the officers undertaking the work should be determined by the scale, complexity and risk of each project, and the staff resources available. Where different individuals are involved in different parts of the monitoring process, there should be clear co-ordination between them to ensure that relevant information is passed across.

4.3.3 Project monitoring is managed by the Secretariat under the overall supervision of the Programme Monitoring Committee (PMC). This should not affect the detailed monitoring of projects when they are proceeding according to expectations. However, there may be times when the PMC will need to be informed of decisions taken on projects where original expectations have not been achieved. In some cases, it may be appropriate to seek their agreement. The extent to which either of these is required will depend on the working practices established by the Secretariat with the Committee, although it would be reasonable to assume that the Secretariat would normally take autonomous decisions unless the project was of importance or if significant issues arose.

4.4 GENERAL PRINCIPLES

4.4.1 Depth of Monitoring.

All projects will need to be checked to ensure that they comply with the offer letter. The application, subsequent appraisal and the offer letter will have set the targets and milestones of each project. Monitoring should be sufficiently detailed to ensure that anticipated targets are met, that attainments are recorded in a way which will allow overall progress of Programmes to be assessed and to provide overall reassurance that applicants are providing an accurate report of the outputs achieved. Data on progress will generally be obtained through progress reports received with claims. It is for the office involved to consider the depth of monitoring in

each project consistent with the resources available. Factors to be taken into account will include the amount of money at risk; the type of organisation, e.g. local authority or small private applicant; and the risks of the project. . If resources are limited, offices should carefully consider which of the projects should comprise the 5% sample to be checked. This should ensure progress is being made to achieve both the agreed targets and the main objectives of the Programme.

4.4.2 Keeping track of the project.

There is a general need to monitor progress of a project to ensure that problems are discovered early. The offer letter should include annual estimates of spend. Additional information may be available from the application form and the appraisal papers. If grant payment to an Applicant is likely to be in doubt or the project is under spending, the earlier that the amount involved is identified and reallocated to another project the better. A diary system should operate to ensure that claims and progress reports are received as anticipated. Ideally this should operate in a way which will allow up to date information to be available at the time when decisions on future projects are to be made in order to ensure maximum and efficient use of funds. Significant delays should be pursued with the Applicant. Reminders will be especially important when the final deadlines of project are approaching (see paragraph [4.16](#)). If there are delays, the applicant should be asked to provide revised estimates of the phasing of spend and achievement of outputs.

4.4.3 Visits to projects to check claims for payment.

Visits to a site help check the application and provide a safeguard against fraud. Meetings can also be efficient in terms of the time it can save in obtaining information useful for appraisal or evaluation purposes. In addition to checking the physical existence of the project, visits can be useful to collect more detailed data than is available from the applicant's claim reports, to provide a more thorough check of progress against targets and to check that the applicant is providing accurate information. It should be remembered, however, that the onus should be on the applicant to provide basic monitoring information and that visits should not be seen as the primary method of obtaining data that would more sensibly be included in their regular claim reports.

4.4.4 The presumption should be that all projects should be visited during the monitoring period, unless the office considers that such a visit is not justified taking account of the risks, type of organisation and the amount of grant involved. Priority should be given to larger projects or those where difficulties are expected or have actually arisen. Even where visits are not considered necessary on the terms shown above, offices should ensure, as an anti-fraud measure, that a representative sample of at least 5% of projects within a Programme is visited. Projects where grant of 1 m euros or above is paid should normally be visited.

4.4.5 Recording information.

As for appraisal , it is important that all-important information gathered on a project proposal is recorded. Standard project monitoring reports should also be used, covering the important project monitoring issues.

4.4.6 As Secretariats will need to produce regular reports on the financial and physical progress of projects and more general progress towards meeting the main aims of the Programme, offices will need to ensure that they have sufficient information readily available for this function. In addition to maintaining up-to date information on individual projects, it is important that offices maintain and regularly updates a database for project and programme outputs as an essential aid to project assessment and programme management. The integrated database will allow forecast, monitoring and outturn economic outputs for programmes to be recorded. The information will feed into the Annual Report made to the Commission.

