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EUROPEAN COMMUNITIES, ENGLAND

The European Regional Development Fund (London Operational Programme) (Implementation) Regulations 2008

<i>Made</i> - - - -	<i>22nd May 2008</i>
<i>Laid before Parliament</i>	<i>28th May 2008</i>
<i>Coming into force</i> - -	<i>19th June 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 (London Operational Programme) (Implementation) Regulations 2008 and shall come into force on 19th June 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 1999 Act” means the Greater London Authority Act 1999(d);

“the Agency” means the London Development Agency established by section 1 of the 1998 Act(e);

“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;

(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. The Act is amended, so far as it relates to the London Development Agency, by Part 5 of, and Schedule 25 to, the 1999 Act.

(d) 1999 c.29.

(e) The Agency is the regional development agency established for the London region and is one of the functional bodies defined for the purposes of the 1999 Act by section 424(1) of that Act.

“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(a);

“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;

“the GLA” means the Greater London Authority established by section 1 of the 1999 Act;

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

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

“intermediate body functions” means—

- (a) in relation to the GLA, the functions entrusted to the GLA by virtue of its designation as an intermediate body by regulation 3(1);
- (b) in relation to the Agency, the functions entrusted to the Agency by virtue of its designation as an intermediate body by regulation 3(3);

“London region” means the region named “London” in Schedule 1 to the 1998 Act;

“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(b) 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 London region as a contribution towards achieving the Regional competitiveness and employment objective referred to in Article 3(2); and

“Schedule of Functions” means the document published by the Secretary of State on 16th May 2008 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 London”, prepared for the purpose of defining the functions of the bodies concerned in the management and control of the Operational Programme(c).

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

Designation of intermediate bodies for London

3.—(1) The GLA 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 GLA by virtue of its designation as an intermediate body are the functions specified in section 3A of the Schedule of Functions.

(3) 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 (4) under the responsibility

(a) OJ No L 210, 31.7.2006, p.25.

(b) The document 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 London in the United Kingdom” and was adopted by the Commission on 7th December 2007.

(c) 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 3A defines the functions to be entrusted to the GLA. Section 3B defines the functions to be entrusted to the Agency.

of the Managing Authority in relation to the management and implementation of the Operational Programme.

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

(5) The functions entrusted to the GLA by virtue of its designation as an intermediate body shall be exercisable only by the Mayor of London acting on behalf of the GLA.

(6) The Mayor of London may authorise any intermediate body functions of the GLA to be exercisable on behalf of the GLA by—

- (a) the Deputy Mayor; or
- (b) any member of staff of the GLA.

(7) An authorisation under paragraph (6) may be varied or revoked at any time by the Mayor.

(8) Any authorisation under paragraph (6), and any variation or revocation of such an authorisation, must be in writing.

(9) In this regulation, “Deputy Mayor” means the person appointed by the Mayor of London as Deputy Mayor of London under section 49(3) of the 1999 Act (the Deputy Mayor of London).

General duties of intermediate body

4. The GLA and the Agency shall each carry out its 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 GLA

5.—(1) The Managing Authority may give the GLA guidance or directions in relation to the exercise of the intermediate body functions of the GLA.

(2) Directions given under this regulation may—

- (a) restrict the exercise of any intermediate body functions, or
- (b) require the GLA to exercise its intermediate body functions in any manner specified in the directions.

(3) Directions under this regulation may be of a general or particular nature.

(4) The GLA shall be under a duty to comply with any direction given under this regulation.

(5) In exercising its intermediate body functions, the GLA shall have regard to any guidance given under this regulation.

(6) The Managing Authority may vary or revoke any guidance or direction given under this regulation.

(7) The powers in paragraphs (1) and (6) shall be exercisable only after consultation with the GLA and the Agency.

(8) Guidance and directions under this regulation and any variation or revocation of guidance or a direction under this regulation shall be in writing.

