

First level control system of the Interreg Baltic Sea Region

GERMANY

FLC system: Decentralised

Controller selection: The lead partner (LP) or the project partner (PP) is free to appoint its qualified and independent first level controller.

The first level controllers can be either internal or external to the project partner organisation. The first level controllers are the:

1. **Qualified controllers from the public sector**

These are according to national standards and legal regulation all public bodies authorised to carry out independent financial audits and controls, e. g.

- *Rechnungsprüfungsämter* (offices for auditing and accounting control);
- so-called *Unabhängige Stellen für die Strukturfonds* (Independent Bodies for Structural Funds);
- *Unabhängige interne Prüfstellen* (independent internal departments for audit and controls).

The national standards referred to above stem from the largely uniform nation-wide regulations governing budgets and tied grants, which in turn are a result of the uniform character, based on the so-called Budgetary Principles Act, of the Federal and State budget codes (cf. Federal Budget Code/State Budget Codes, § 23, 44, 91).

Under § 35, 36, 37, 48, 49 and 49a of the federal Administrative Procedures Act (*VwVfG*), the tied-grants system (*Zuwendungsrechtsverhältnis*), too, is uniform in implementation.

2. **Qualified controllers from the private sector**

Qualified controllers in the private sector must belong to a professional group officially approved for dealing with audit and controls. A person is a member of such a professional group if he/she meets requirements set up

by the specific professional association (e.g. Federal Chamber of tax consultants).

With regard to Germany and the German part of the programme, tax practitioners as defined in section 3 of the Tax Consultancy Services Act (*Steuerberatungsgesetz*) are obliged to assess compliance with regard to expenditure reported by private beneficiaries in line with REGULATION (EU) No 1299/2013, Art. 23(4-5) and REGULATION (EU) No 1303/2013, Art. 125 (4) and the Programme.

Tax practitioners include:

- *Steuerberater* and *Steuerberatungsgesellschaften* (tax consultants or consultancy firms);
- *Steuerbevollmächtigte* (tax agents);
- *Rechtsanwälte* and *Rechtsanwaltsgesellschaften* (solicitors or law firms);
- *niedergelassene europäische Rechtsanwälte* (practising European lawyers);
- *Wirtschaftsprüfer* and *Wirtschaftsprüfungsgesellschaften* (chartered certified / certified accountants or accountancy firms);
- *vereidigte Buchprüfer* and *Buchprüfungsgesellschaften* (sworn accountants or accountancy firms);
- Tax professionals or firms practising in Switzerland or a Member State other than Germany under the law of that country, as long as their services constitute a service under Article 50 of the EC Treaty. The provisions of section 3(4) of the Tax Consultancy Services Act apply.

Controller's qualification:

The first level controller validating the expenditure and activities of the lead partner/project partner must fulfil the requirements set in the Programme Manual. In addition he/she has to have

- Knowledge of English language;
- Knowledge of structural funds regulatory framework;
- Skills and experience in the field of EU-funds.

1. The project partner proposes a controller in the public sector.

In this case the general accountant's qualification is guaranteed by the public institution the accountant is working for.

2. The project partner proposes a controller in the private sector.

In this case the general accountant's qualification is guaranteed by the following public bodies that are entrusted with this task:

- For tax consultants and tax agents: The state supervised Chambers of Tax Consultants as given in Annex 1.
- For certified accountants, sworn accountants and accountancy firms: The state supervised Chambers of Public Accountants as given in Annex 2.

The general accountant's qualification is guaranteed by being a member of the appropriate chamber and the membership proof has to be submitted to the designation body. Membership in the appropriate chamber is only granted if the accountant achieved his or her professional degree based on the standards set by the chamber and passed an examination supervised by the chamber. Hence, the membership itself is indication of the required qualification.

In order to additionally ensure the specific quality of control in the framework of the Interreg Baltic Sea Region the project partner and his selected controller have to fill in and sign the first level controller(s) specification in which they both confirm the specific qualification and independence of the first level controller.

Controller approbation:

Controllers from the public sector & controllers from the private sector

For both groups the controlled lead partner/project partner submits the specification of the first level controller to the approbation body (see the template on the Programme's web site). In addition the specification has to be inherent part of the controller's contract with the lead partner/project partner.

The responsible approbation body will then confirm/not confirm that the information provided by the project partner and his selected controller gives reasonable assurance about the controller's specific qualification and independence. In case of approval the relevant designation body signs the approbation certificate and sends it to the respective PP as well as to the German FLC Main Contact Point.

The FLC Main Contact Point will keep a list of approbated controllers.

The PP submits the approbation certificate to the LP.

The controller has to be officially confirmed by the approbation body before the first expenditure can be certified and reported.

Approbation body:

National Approbation Body Contact Point

Ministerium für Justiz, Kultur und Europa
des Landes Schleswig-Holstein
Lorentzendam 35
24103 Kiel

Mr. Mario Schulz
Tel.: +49 431 988 2131
Email: mario.schulz@jumi.landsh.de

Approbation bodies in each federal state

See “Annex 3 Approbation bodies in Germany“

Costs of the FLC:

The costs of an external or an internal controller can be reported as part of the project expenditure and co-financed by Interreg Baltic Sea Region.