4.4.7 Decommitment ("N+2 rule" - see also [Annex K](#))

The Commission commits funding on an individual fund basis annually for each of the seven years of the Structural Funds programme for the amounts set out in the financial tables.

When the first year's commitment is made, the Commission provides the Member State with a payment on account totalling 7% of each fund. This may be paid over a maximum of two years. This advance is available during the lifetime of the fund-to-fund projects and is topped up by the payment process.

Following the year of commitment, the Commission allows a further period of two years for the total amount of the grant claims submitted to them to at least match the funds committed, (minus the 7% advance for the first year). Any shortfall in the value of claims is deducted, (decommitted), by the Commission and is lost to the programme.

4.5 INITIAL ACTION

4.5.1 Monitoring should commence immediately following the applicant's acceptance of the offer letter. A pro-forma top document should be prepared containing all relevant details including total and annual expenditures, anticipated claim dates and amounts, performance outputs and any other relevant information. A diary or B/F for the anticipated first claim date should be made.

4.6 PROCESSING OF CLAIMS

4.6.1 Claims should be made at least quarterly, although the offer letter may set a shorter period or may allow the Secretariat to adjust the period with the agreement of the applicant. Claims must be processed promptly in accordance with Departmental deadlines. Offer letters usually set a normal 3 week deadline for payments to be sent once a fully documented claim has been received unless the claim is rejected. As claims may not be fully documented and as these deadlines provide a "norm", it is accepted that some claims will take longer. This will especially be the case where audits take place after the claim is received. See paragraph 4.7.2, as audits normally take place before the claim is received. Article 32 of Regulation 1260/1999 requires that payments are made as soon as possible and in full.

4.6.2 All grant claims must include (on the claim form) a fully completed monitoring statement that sets out forecast and outturn outputs and reports on progress to date. Differences should be explained when they occur. Reports on progress are also required if a claim was due, but is not made. Final claims must include a narrative that describes both quantitative and qualitative outputs, and also identifies linkages to other projects. Claimants will need to state whether targets have been met, and assess whether initial targets were realistic, and provide any other explanation for shortfall or excess. Where outputs are still to be attained after the final claim, applicants should be asked to provide regular reports on progress, if this is not already required under the offer letter.

4.6.3 Independent auditor's reports are required for all projects where grant of £5,000 or more is offered. See Section 4.7, which explains that the £10,000 limit is set as a method of reducing burdens on small organisations. Financial control will still apply to exempted projects which have not received final claim audit. In such circumstances, beneficiaries will be obliged to provide documented evidence of all receipts and expenditure in connection with the project for final claims. Unavoidably, there will have to be some selective checking by offices involving site visits to a proportion (say 15%) of projects elected at random.

4.6.4 The information supplied in progress reports or claims should be carefully examined against the forecasts in the offer letter and any relevant information previously supplied by the Applicant. Where matching funding is being provided through a central government organisation or agency that will also be sent information on spending or project progress, offices should consider whether they could practically liaise with the office or organisation concerned. This can provide a check on the information being provided. Particular issues which may need to be addressed are:

a) significant variation from forecast expenditure or achieved outputs should be taken up with the applicant and its effects on the project fully

considered before any decision on payment is made. Small variations from offer letter provisions will often be acceptable. See Sections 4.9 and 4.11 for more detail;

b) failure to meet the additionality expected of the project. See Section 4.12 for more details;

c) a serious deterioration in the financial position of the applicant where a project could be put at risk, or in the project itself, (e.g. because anticipated income is not achieved). This should be investigated to ensure that the project is not likely to fail. See Section 4.13 on Viability.

4.6.5 Where possible, targets will have been set which will reduce the possibility of double counting of benefits under the Programme. Where outputs should be separated between different project phases or forms of assistance, the applicant's claimed outputs will need to be checked to ensure that they are not wrongly attributed to the ERDF project. If applicants are unable to separate the outputs, they should make this clear. Progress on the project will need to be considered accordingly. Equally, the recording of project benefits, e.g. on the computer database, should avoid double counting of benefits, where available information permits this.

