



Government
Internal Audit
Agency

OFFICIAL – INVESTIGATION

**GOVERNMENT INTERNAL AUDIT AGENCY
(GIAA)**

**INVESTIGATION
FINAL REPORT:
Interreg-2015-01**

REVIEW OF THANET DISTRICT COUNCIL:

IMPACTE Project

INTERREG IIIB – NWE Programme

ERDF 2000-06

7 March 2016

This report and management letter contains the results of the GIAA's review into alleged irregularities. The GIAA accepts no liability in relation to the use of the information within this report if used for any purpose other than its original intention.



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1 Introduction

- 1.1 Government Internal Audit Agency (GIAA): Investigation Team received a referral from OLAF: European Anti-Fraud Office following information received, from a whistle-blower in relation to potential irregularities. The referral related in particular to dredging works foreseen in the IMPACTE project that were allegedly never executed whilst the grant recipient claimed the ERDF co-financing for normal maintenance dredging and/or for other activities not approved for the ERDF project.

2 Background

- 2.1 The Port of Ramsgate is one of 27 Partners involved in the Intermodal Port Access and Commodities Transport in Europe (IMPACTE) Project (Interreg IIIB – NWE Programme); the project applicant is owned and operated under the control of Thanet District Council. The Lead Partner for the project was South East of England Development Agency (SEEDA) which no longer exists.
- 2.2 SEEDA, as the project Lead Partner, was responsible for the detailed project appraisal before project implementation was approved. The Lead Partner had the sole responsibility for the budgetary and financial management of the project and the realisation of payment claims and financial reports. The Partners were obliged, as per the Joint Convention (legal agreement between SEEDA and Thanet District Council), to have their project accounting certified by an accountant or auditor.
- 2.3 The project start date was 1 June 2005 and was due to end on 30 June 2008. The Port of Ramsgate & Port of Oostende project was part of a combined 'Investment' seeking Interreg funding to part fund a dredging campaign (turning circle and berths 2 & 3; so larger vessels could be introduced) at Ramsgate and a 2nd double deck RoRo berth at Oostende. Although the Investments were as two geographically separate investments they were effectively a single national investment between two partner ports to allow the next generation of RoRo ferries to access the Ports' facilities. The key objective of the investment was to retain the Transeuropa Ferries Service.

Note: For clarity the ERDF Interreg project comprises both the Port of Ramsgate and the Port of Oostende as individual partners and Investments i.e. they have their own budget and ERDF allocation. Also, the Grant Recipient is Thanet District Council.



2.4 The IMPACTE Project had the following expenditure profile:-

Port of Ramsgate

- Construction costs (Capital dredging) = €500,000
- Total Eligible costs (including staff/travel costs) = €573,462
- ERDF Funding = €160,282.63 (Grant rate = 27.95%)
- Match Funding (Thanet District Council) = €413,179.37

2.5 Principally the whistle-blower raised concerns to a substantial part of the project (dredging works) not being carried out with only normal maintenance dredging taking place. Annual revenue budgets were in place to cover the majority of the expenditure that the project was claiming. The whistle-blower provided various documents which supported the contention that the dredging works were financed from within existing budgets. Further to this evidence was provided which showed Thanet District Council staff were aware the works required under the conditions of the funding had not been carried out and on receipt of ERDF grant set this aside in case a repayment was required; subsequently this was re-allocated to the Port of Ramsgate budget.

2.6 The GIAA Investigation team conducted an initial desk based review of the documentation provided by the North West Europe Programme Secretariat and also by the whistle-blower which included internal project correspondence. We referred OLAF's concerns and our initial conclusions to DCLG, which authorised GIAA to undertake a full investigation. The main focus of this investigation was to:

- review the project expenditure claims and supporting dredging records to establish if costs claimed were eligible.
- establish who was responsible for project and financial management; and
- establish whether the use of ERDF funds had been properly reported to the Managing Authority.



3 Executive Summary

3.1 The GIAA Investigation examined all aspects of the IMPACTE (Port of Ramsgate) Project and identified two main areas of concern:

3.2 Eligibility of Expenditure

3.2.1 Our initial desk based review identified potential ineligible expenditure. Claim records (description of activity) and activity reports suggested that project activity i.e. dredging work was charged to the ERDF project before it was planned to start.

3.2.2 The Grant Recipient could provide no evidence of a project plan, cost analysis or details of a planned dredging campaign, including a dredging survey, specific to the ERDF project. Also, the IMPACTE project had no separate budget or cost code for expenditure within Thanet District Council's accounting records.

