

2007 No. 3618

EUROPEAN COMMUNITIES, ENGLAND

The European Regional Development Fund (West Midlands Operational Programme) (Implementation) Regulations 2007

<i>Made</i>	- - - -	<i>28th December 2007</i>
<i>Laid before Parliament</i>		<i>10th January 2008</i>
<i>Coming into force</i>	-	<i>31st January 2008</i>

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the operation of the Structural Funds, makes the following Regulations:

Title, commencement and application

1.—(1) These Regulations may be cited as the European Regional Development Fund (West Midlands Operational Programme) (Implementation) Regulations 2007 and shall come into force on 31st January 2008.

(2) These Regulations apply in relation to England only.

Interpretation

2.—(1) In these Regulations—

“the 1998 Act” means the Regional Development Agencies Act 1998(c);

“the Agency” means the Advantage West Midlands(d);

“the Commission” means the Commission of the European Communities;

“commitment” means an agreement entered into by the Agency or a global grant body in relation to an award of assistance granted by the Fund;

“the Council Regulation” means Council Regulation (EC) No.1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No.1260/1999(e);

“the Fund” means the European Regional Development Fund, being one of the two Structural Funds referred to in Article 1;

“the Fund contribution” means the contribution from the Fund made available for the Operational Programme;

(a) S.I. 1999/2788.

(b) 1972 c.68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51).

(c) 1998 c.45.

(d) The Agency is the regional development agency established for the West Midlands region by section 1 of the 1998 Act. The Agency changed its name by resolution under section 26 of that Act on 7th December 1999.

(e) OJ L 210, 31.7.2006, p.25.

“global grant body” means a body entrusted under Article 42(1) with the management and implementation of a part of the Operational Programme;

“intermediate body” has the meaning given by Article 2;

“intermediate body functions” means the functions entrusted to the Agency by virtue of its designation as an intermediate body by regulation 3;

“the Managing Authority” means the authority designated under Article 59(1)(a) as the managing authority for the Operational Programme;

“Operational Programme” means the document which—

- (a) is an “operational programme” within the meaning given by Article 2; and
- (b) sets out the development strategy to be carried out with the aid of the Fund in the West Midlands region as a contribution towards achieving the Regional competitiveness and employment objective referred to in Article 3(2);

“Schedule of Functions” means the document published by the Secretary of State on 21st December 2007 under the title “Schedule of Functions of the Managing Authority for the European Regional Development Fund: Operational Programme covering the Regional competitiveness and employment objective for the West Midlands”, prepared for the purpose of defining the functions of the bodies concerned in the management and control of the Operational Programme(a);and

“West Midlands region” means the region named “East Midlands” in Schedule 1 to the 1998 Act.

(2) In these Regulations, a reference to an Article is a reference to an Article of the Council Regulation.

Designation of intermediate body

3.—(1) The Agency is designated as an intermediate body for the purposes of Article 59(2) to carry out the functions of the Managing Authority referred to in paragraph (2) under the responsibility of the Managing Authority in relation to the management and implementation of the Operational Programme.

(2) The functions entrusted to the Agency by virtue of its designation as an intermediate body are the functions specified in section 3 of the Schedule of Functions.

General duties of intermediate body

4. The Agency shall carry out the intermediate body functions, and shall do so in accordance with all requirements and procedures specified in the documents which (consistently with the general principles laid down by Article 58) set up the system of management and control of the Operational Programme.

Power to guide and direct the Agency

5. Section 27 of the 1998 Act (general power to give guidance and directions) shall apply in relation to the exercise by the Agency of the intermediate body functions as if the reference in subsection (1) to the Secretary of State were a reference to the Managing Authority.

Statement of accounts

6. In section 14 of the 1998 Act (accounts and records), the duty in subsection (1)(b) to prepare a statement of accounts shall apply in relation to the exercise by the Agency of the intermediate body functions as if—

(a) The Schedule will form part of the management and control system of the Operational Programme required to be set up by the Member State by Article 58. Section 2 of the Schedule defines the functions to be reserved for exercise by the Managing Authority. Section 3 defines the functions to be entrusted to a single intermediate body for the Programme.

- (a) the reference to the income of the agency included a reference to the amount of any payment to the Agency of the Fund contribution; and
- (b) the reference to the expenditure of the agency included a reference to the expenditure by the Agency of the Fund contribution.

Global grant bodies

7.—(1) A designation under Article 42(1) of a global grant body shall be made by notice in writing directed to the body concerned.

(2) Neither the Secretary of State nor the Managing Authority shall designate a global grant body without the consent of the body concerned and without first consulting the Agency.

(3) Where any part of the Operational Programme has been entrusted to a global grant body, that body shall manage and implement that part in accordance with the provisions of the agreement that it concludes with the Secretary of State or the Managing Authority under Article 42(1).