4.7 THE AUDITOR'S REPORT

4.7.1 The Auditor's Report provides an important reassurance that the project is proceeding as claimed. It is not normally required for every claim and the offer letter will set out the precise details. Except for projects where grant offered is below £5,000, **an independent auditor must audit all final claims.** Payments should not be made if the Report is not received when required, if there are major reservations noted by the auditor or if there are other significant differences, e.g. in the levels of expenditure where this is separately shown by the auditor. Payments should only be resumed when the office is satisfied that the conditions of the offer have been fully complied with.

4.7.2 For Local Authorities, auditors' certificates will need to be provided from an accredited auditor appointed by the Audit Commission. The District Auditor will usually undertake this. In the past, some claims were referred to the Audit Commission directly by the Government Office involved, although that is no longer necessary. The standard ODPM claim form requires the local authority to do this themselves. Other organisations will chose their own auditor based on the necessary qualifications set out in the offer letter. The certificate will either be included at the end of the claim form or standard wording will be included in the offer letter.

4.7.3 An audit is an examination, often on a test basis, of evidence relevant to the claimed expenditure. It is an expression of an opinion by the auditor as to whether there is reasonable assurance that the financial statement is free from material misstatement. Offices should be aware that an audit is not a guarantee. It is not designed to uncover fraud perpetrated by those persons who prepare claims, as it is possible for the auditor to be misled. However, in examining all of the documentation required by the report auditors should be able to reveal most errors carried out by the Applicant.

4.7.4 If fraud is being perpetrated, the claimant may try to forge the auditor's report. The following practice is therefore recommended to help avoid this possibility:

- a) The signature, which may be in the auditing firm's name, must be hand-written.
- b) Where the auditor provides a letter as part of their report, it should be an original on their own headed paper.
- c) If there is any doubt that the auditor produced the report, it can be checked with them.
- d) The report should be produced after the applicant signs their claim. This can also be checked with the auditor.

4.7.5 Auditors may be liable for negligence in contract law to the person paying them, (i.e. the applicant for these claims). However, the concept of negligence has developed in UK civil case law, (known as the law of Tort), to the extent that auditors can be sued for damages by third parties. Advice from Solicitors would always be needed before such action could be taken. Claims for repayment of grant may be made directly to the Auditor based on Solicitor's advice, although legal action would need to be undertaken through Treasury Solicitors who act on behalf on the Government. In order for any such legal action to have a chance of success, the following criteria would need to be proven:

- a) the auditors' report had been relied on;
- b) it was reasonable to rely on it;
- c) the auditors knew or ought to have known that the report would be relied on, (which should always be the case for these claims);
- d) the report was wrong;
- e) the auditors were negligent; and
- f) money had been lost as a result.

4.7.6 It is also possible to report auditors to their relevant supervisory body. Solicitors' advice will also be required for this. Where legal action is being taken against the auditor, it should be a presumption that such a complaint would be appropriate.

4.8 PROJECT VARIATIONS: GENERAL

4.8.1 The underlying principle when considering projects that fail to meet expectations is that consideration of increased grant or acceptance of reduced benefits must be based on a decision that the grant continues to be justified by the incremental benefit of the project. Incremental in this context covers the additional benefits of the project overall, i.e. from project start, not just from the time the changes are requested.

4.8.2 Within this, the position of the applicant may also be considered, especially where there are other projects competing for available funds. Greater sympathy can reasonably be given where changes occur for reasons outside the applicant's control and where the office is kept fully in touch with the problems than where the applicant is himself at fault and the office is only told of changes or delays at a late stage.

4.9 VARIATIONS TO PROJECT COSTS

4.9.1 Increased project costs

As a general rule; an offer of grant, which has been accepted, should not be increased to accommodate increases in project costs. Applicants should be expected to abide by agreed offer terms. Where increased grant is requested, especially if increased programme benefits result, they should be considered within the terms of PMC approval, or other approval under arrangements appropriate under the Programme will be needed for such further expenditure on the project. Grant may only be increased if the applicant requests the change before the final payment is made. An amendment to the offer letter should be issued.