3.2.3 The Grant Recipient provided full details of all project expenditure including related invoices. We carried out a review of all evidence presented in respect of the project (dredging) works undertaken. We discussed a number of queries concerning items of project expenditure but no further information or explanation could be provided. Annex 3 shows details of the conclusions drawn.

3.2.4 During our visit to the Port of Ramsgate Harbour Master's office we were supplied with dredging charts and disposal returns for both the project period and a later dredging campaign (2010). From this information it was clear that during the project period only normal maintenance dredging was carried out and not the campaign that was required to accommodate larger vessels (as per the project description). We raised these issues with the current [REDACTED]

[REDACTED] who both agreed that the aforementioned documents showed there was no evidence of a dredging campaign being carried out to deliver the project's objectives i.e. enlarging the turning circle and dredging of berths 2 & 3, prior to 2010.

3.3 ERDF Grant: Accounting Treatment

3.3.1 The accounting treatment of the ERDF grant is unusual in that the grant was received in March 2008 and June 2009 but remained on the balance sheet until it was 'Credited to Services' 2009/10; this was confirmed in the Statement of Accounts (2010/11). We were informed that Thanet District Council's Finance function were not sure how to account for the grant. It transpired the grant was



eventually added back into the Council's own budget and used in 2010 to fund Port improvements.

- 3.3.2 We were advised by [REDACTED] that the Council's Section 151 Officer had made the decision to spend the ERDF grant (£165k) and this was based on an audit 'sign off'. Also, [REDACTED] added there may have been concerns because the outputs were not delivered due to larger vessels not being introduced. We saw no evidence of any audit being carried or the decision papers authorising this action.

4 Conclusion

- 4.1.1 Based on our desk based review we identified various issues with the Project claims, in particular project activity and related expenditure being before the start/implementation date of the project.
- 4.1.2 As a result of our visit to Thanet District Council and discussions with the [REDACTED] we are of the view the project did not deliver the dredging works to achieve the project objectives. It is evident from the records provided the dredging work carried out during the project period was maintenance dredging only; the aforementioned Council officials agreed with our conclusions.
- 4.1.3 In regard to the accounting treatment of the ERDF grant received the Council could not provide any evidence to explain the unusual treatment of the ERDF received. The whistle-blower provided the GIAA Investigation team with a report and internal correspondence which suggested Council officers (who are no longer employed) made a decision to retain ERDF funding knowing dredging works carried out during the project period had been financed within existing budgets and that the works carried out were not those required under the conditions of ERDF funding.
- 4.1.4 Taking into consideration the findings of this report we would recommend that the ERDF Managing Authority implement the following:
- 1) Consider reporting our findings to the Police (Action Fraud) as a potential fraud case. There is sufficient evidence in our view of intent to defraud:-
 - The project claims compiled by [REDACTED] and authorised (verifying expenditure) by [REDACTED] were a deliberate action to claim ERDF grant knowing the costs were for other activities not approved for the ERDF project.



- Thereafter, Thanet District Council officials made a deliberate decision not to refund the ERDF grant when it was clear it had not been used for the purposes intended.

It will be a matter for the Police as to whether they agree with this judgement.

Note: This matter was referred to the Police by the whistle-blower in March 2013. At that point in time the Police decided not to investigate.

2) Deal with this matter internally as an Irregularity:

- The project did not deliver activity as described in the application and therefore all expenditure is at risk: Article 30 of EC Regulation 1260/1999 refers. Total Ineligible expenditure = £616,149.03. (ERDF = £165,178.66)

Note: The Grant Recipient would have been provided with the North West Europe: Interreg IIIB Project Audit Guidance Note. This states ‘Expenditure actually paid out is the basis for assessing the eligibility of expenditure under the INTERREG IIIB NEW Programme. This means expenditure directly linked to the approved budget’.

- Should the Managing Authority not agree with the main conclusion there are subsidiary issues that would need to be addressed; as per Annex 3 which details the – total ineligible expenditure = £480,499.97 (ERDF = £128,813.54) and the reason for ineligibility.