(9) The Managing Authority shall give to the Agency a copy of any guidance or direction given to the GLA under this regulation.

(10) The Managing Authority shall arrange for any guidance given under this regulation to be published in such manner as she considers appropriate.

Power to guide and direct the Agency

6.—(1) Section 27 of the 1998 Act^(a) (general power to give guidance and directions) shall apply in relation to the exercise by the Agency of its intermediate body functions as if—

- (a) the reference in subsection (1) to the Secretary of State were a reference to the Managing Authority; and
- (b) subsection (1A) were omitted.

(2) The Managing Authority shall give to the GLA a copy of any guidance or directions given to the Agency under this regulation.

Application of provisions of the 1999 Act

7.—(1) The GLA shall exercise the power conferred by section 30(1) of the 1999 Act (the general power of the Authority) compatibly with the exercise of its intermediate body functions.

(2) Sections 38 (delegation) and 39 (exercise of functions by joint committees) of the 1999 Act shall not apply in relation to the exercise by the GLA of its intermediate body functions.

Global grant bodies

8.—(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 GLA and 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

9. 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

10.—(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;

(a) Section 27(1A) was inserted by paragraphs 1 and 17 of Schedule 25 to the 1999 Act.

- (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) The Accounts and Audit Regulations 2003(a) apply to the Agency as if—

- (a) a reference (however expressed) to money received by a relevant body includes a reference to the amount of any payment to the Agency of the Fund contribution; and
- (b) a reference (however expressed) to money expended by a relevant body includes a reference to the expenditure by the Agency of the Fund contribution.

(5) In making the calculations required by section 85 of the 1999 Act(b) (calculation of component and consolidated budget requirements) for a financial year, the Authority shall in the case of the Agency calculate the aggregates required by virtue of subsections (4) and (5) of that section in accordance with paragraph (6).

(6) For the purpose of estimating any amount referred to in those subsections, the Authority shall not take account of the estimated amount of any payment to the Agency of the Fund contribution or the estimated amount of any expenditure by the Agency of that contribution.

(7) Section 5 of the 1998 Act(c) (powers of a regional development agency) shall apply in relation to the exercise of the intermediate body functions of the Agency as if—

- (a) the requirement in subsection (2) for the Secretary of State to consent to the giving of financial assistance were omitted; and
- (b) subsection (4) were omitted.

(8) 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

22nd May 2008

John Healey
Minister of State

Department for Communities and Local Government

(a) S.I. 2003/533.

(b) Section 85(4) and (5) was amended by section 12 of the Greater London Authority Act 2007 (c. 24) and S.I. 2007/227.

(c) Section 5 was amended by paragraphs 1 and 2 of Schedule 25 to the 1999 Act.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Council Regulation (EC) No.1083/2006 (OJ No L 210, 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 London. The programme aims to strengthen regional competitiveness and employment. It was adopted on 7th 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 London 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) and (3) designates the Greater London Authority (“the GLA”) and the London Development Agency as intermediate bodies for the programme.

Regulation 3(2) and (4) entrusts functions to the intermediate bodies 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 London”. 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 each of the intermediate bodies. A copy of the Schedule has been placed in the libraries of both Houses of Parliament.

Regulation 4 imposes a duty on the intermediate bodies to carry out the functions entrusted to them, and to do so in accordance with the management and control system.

Regulations 5 and 6 give the managing authority power to give guidance and directions to the intermediate bodies.

Regulation 7 makes provision about the application of the Greater London Authority Act 1999 (c. 29) in relation to the exercise by the GLA of its intermediate body functions.

Regulation 8 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 9 makes provision in relation to the recovery of sums paid pursuant to awards of assistance granted by the Fund.

Regulation 10 requires the management and control system to make provision in connection with the payment of the contribution from the Fund. It also makes provision about treatment for accounting and budgetary purposes of sums paid out of 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 3/A1, 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.

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