4.9.2 Reduction in project costs

Provided the outputs of the project as set out in the offer are unchanged; a reduction in project costs will normally be acceptable. Grant will normally be reduced accordingly. Care must be taken to ensure that at least 10% of grant is withheld until the project is complete (see para 4.15.1). However, significant changes should be considered to ensure that the project has not undergone major alteration. See also Section [4.11](#) on under achieving projects. A revised offer letter will be required where costs reduce significantly. If a project is under-spending, offices should be aware that grant could be allocated to other projects within the priority; or

virement between priorities. The under spent grant could be repaid to the Commission at the end of the programme.

4.10 DISPOSAL OF ASSETS TO THE PRIVATE SECTOR

4.10.1 Disposal of ERDF supported assets does not necessarily require reclamation of grant. In particular, grant does not need to be repaid if

- a) there is no subsidy to the purchaser. The sale must be at the prevailing market price; and
- b) the sale does not result in the effective conversion of ERDF grant into a cash windfall. (Grant should be repaid to the extent that the purchase price is below the total cost of the original investment, taking into account the economic lifetime of the type of asset concerned. This should be calculated from the depreciation period for the asset involved based on normal accounting procedures); or
- c) the asset continues to be used for the purposes specified in the offer letter; and
- d) the asset is not sold within five years of receiving ERDF grant, (Article 30 Regulation 1260/1999 refers).

4.11 UNDER ACHIEVING PROJECTS

4.11.1 This section deals with projects where the forecast outputs have not been achieved or are in doubt. See Section 4.9.2 if project costs have decreased while outputs are expected to be achieved. The potential need for grant underspend to be reallocated or repaid set out in section 4.9.2 should also be remembered.

4.11.2 Article 36 of Council Regulation 1260/1999 requires effective monitoring of measures, with the potential for the Government to be liable for money lost as a result of an irregularity or negligence. Under Article 39, the Commission have the right to reduce or suspend assistance if they find that a measure does not justify assistance. In such circumstances any repayment they may require is made to Commission funds. It is therefore important that monitoring ensures that grant is only paid where it is justified, and that grant is recovered when it is clear that previous payments are subsequently found to have been inappropriate.

4.11.3 The judgement as to whether grant should be withheld or repaid should be based on the extent to which the outputs of the project have been achieved, (see para 4.8). For instance, a project that has not achieved any of the anticipated output targets is likely to have failed completely. Under those circumstances, full withholding or recovery of grant would be appropriate. On the other hand, a project that still achieves acceptable output targets is likely to justify assistance pro rata to expenditure. (This

assumes that grant is being paid pro-rata to expenditure defrayed, in accordance with standard offer letter terms).

4.11.4 As project outputs will have been agreed with the organisation as realistic and viable during appraisal, consideration will need to be given to the causes of reduced outputs. For example, either a reduction in grant or repayment of grant is likely to be appropriate where the problems arise from failure or neglect by the organisation itself. More favourable consideration may be warranted if the reduced output is due to new or difficult circumstances that were both outside the organisation's control and could not have been reasonably predicted.

4.11.5 When considering the level of grant to be withheld or repaid it should be remembered that assets might be sold following the reduction or abandonment of a project. If there are reasons why it is considered that grant should still be paid, (or if paid already that grant should not be recovered), the financial benefits to the applicant of any such sale should be considered. There should be a presumption towards withholding or reclaiming grant to reflect this benefit.

4.11.6 Details on the mechanism for recovering grant are shown in Section 4.18.

The level of decision taking in each office will depend on their particular Programme arrangements. It would be normal for offices to be permitted to take their own decisions in less contentious cases. These would reasonably include projects where the reduced outputs are relatively minor or where, because of reduced project costs, the cost in grant terms of individual outputs actually being achieved is little changed. For instance, in a business consultancy project, the number of consultancies may be significantly reduced, but the grant per consultancy may be unchanged. (Revenue costs may fall in line with the lower level of work).