Update: The DCLG Managing Authority and the Grant Recipient have reviewed the Investigation report. As a result the Grant Recipient has provided further information in relation to the receipt and treatment of ERDF grant; this was in respect of retention fees (paragraph A2.9 (3) refers). The Council’s statement on this is accepted. Therefore, the revised ineligible expenditure is as follows:-

Claim No.	ERDF grant claimed (€)	ERDF grant received (£)
3	96,554.97	65,396.98
6	115,881.84	85,008.91
Total Ineligible Expenditure	212,436.81	150,405.89



5 Methodology

- 5.1 GIAA Investigation Team agreed to carry out a review in order to establish the extent of the issues alleged by the whistle-blower and to identify if any of these issues could be the result of fraudulent actions.
- 5.2 In order to achieve these aims GIAA has focussed on the Project Claims: Expenditure, supporting evidence of dredging carried out during the project period, and the actions of officials at Thanet District Council. We also undertook a desk based review of the project documentation provided by the North West Europe Secretariat (based in Lille, France) and also by the whistle-blower which included internal project correspondence.
- 5.3 We contacted Thanet District Council in order to agree a suitable date to visit their premises to discuss and view:
- 1) Original documentation which supported the project expenditure claims; this was to include supporting documentation in relation to dredging carried out during the project period.

A visit was subsequently arranged for 20 – 22 October 2015.



ANNEX 1 – Main Findings

A1 Desk based review of 1) Project Expenditure Claims, and 2) Documents supplied by the whistle-blower.

Project Expenditure Claims

A1.1 The following provides details of project expenditure and ERDF claimed:-

Claim No.	Claim period: reference date	Expenditure (€)	Expenditure (Dredging)	ERDF (€)
3	31/10/2007	345,456.08	318,216.20	96,554.97
6	31/10/2008	411,604.07	402,544.89	114,016.11
Total		757,060.15	720,761.09	210,571.08

The total project expenditure and ERDF claimed are in excess of the approved amounts. The Final Activity Report (No.5: date of submission 31/12/2008) refers to an 'Additional ERDF request and approval from PSC'; no further details of this are available.

A1.2 The Project start date was 1 June 2005. The Project Application: Implementation Schedule shows start date of the IMPACTE project (Port of Ramsgate) 13 months from the project start date i.e. July 2006.

Project Activity reports confirm the following;

- Activity Report No.1 (October 2006): Dredging works to deepen the maritime access to the Port of Ramsgate will begin following the finalisation of the works in Oostende (noted as started in February 2006 and to be completed May 2007).
- Activity Report No.2 (April 2007): Dredging works to deepen maritime access will start as soon as works in Oostende are finished (noted the Oostende operation will be ready by October 2007.)
- Activity Report No. 3 (October 2007): In the Port of Ramsgate the size of the turning circle to enable larger vessels to enter the Port has been improved (noted as 'TBC'). Oostende operation noted as due to be finished in November 2007.



The above Activity Reports and comments therein suggest that dredging works were being charged to the project before it was anticipated it would start. Payment Claim 3: Itemisation of project Expenditure per project partner for the period to 31 October 2007 includes dredging costs for the period June 2005 – April 2007 as follows:-

Invoice Date	Supplier	Description	Invoice amount (£)	Amount paid (£)
16/05/2005	[REDACTED]	Dredging: June 2005	44,415.00	37,800.00
08/07/2005	[REDACTED]	Dredging: July 2005	33,487.50	28,500.00
21/04/2006	[REDACTED]	Dredging: April 2006	28,200.00	24,000.00
01/04/2006	[REDACTED]	Dredging: April 2006	21,414.41	18,225.03
31/08/2006	[REDACTED]	Dredging: August 2006	29,339.75	24,970.00
27/02/2007	[REDACTED]	Dredging: February 2007	58,538.50	49,820.00
14/05/2007	[REDACTED]	Dredging: April 2007	25,908.75	22,050.00
Total				£205,365.03

Documents supplied by the whistle-blower

A1.3 A report entitled 'Request for Carry Forward of ERDF Funding' (compiled by [REDACTED] Thanet District Council: 24 April 2008) includes the following extracts:-

- The dredging works undertaken by TDC have been financed from within existing budgets it has been suggested that the works required under the conditions of the funding have not been carried out and therefore the balance should be set aside in case it is required to be repaid.
- Advised that normal dredging works had been undertaken, as well as some additional dredging indicated that it would be difficult to audit these outputs and was not forthcoming in suggesting any way in which we could demonstrate the works expected had actually been carried out.



- Since the meeting dredging charts are maintained and that an expert would be able to determine from these that the dredging carried out is only that would be expected over the course of an average year.
- Implied that TDC was behind with dredging works which would seem to indicate that the major dredging works for which funding was given have not been carried out.
- unconvinced that we could prove that the expected outputs of the project have been delivered. There is therefore the very real possibility that were this project to be audited we would be required to repay some or all of the funding awarded. I would suggest it would be prudent not to allow the carry forward but to draw down the funding and set revenue aside in case a repayment is required.

In essence the report, instead of recommending repayment of the funds, weighed up the likelihood of the project being audited and the Council being found out.