(4) The Secretary of State may at any time by notice in writing revoke the designation of a global grant body made by the Secretary of State.

(5) The Managing Authority may at any time by notice in writing revoke the designation of a global grant body made by the Managing Authority.

Recovery of sums paid under a commitment

8. In any case where a sum falls to be paid to the Agency or a global grant body under, or by virtue of any action or decision taken under, the terms of a commitment, the sum so falling to be paid shall be recoverable on demand by the Agency or the global grant body concerned.

Provision relating to payment of the contribution from the Fund

9.—(1) In the documents that set up the system of management and control of the Operational Programme in accordance with the general principles laid down by Article 58, the Secretary of State shall make provision in relation to—

- (a) payments by the Managing Authority of the Fund contribution;
- (b) payments by the Agency from the Fund contribution; and
- (c) the certification and audit of such payments.

(2) The documents referred to in paragraph (1) may include provision for—

- (a) payment to the Agency of both instalments of the pre-financing amount for the Programme paid by the Commission in accordance with Article 82(1)(a);
- (b) payments to global grant bodies;
- (c) payments pursuant to a commitment;
- (d) relations which the Agency has with the certifying authority and the audit authority; and
- (e) relations which global grant bodies have with the Agency, the certifying authority and the audit authority.

(3) The amount of any payment to the Agency of the Fund contribution shall not be a resource of the Agency, and the expenditure by the Agency of that contribution shall be expenditure of the Fund and not expenditure of the Agency.

(4) Section 5 of the 1998 Act (powers) shall apply in relation to the exercise of the intermediate body functions as if the requirement in subsection (2) for the Secretary of State to consent to the giving of financial assistance were omitted.

(5) In this regulation—

- (a) “the audit authority” means the authority designated for the Operational Programme under Article 59(1)(c); and

(b) “the certifying authority” means the authority designated for the Operational Programme under Article 59(1)(b).

Signed by authority of the Secretary of State

28th December 2007

John Healey

Minister of State

Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Council Regulation (EC) No.1083/2006 (OJ L210, 31.7.2006, p.25) laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No.1260/1999 (“the Council Regulation”). The general provisions implemented by these Regulations relate to the European Regional Development Fund (“the Fund”).

The Commission of the European Communities has adopted a development strategy (known as an operational programme) to be carried out with the aid of the Fund in the West Midlands. The programme aims to strengthen regional competitiveness and employment. It was adopted on 17th December 2007 and is entitled “the operational programme for Community assistance from the European Regional Development Fund under the Regional competitiveness and employment objective in the region of the West Midlands in the United Kingdom”.

Article 59 of the Council Regulation requires the Member State to designate a managing authority to manage the programme, and authorises the Member State to designate one or more intermediate bodies to carry out some or all of the functions of the managing authority. The Secretary of State for Communities and Local Government is designated in the programme as the managing authority. Regulation 3(1) designates the West Midlands Development Agency (“the Agency”) as an intermediate body for the programme.

Regulation 3(2) entrusts functions to the Agency by reference to a published Schedule entitled “Schedule of Functions of the Managing Authority for the European Regional Development Fund: Operational Programme covering the Regional competitiveness and employment objective for the West Midlands”. The Schedule will form part of the management and control system of the programme set up in accordance with Article 58 of the Council Regulation. Section 2 of the Schedule defines the functions to be reserved for exercise by the managing authority, and section 3 defines the functions to be entrusted to a single intermediate body. A copy of the Schedule has been placed in the libraries of both Houses of Parliament.

Regulation 4 imposes a duty on the Agency to carry out the functions entrusted to it and to do so in accordance with the management and control system.

Regulations 5 and 6, which provide that the Regional Development Agencies Act 1998 shall apply with modifications, empower the managing authority to give guidance and directions relating to the exercise of the functions entrusted to the Agency, and require the Agency in its statements of accounts to cover the receipt and expenditure of money from the Fund.

Regulation 7 makes provision about designations under Article 42(1) of the Council Regulation for entrusting the management and implementation of a part of the programme to a global grant body.

Regulation 8 makes provision in relation to the recovery of sums paid pursuant to awards of assistance granted by the Fund.

Regulation 9 requires the management and control system to make provision in connection with the payment of the contribution from the Fund.

Copies of the operational programme and of the Schedule can be obtained from European Policy and Programmes Division, Department for Communities and Local Government, Zone 1/A2, Eland House, Bressenden Place, London SW1E 5DU, and from the internet website www.communities.gsi.gov.uk. An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

STATUTORY INSTRUMENTS

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£3.00

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Stationery Office and Queen's Printer of Acts of Parliament.

E1799 1/2008 181799T 19585