4.12 ADDITIONALITY FAILURE

4.12.1 The additionality of the project may have involved either an expanded project or its more rapid implementation. If a project is failing or has already failed to meet the additionality expected in these cases, the benefits actually achieved will need to be looked at closely in line with Section 4.8, to decide what amount of grant, if any, should be paid to or retained by the applicant. For instance, a grant could have been offered on the basis that a project would take place a year earlier than originally anticipated. The project is, however, being completed in the time scale expected without grant. Full payment of grant could well be justified if the benefits of the project are still satisfactory in Programme terms and if the applicant could show that project additionality was still met - e.g. because changed circumstances meant that it would have proceeded at an even slower pace otherwise.

4.13 VIABILITY

4.13.1 Where viability of the project or the organisation is in doubt, offices will need to investigate the position. They should satisfy themselves that the project is unlikely to fail before paying grant. They will, however, need to balance against this the need to ensure that the withholding of grant will not of itself be the cause of failure.

4.13.2 The viability of an organisation can be assessed to an extent by analysing its up to date accounts, (audited or management). Failure to provide accounts on time, especially audited ones, can be a sign that there are problems. However, there may be other factors to take into consideration. For instance, if a small organisation depends on external funding, the failure of a private sector co-financier may have deleterious consequences. If the project is in jeopardy, payment of grant should be withheld until the position has been fully investigated. Office accountants should be consulted where appropriate. If the project is subsequently considered no longer to be in jeopardy, payment of arrears may be made immediately or the payments may be rescheduled as appropriate.

4.13.3 Annexes 1, 2 and 3 cover companies in financial difficulties, fraudulent and wrongful trading and various forms of insolvency. Companies limited by guarantee are treated in the same way as profit making companies.

4.14 AMENDMENTS TO THE OFFER LETTER

4.14.1 Any significant changes to the offer affecting future payments, e.g. if the details of eligible costs alter significantly, are likely to require an amendment to the offer letter, since that is the legal basis on which the applicant claims grant. Amendments should be made in accordance with office delegated powers. Solicitors should be consulted on the drafting if this is not straightforward.

4.14.2 If the project is taken over by a different organisation during its life, a novation agreement will normally be required to legally transfer the offer to the new organisation. For instance, if a charity changes its status to a company limited by guarantee, the legal status of the organisation will change. If the offer is not novated to the new organisation, legal obligations under the offer letter - e.g. the need to repay grant if the circumstance arose - will not normally be transferred to the new organisation. Advice should be sought from Solicitors when novation is required, as they will draft the appropriate agreement. An example of a novation agreement is shown at Annex 4.6.3. DTI legal advice is that the Departmental seal is required on novation. Where the change of organisation raises important

issues, the PMC may need to be consulted. Before transferring the project to a new organisation, the applicant should be required to show that the project will still proceed satisfactorily.

4.15 THE FINAL PAYMENT OF GRANT

4.15.1 The terms of the offer letter require a proportion of the grant to be withheld pending the submission of the documentation confirming that the project has been satisfactorily completed, (which includes an independent auditor's report to that effect). If the project has not been financially completed, (i.e. expenditure has not been fully defrayed), grant should only be paid on the part that has been finished. Offices should ensure that both the eligible costs have been defrayed and that performance targets expected to have been completed by the time of final payment have been achieved. (See paragraph 4.11 on under-achieving projects which result in targets not being achieved).

4.15.2 Defrayal is defined in the offer letter as liabilities having been incurred and discharged by payment, (or otherwise settled by the Applicant). For the payment to be discharged, it should have been transferred from the account of the applicant to the creditor involved. Other forms of settlement are likely to be extremely rare, but might include, for instance, the set off of mutual debts. However, these are likely to require close scrutiny to ensure that debts are properly settled. For instance, the fact that there are mutual debts does not automatically mean that the debts are legally settled.

4.16 LAST DATE OF RECEIPT OF CLAIMS

4.16.1 The final claim date in the offer letter is the date after which there is no legal obligation to make payments. If an applicant claims an instalment of grant before the final claim date, it is entitled to receive that payment provided it submits the detailed information set out in the offer letter and the terms and conditions specified therein are satisfied.