Also, internal email correspondence states 'The Council did not use the £165,178.66 to fund the dredging works claimed as part of the project, but used it a later date to fund other dredging works'. This seems to borne out by the Thanet District Council – Statement of Accounts 2010-11 includes £165k – Interreg - IMPACTE as being Credited to Services 2009/10.



A2 Details of visit to Thanet District Council (TDC)

A2.1 We decided to visit TDC in order to:-

1. Audit the project expenditure claims to test eligibility.
2. Confirm eligibility of expenditure (project works) through supporting documents i.e. dredging records.
3. Discuss the project management structure and responsibility for financial management of the project.
4. Ascertain if any of the allegations from the whistle-blower had any foundation.

A2.2 We contacted TDC and agreed to visit their offices in Margate from Tuesday 20 October 2015.

A2.3 At the meetings during 20 – 22 October we interviewed the following representatives from TDC:-

- [REDACTED]

A2.4 The opening meeting commenced with a request for an overview of the project and details of the project management structure. [REDACTED] explained the IMPACTE project aimed to build a new double deck Ro-Ro berth in Ostend. At Ramsgate the dredging works were to accommodate larger vessels; work was to include enlarging the turning circle and dredging berths 2 and 3. [REDACTED] further explained the works to be carried out would have to relate to a specific vessel and be carried out so the vessel would arrive as soon as the works were complete. We requested a project plan and project cost analysis but these were not available. Also, there was no evidence of a dredging survey specifically carried out with the focus of the ERDF project objectives.

The financial management of the project was the responsibility of the then [REDACTED] and the then [REDACTED] neither of whom are now employed by the Council. This included compiling and ensuring the ERDF project claims were eligible; claims were authorised by the [REDACTED]. We pointed out there was a requirement for project claims to be certified by an Accountant or Auditor. [REDACTED] commented there was no evidence of audits of the project, or checks by a First Level Controller, as required by Interreg rules. He re-iterated the [REDACTED] and [REDACTED]



██████████ were responsible for ensuring eligibility of project claims. Invoices were authorised at the Harbour and passed to TDC for payment.

Expenditure testing

A2.5 Testing was carried out in respect of the 2 x ERDF project claims submitted: Claims 3 and 6. TDC provided details of all project expenditure – Invoices and evidence of defrayment.

The GIAA Investigation Team had a number of questions in relation to the Invoices primarily concerning eligibility. CB could not provide any additional information or explanation.

A2.6 It is clear from the records provided that project expenditure was only maintenance dredging throughout the project period.

The following provides extracts from Invoices and supporting records:-

- Invoice: ██████████ (Dredging – August 2006) – works carried out in response to a complaint from ██████████ re depths and areas of turning circles (this was using existing small ferries).
- Invoice: ██████████ ██████████ (Dredging – February 2007) – correspondence from contractor states works to known shallow areas and those prone to silting.
- Invoice: ██████████ (Dredging – April 2007) – spoil from the Royal Harbour entrance.
- Invoices: ██████████ (Dredging – March/April 2008) – works relate to Eastern Marina.
- Invoice: ██████████ (Dredging – April 2008) – funding from maintenance budget.

The following provides extracts from 'Application for Exemption from Contract Standing Orders':-

- 24/05/2005: Emergency Maintenance Dredging; work is to complement recent dredging.
- 10/04/2006: These costs can be funded through the approved 2006/07 budget.
- 01/03/2007: Urgent dredging to maintain the port operations; funded through the approved 2006/7 budget.
- 31/3/2008: Urgent dredging; ongoing problem in the Royal Harbour and in the marina.
- 26/08/2008: Berth No. 1 needs dredging to facilitate its use by ██████████ vessels for the construction of the windfarm. ██████████ has agreed to pay for the dredging costs on completion.



See Annex 3 for findings.

Dredging records

A2.7 We were provided with the following evidence:-

- Dredging charts: those available for the project period (September 2005 – August 2008).
- Dredging charts during the campaign to accommodate the Prins Filip vessel (March – April 2010).
- Disposal returns (deposit records for dredged material): January 2005 – July 2011.
- Notes relating to procurement and dredging operations maintained by the [REDACTED].
- Plans for the dredging to allow the Prins Filip vessel to use the Port of Ramsgate.

