



EUROPEAN COMMISSION
Directorate-General Regional Policy

Note to the attention of the Audit Authorities for the programming period 2007-2013

Subject: Information Note on the Annual Control Report and Audit Opinion to be submitted by the 31/12/2009

1. INTRODUCTION

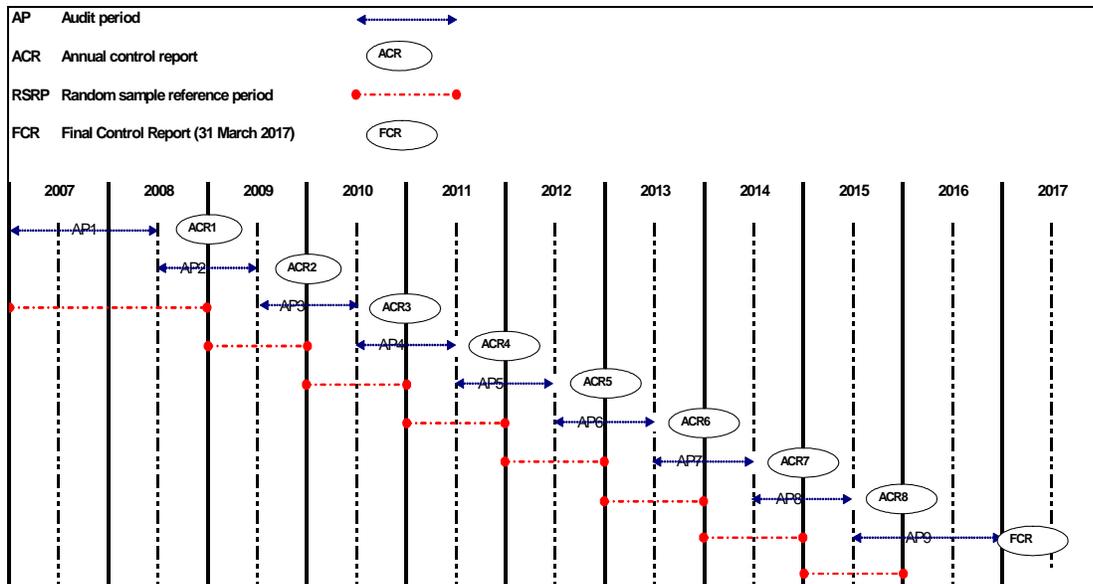
The objective of this note is to clarify the Commission's expectations with respect to the annual control report and audit opinion to be submitted by 31/12/2009 only.

According to Article 62(1) (d) (i) and (ii) of Council Regulation (EC) No 1083/2006, the audit authority must submit to the Commission an annual control report and an audit opinion by 31 December 2009, covering the audit work carried out from 1 July 2008 to 30 June 2009. In accordance with Article 18 (2) of Commission Regulation (EC) No 1828/2006, the audit authority must draw up the annual control report and the audit opinion in accordance with the models set out in Annexes VI and VII to that regulation. The model for the annual audit opinion provides for an unqualified, qualified or adverse audit opinion.

The annual control report and audit opinion will be one of the main sources of assurance for the Commission in 2009.

2. ANNUAL CONTROL REPORT AND AUDIT OPINION FOR THE YEAR 2009

In line with the timetable included in Regulation (EC) No 1083/2006, the second annual control report and audit opinion are to be submitted by the audit authority by 31/12/2009 via SFC 2007.



The Annual Control report to be submitted by 31/12/2009 should cover the findings of the audits carried out during the previous 12 month-period ending on 30/06/2009, resulting from the system audits performed and audit of operations covering the expenditure declared to the Commission during the period 1.1.2007 until 31.12.2008. However, in most cases no expenditure was declared to the Commission till 31/12/2008 and therefore it may be that no or few audits of operations have been performed. In this case, the findings reported will originate from the system audits.

However, , as indicated in the guidance note on the Annual Control Report, any other information available that the audit authority consider relevant and important to communicate to the Commission should be reported as well, i.e. any important information or any significant events occurring between the audit period and the date of reporting to the Commission and any new results of further audit activity since 30/06/2009. This information should be considered when establishing the level of assurance and audit opinion. The audit authority should apply its professional judgment when communicating the relevant subsequent events, which have an impact on the assurance.

In 2009, the audit work performed may vary considerably from one operational programme to another. It should however be noted that system audits could already have started before expenditure declarations are submitted to the Commission.

Depending on the progress of the actual implementation of the programmes, the Commission considers that three main distinct situations on the level of work performed by the audit authority can be distinguished for the 2009 annual control report and audit opinion. However, it also is aware that for every operational programme there might be particularities, to be described in the report, which might have an influence on the opinion of the audit authority:

1/Expenditure has been declared in 2007 and 2008

It is expected that an annual control report and audit opinion are provided in accordance with

Article 62(1)(d)(i) and (ii) of Regulation (EC) No 1083/2006 and Article 18 (2) of Regulation (EC) No 1828/2006.

2/ Significant expenditure declared by 31/12/2009

For the majority of programmes, significant amounts of expenditure will be declared before the end of 2009.

This means that the actual implementation of the operational programmes has started and that systems are functioning.