4.16.2 Where the final claim date is set shortly before the last date on which payments can be made for the Programme involved, there will not be any possibility of an extension to the deadline. Similarly a claim that is received after the appropriate date will not be able to be paid.

4.16.3 For many projects, however, the final claim date will be based solely when the project is due for completion. The presumption should be that claims should be received within that timescale. Where the applicant requests that the project timescale be extended, Offices will need to consider whether the request should be agreed based on the facts of the case. Unless there are specific mitigating circumstances, it should be assumed that such a request would normally only be agreed if it is made before the final claim was due or if the applicant made clear that such a

request was likely to be made. There should be a similar presumption that claims will not normally be paid if they are received after the final claim date, particularly if the claim is very late.

4.16.4 It is important for offices to identify and resolve potential problems with claimants before the final deadline. Where a final claim has not been received, a reminder letter should be sent to the claimant between 1 to 2 months before the deadline, although a longer period may be needed if, for instance, lengthy audit processes may be needed, e.g. for large local authority projects. Where there is a final absolute payment deadline this is essential to ensure payments can actually be made. Where the final claim date is set well before Programme deadlines for payment, the Office should decide whether an extension of the date would be acceptable. The reminder letter should then include an invitation to submit a written request setting out the reasons for the delay and the revised schedule for the completion of the project

4.16.5 In previous offer letters, the final claim date was set soon after the project was due to be completed and the offer letter provided that there was "no obligation to pay" grant after that date. Under DTI financial procedures, the no obligation to pay (NOTP) date has particular significance, as follows:

- a) If a claim, which needs to be complete and fully documented, is not made before the NOTP date has passed, the claim if made will be a "late claim". There is a presumption against the payment of late claims- in practice this means that payment should not be approved unless the applicant has a particularly good case. In all cases a project should have been satisfactorily completed and its original objectives achieved.
- b) The claim can, however, be treated as fully documented if supporting documents are missing due to unintentional oversight or clerical error, such as accidental failure to include documents which have already been prepared. However, the oversight will need to be corrected promptly once the organisation has been made aware of it.
- c) Details of how to deal with late claims are given in the DTI Finance Guidance, (available only via "Mandarin"), which includes examples of the factors which are taken into account. Government Offices have delegated powers to deal with small claims, but larger cases need to be referred to FRM, DTI.
- d) Any extension to the NOTP date should have been agreed before the existing NOTP date has passed. It is possible exceptionally to agree to a revised project end date and NOTP date after the original has expired. In DTI any such request should be referred to FRM and will be evaluated on the same basis as late claims.

4.17 PAYMENT PROCEDURES

4.17.1 It is the responsibility of accounting officers within government offices to ensure that procedures for crediting receipts and making payments are in accordance with the requirements of "Government Accounting" and Departmental accounting requirements. Detailed guidance, such as that set out in DoE's ERDF Grant claim and computer desk instructions should already be available to offices. Payments should be strictly in accordance with the terms of the offer letter.

4.18 RECOVERY OF GRANT

4.18.1 Under the terms of offer letters, Departments are entitled to require repayment of all or part of grant paid in the event of a breach of offer conditions. If grant is to be repaid, subsequent recovery action must be guided by Government and Departmental Accounting procedures. Although these requirements are not reproduced here, the following points should be borne in mind.

4.18.2 Invoicing. The invoiced debt will be the amount of grant that the Office decides should be repaid after making due allowances for the circumstances of the project as described in the section on under-achieving projects, (see paragraph 4.11). The invoice should be sent to the organisation in the way set out in Departmental accounting rules. If the amount needs to be amended subsequently, a fresh invoice should be raised and the original cancelled. An invoice can also be cancelled at any time.