A2.8 The disposal returns showed the following:-

Period	Deposit (Tonnes)
2005/06	43,286
2006/07	128,060
2007/08	66,723
2008/09	95,439
Total	238,658

[REDACTED] provided details of dredging work carried out to accommodate the Prins Filip vessel (March – April 2010). This was seen as comparable to the dredging campaign which should have been carried out during the IMPACTE project period; the Prins Filip vessel was of similar size as to what was envisaged being accommodated at the Port. The total deposit for this dredging campaign = 288,315 tonnes which is more than the 4 year period shown above. [REDACTED] was asked if [REDACTED] could see from the dredging charts provided for the duration of the IMPACTE project whether the same work was done prior to 2010. [REDACTED] commented that there was no evidence that comparable work had been carried out.

[REDACTED] was asked from the evidence that had been produced (as above) if he agreed the IMPACTE project activity i.e. dredging work to the turning circle and berths had not been carried out. [REDACTED] confirmed yes, from the dredging charts and other evidence it was clear that the work had not been carried out.



Receipt and treatment of ERDF grant

A2.9 We enquired into the receipt of ERDF grant and were provided with evidence to confirm the following:-

1. Claim 3: ERDF expenditure = £246,914.73
 - ERDF grant paid £65,396.98 (received 27/03/2008)
2. Claim 6: ERDF expenditure = £369,234.30
 - ERDF grant paid £85,008.91 (received 05/06/2009)
3. Retention fees refunded by SEEDA: ERDF = £6,430.00 & £8,342.79 (received 13/11/2009)
4. Total ERDF expenditure = £616,149.03
 - total ERDF grant received = £165,178.66

A2.10 Thanet District Council: Statement of Accounts (2010/11) shows the ERDF grant income = £165k (Interreg: IMPACTE) as credited to Services (2009/10).

█ explained the following:-

- Claim 3 payment (as above) was put on balance sheet; TDC Finance were not aware what this payment was for. Therefore, the grant was in the balance sheet unaccounted for.
- Claim 6 payment (as above) was accounted for within the SEEDA cost centre during 2009/10 (not specifically to the ERDF project).
- Retention Fees (as above) received back from SEEDA.
- █ confirmed the £165k was added to the 2010 budget to fund Port of Ramsgate improvements.
- The above decision was made by █
█; █ decision was based on an audit 'sign off' that was notified in Ostend to █ and █
█
- █ expressed there may have been concerns because the outputs were not delivered due to larger vessels not being introduced. We requested the decision papers including the audit report.
- No evidence was provided during the audit visit and it was latterly (email dated 6 November 2015) confirmed there are no written records of what lead the █ to approve the drawdown of the above funds.



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Annex 3: Expenditure at Risk

Claim No.	Supplier	Invoice date	Description	Invoice total	ERDF amount	Reason ineligible
3	[REDACTED]	16/05/05	Dredging: June 2005	44,215.00	37,800.00	Before project start date
3	[REDACTED]	08/07/05	Dredging: July 2005	33,487.50	28,500.00	Before project implementation date
3	[REDACTED]	13/09/05	Survey preparation	1,175.00	1,000.00	No details of apportionment
3	[REDACTED]	21/04/06	Dredging: April 2006	28,200.00	24,000.00	Before project implementation date
3	[REDACTED]	01/04/06	Dredging: April 2006	21,414.41	18,225.03	Before project implementation date
3	[REDACTED]	24/07/06	Dredging licence 2006	7,860.75	6,690.00	No details of apportionment
3	[REDACTED]	31/08/2006	Dredging: August 2006	29,339.75	24,970.00	Before project implementation date
3	[REDACTED]	27/02/2007	Dredging: February 2007	58,538.50	49,820.00	Before project implementation date
3	[REDACTED]	14/05/2007	Dredging: April 2007	25,908.75	22,050.00	Before project implementation date
3	[REDACTED]	27/06/07	Dredging licence 2007	9,282.50	7,900.00	No details of apportionment
3	[REDACTED]	31/08/06	Dredging survey 2007	7,625.75	6,490.00	No details of apportionment
3	[REDACTED]	-	July'05 – October'07	22,876.90	19,469.70	No details of work carried out
6	[REDACTED]	31/03/08	Dredging: March 2008	11,750.00	11,750.00	Works relate to Eastern Marina; not part of project
6	[REDACTED]	30/04/08	Dredging: March 2008	70,500.00	60,000.00	Works relate to Eastern Marina; not part of project
6	[REDACTED]	21/05/08	Dredging: April 2008	68,620.00	58,400.00	Works relate to Eastern Marina; not part of project
6	[REDACTED]	29/08/08	Dredging: August 2008	120,596.41	102,635.24	Works chargeable to Thanet Off Shore
6	[REDACTED]	12/10/08	Dredging study	800.00	800.00	No details of apportionment
				Total	£480,499.97	