In these cases, the audit authority should have performed system audits in line with the accepted audit strategies and as agreed during the annual coordination meeting.

However, because of limited expenditure declarations in 2008, it may be that no or few audits of operations have been performed, and that there is therefore no basis for determining an error rate for the programme. Nevertheless, the Commission expects that the audit authority will be able to provide an audit opinion in accordance with Article 62(1)(d)(i) and (ii) of Regulation (EC) No 1083/2006 and Article 18 (2) of Regulation (EC) No 1828/2006 based on the results of the system audits. In the formulation of the audit opinion, set out in Annex VII of Regulation 1828/2006, the audit authority may indicate the scope of system audit work¹ under "scope of the examination". At the same time the audit authority may indicate that no, or very few, audits of operations could be carried out to test the functioning of the system. Under "audit opinion" the audit authority may add a sentence "This audit opinion sets out the level of assurance determined solely on the basis of systems audits carried out". As such, the audit opinion should address the effective functioning of the management and control system of the audited bodies, on the basis of appropriate audit tests, such as interviews, walkthroughs, test of controls, e.a. It is essential that the audit authority uses its professional judgement when formulating its opinion.

3/ No or minimal amount of expenditure has been declared to the Commission 31/12/2009.

In this case, three distinct cases can be identified:

- a) In cases where all the audit work planned in the submitted audit strategy has been performed, and the audit authority considers that it is sufficient to provide an audit opinion on the effective functioning of the management and control system, it is expected that an annual control report and audit opinion are provided in accordance with Article 62(1)(d)(i) and (ii) of Regulation (EC) No 1083/2006 and Article 18 (2) of Regulation (EC) No 1828/2006.
- b) In cases where the planned audit work has not been completed, the audit authority is expected to submit an annual control report following the standard format set out in Annex VI to Regulation (EC) No 1828/2006 and a disclaimer of audit opinion. The annual control report should contain all available information with regard to the audit work already carried out in the respective audit period, including the first audit results.

¹ Referring for example to authorities, key elements, ... covered.

The audit authority is requested to justify the reasons for not having completed the planned system audit work and not providing an audit opinion with reference to the actual audit work performed and to the state of implementation of the operational programme².

- c) In cases where there has not been any audit work carried out, the audit authority must submit the annual control report following the standard format set out in Annex VI to Regulation (EC) No 1828/2006 and a disclaimer of opinion. The annual control report should contain any relevant available information. The audit authority is requested to justify the reasons for not having performed any audit work with reference to the state of implementation of the operational programme.

To conclude, in all cases, the audit authority should submit an annual control report, including as much information as possible, with either an audit opinion as set out in Annex VII to Regulation (EC) No 1828/2006, or a disclaimer of opinion, in the cases referred to in b) and c) above.

It is important to note that **the Commission expects an audit opinion based on the audit work performed regarding the functioning of the system and that therefore the Commission does not expect to receive audit opinions based solely on the results of the Compliance Assessment.** The Compliance Assessment is a procedure that provides a report and an opinion on the set-up of the management and control systems, while the annual audit opinions should provide the auditor's assessment on the functioning of the systems. The annual control report describes the actual audit work performed. These are two distinct issues, which should not be confused.

The annual control report and audit opinion (including disclaimer of opinion) have to be submitted via SFC 2007.

3. DISCLAIMER

Only in the cases described under points b) and c) of the subsection 2.3. above, a disclaimer of opinion should be provided. The Commission suggests the use of the following models. The audit authorities may adapt the formulation to their own specific circumstances.

For the case described under point b) of subsection 2.3.

To the European Commission, Directorate-General ...

Introduction

I, the undersigned, representing ... (name and body designated by Member State), have only carried out a limited examination of the functioning of the management and control systems in the operational programme ... (name of the operational programme, CCI code number, period). Therefore, I am not in a position to express an audit opinion on whether the systems functioned effectively so as to provide reasonable assurance that statements of expenditure presented to the

² Elements to be considered include: progress on implementation of the operations, expenditure declared by beneficiaries, amounts disbursed to beneficiaries, number and value of contracts signed, etc...

Commission are correct and, as a consequence, reasonable assurance exists that the underlying transactions are legal and regular.

The information on the audits carried out during the audit period in question and the detailed results (or preliminary results) of those audits are included in the accompanying annual control report.

Scope of examination

The examination was carried out in accordance with the audit strategy in respect of this programme during the period 1 January 2007 to 30 June 2008 with the exception of the following audits originally foreseen in the audit planning:

- a)
- b)
- c)

The reasons for the limited examination of the functioning of the system and/or for not having performed all the planned audits are the following:

- a)
- b)
- c)

For case 3c):

To the European Commission, Directorate-General ...

Introduction

I, the undersigned, representing ... (name and body designated by Member State), have not examined the functioning of the management and control systems in the operational programme ... (name of the operational programme, CCI code number, period). Therefore, I am not in a position to express an audit opinion on whether the systems functioned effectively so as to provide reasonable assurance that statements of expenditure presented to the Commission are correct and, as a consequence, reasonable assurance exists that the underlying transactions are legal and regular.

The reasons for not having examined the functioning of the systems are the following:

- a)
- b)
- c)