4.18.3 Receipts should be handled according to Departmental handling requirements.

4.18.4 Reminder Action: where the amount of debt is not in dispute and the debtor is not known to be subject to legal process, it is essential that follow-up action is undertaken promptly to ensure early:

a) Debts of £500 or more:

One month after the due date a first reminder should be issued requesting payment of the amount due within 14 days. If the debt remains unpaid, a firm second reminder signed by a senior officer should be issued advising the debtor that if payment is not received within a further 14 days the matter will be referred to Solicitors to consider legal proceedings.

b) Debts under £500:

Follow up action is at the discretion of local management. The normal expectation will be that one firm reminder should be sent and, failing settlement, steps should be taken (where appropriate) to ensure that no further assistance is supplied to the debtor. Departmental procedures set a period of 3 months after which the invoiced debt remains unpaid for issuing a stop notice to prevent further payments to the organisation concerned.

4.18.5 If the debtor demonstrates that immediate repayment of the debt in full would jeopardise the viability of the organisation's remaining activities, the office may be able to accept a realistic arrangement for payment by instalments. Departmental financial procedures should explain the rules under which this can be done. (However, at a minimum, one would expect to see the debtors' up to date management accounts together with a cash flow forecast for at least a year).

4.18.6 Action to enforce recovery

If the debt remains unpaid or is disputed at any of the above stages, a decision needs to be made whether to pursue the debt. Legal advice should be taken if it is considered that the debt should be pursued. Departmental Solicitors will be able to provide draft letters threatening pursuit of the debt. If this does not achieve a response, they will put relevant papers to Treasury Solicitors who will be able to issue a final demand. Finally, there will be the potential of civil action in the Courts to recover the money. Offices should bear in mind, in making submissions, that civil proceedings are likely to be taken only if:

a) there is reason to believe:-

- i) that such action is likely to result in recovery; and
- ii) that the amount likely to be recovered will be significantly more than the estimated cost of effecting recovery; and/or

b) it is otherwise in the public interest to do so because of the applicant's misuse of grant..

4.18.7 The decision whether or not to pursue, which will be reviewed at each stage of the civil proceedings, will take into account: -

- a) the amount of grant paid;
- b) the size of the debt;
- c) the degree of any abuse;
- d) the potential cost of the action both in terms of the Government's and the Treasury Solicitor's administrative and legal costs, and court fees;
- e) the likely effect of court action on the debtor; and
- f) the implications for the Government of any consequential publicity.

Action to be taken if grant is not recovered.

Article 5 of Regulation 1681/94, which covers the reporting of irregularities to the Commission, specifies the action required and the Commission's powers to instruct Member States to initiate or continue legal proceedings.

4.19 SUBSEQUENT ACTION

4.19.1 Apart from action required in the rest of this section, project monitoring as covered by this chapter will end when the final claim has been paid. However, Offices will need to be aware that there may be subsequent audits or evaluation monitoring of programmes or projects. They should also be aware that some forecast outputs would not have been completed at this stage. For instance, some projects have required evaluations to be undertaken after the last claim is paid. Project records should therefore be updated so that the last information is available so that any subsequent work will be able to proceed more easily.

4.19.2 Further action may be required after the final payment of grant, as follows:

a) In some cases there is a need for longer term monitoring beyond the end of the Programme of, for example, the final placement of trainees and the development of new businesses and future growth. This will be particularly true where the benefits of the project continue to flow after the final grant payment. Secretariats should consider how this should be implemented, but the onus should be on the applicant to maintain records. If there are not specific requirements in the offer letter, office should consider written instructions to claimants at the time of the final payment setting out the information as the offer letter requires the applicant to provide any information required and continuity will therefore be maintained. Offices will probably find it most effective if they require regular reports e.g. six monthly by the applicant on these aspects.

b) All projects receiving continuing funding or that are actively managed should receive annual monitoring visits throughout the life of the Programme

4.19.3 Offices will need to consider for themselves the extent to which the requirements of this section should be integrated into the claim processing work or whether it forms part of a separate evaluation activity. The section is included here, as the work will often flow directly from requirements set out elsewhere in the chapter.

Assistance is provided as a grant. Grant should not be provided ahead of need and will, in any case be paid after expenditure is defrayed. It is

normally paid at three monthly intervals, although it is at the discretion of offices to reduce this period.