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European Regional Development Fund
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National Rules Question and Answers



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ALLOWANCES

Q. *There is no provision for training allowances in the national rules, in terms of simply paying a participant an allowance while on the course. It only covers that it can only be used to purchase essential training equipment. Are training allowances still eligible?*

A. Training allowances are eligible.

ELECTRONIC STORAGE OF DOCUMENTS

Q: *A Project Sponsor has a number of ESF and ERDF funded projects where they collect data from a number of other sources. They have been asked about the possibility of submitting some documents electronically including for ESF, a participant registration form. The Project Sponsor currently obtains and keeps hard copies of these signed by the participant.*

Q1. *Can these be submitted electronically rather than as a signed hard copy?*

Q2. *Associated with this the acceptability of storing such records as scanned documents rather than holding an original copy? and*

Q3. *The acceptability of scanned signatures on documents?*

A: Article 19 of EC Regulation 1828/2006 P 4 - 6 state:

4. The following at least shall be considered commonly accepted data carriers as referred to in Article 90 of Regulation (EC) No 1083/2006:

(a) photocopies of original documents;

(b) microfiches of original documents;

(c) electronic versions of original documents;

(d) documents existing in electronic version only.

5. The procedure for certification of conformity of documents held on commonly accepted data carriers with the original document shall be laid down by the national authorities and shall ensure that the versions held comply with national legal requirements and can be relied on for audit purposes.

6. Where documents exist in electronic version only, the computer systems used must meet accepted security standards that ensure that the documents held comply with national legal requirements and can be relied on for audit purposes."

In the view of the Managing Authority:

A1: The documents can be submitted electronically, but for the purposes of ESF the registration form would still have to be signed and the document scanned prior to submission.

A2: Where documents exist in electronic version only the computer systems used must meet accepted security standards that ensure that the documents held comply with national legal requirements and can be relied upon for audit purposes, over a potentially extended period (i.e. at least end of December 2019).

- A3: Finally, the Regulations do not appear to provide scope for the acceptability of scanned signatures on documents. However, they do allow for the scanning of the original document once it has been signed by a participant, provided there is an accepted basis for certification. It is also important that the electronic version of the document should be scanned in a manner which will ensure its probative value in a court of law.

ERDF CAPITAL COSTS

Statutory Costs

- Q: *Are the costs of planning applications, building warrants eligible for ERDF support, as they could be seen as Statutory Requirements and the National Eligibility Rules state at Section 5.7 the costs of works being carried out as Statutory Requirement are ineligible.*

- A: The costs associated with **changes** to a building because the legislation stipulates you must do this, i.e. DDA or the building is falling down and you have to do repairs and maintenance to ensure that it is safe, and that is the project, would be **ineligible** as this would be a Statutory Requirement.

However, if this activity is carried out as part of a new build or a refurbishment of existing premises these costs would be included in the overall project costs and would be **eligible**.

In this case we are dealing with a charge as part of the contract costs, your building may require planning permission and building warrants and these are all legitimate **eligible** costs associated with pre and post contract activity.

In-house Professional Fees

- Q: *A project sponsor has in-house professionals working on ERDF funded projects. The hourly rate is calculated on the basis of the annual weeks minus the annual/public holidays giving net weeks times the number of hours worked to which they then apply a 10% (downtime calculation) for administrative activity reducing the hours from 35.5 to 32, per week, which is used to calculate the hourly rate. Is this eligible?*

- A: The hourly rate should be based on the contracted hours of 35.5 in line with the guidance in the National Eligibility Rules.

Internal Fees – pre Project Approval

- Q: *Are in-house professional fees incurred prior to the project approval eligible for support?*
- A: As long as the costs are incurred and defrayed after 1st January 2007 then these costs would be **eligible**. They should be treated in line with any other pre-contract costs.

FLEXIBILITY

- Q. *LUPS Priority 1 ESF / Priority 3 ERDF – clarification is sought on the 10% flexibility of spend outwith the programming area, one assumes that this is activity in non geographical targeted area. Are these costs for the 10% reflected as eligible or ineligible costs.*
- A. Where 10% flexibility is accepted within a project, the costs are eligible.

- Q.** *Is 10% flexibility restricted to Spend or Participants or both?*
- A.** The 10% flexibility relates to spend – the Regulation says, ‘spend’. At a practical level, this means that ESF (or ERDF) may, in duly justified cases, be spent on what would normally be eligible ERDF (or ESF) activities.
- Q.** *Can training of participants who work in the LUPS area but are resident in the Convergence area be supported?*
- A.** Participants would be eligible based on the location of their employment. This will largely apply under ESF Priority 2 – and applies equally to ‘Convergence workers’ resident in the LUPS area.
- Q.** *An ESF project has a substantial element of portable training equipment integral to the project and essential to its implementation (a classroom in a box) – is this eligible under the 10% flexibility rule?*
- A.** There is a presumption against flexibility. In any exceptional cases, justification would have to be very clear:
- For flexibility
 - For not using depreciation option
 - For movable equipment under ERDF rules

GRANT SCHEMES

Audit Trail

- Q:** *A project sponsor queried what systems should they have in place to support their ESF training grant scheme, in particular the audit trail.*

At the moment the SME books and pays for the training, submits an invoice to the Grant Administrator who then arranges payment back to the SME, the audit trail stops at this point.

- A:** Irrespective of the type of grant scheme it should comply with the guidance set out in National Eligibility Rules.

In this case before including the payment of grant in the Progress Report and Claim the project sponsor should retain on file a copy of the invoice (from the training provider) and bank statement from the SME to show that the expenditure has been incurred and defrayed, as part of the audit trail.

INCOME/REVENUE GENERATION

It is important first to distinguish between income accruing to a project (which normally applies to revenue projects where project activity earns income) and revenue generation which normally affects capital projects where the creation of an asset leads to the asset generating revenue, for example, through rental or leasing..

Income

- Q.** *If a Private organisation is signed up to a project and the organisation is benefiting directly from the project then is any FINANCIAL contribution classed as income and deducted from the total eligible cost?*

- A. Where a project partner's participation in or contribution to a project generates income, said income should be deducted from eligible costs. This applies both to income deriving immediately / simultaneously with project activity and to revenue generated later as a result of, for example, leasing a building built with ERDF support.

INFILL

- Q. *A transaction list to support a claim includes time being claimed against lecturer costs. It would appear that the college are apportioning the staff salary regardless of how many or few ESF eligible students are in the class. For example just 1 out of classes of 9 or 10 and a claim of £7 being made for that class.*

This would have been ineligible in the last programme, and does raise some concern that they appear to be continuing to do this?

- A. These costs are ineligible on two basic counts – firstly, in the above example, the 'ESF' activity amounts to only about 10% (since only 1 of the 10 participants is ESF eligible). Secondly, it also fails the 'reasonableness' test. While there is no agreed formula, ESF eligible students should represent the majority of students for (part of) staff salaries to be eligible. So, at least 50%.

INSURANCE SECTION 3.6

- Q. *'.....Insurance of buildings, contents and for **public indemnity** are eligible.....'*

*I am looking for clarification regarding the wording in the national rules for '**Public Indemnity**', as far as I am aware there is either 'Professional Indemnity' or 'Public Liability' insurance but I am not familiar with public indemnity. I have come across in some applications costings for professional indemnity insurance and public liability but unclear which is eligible.*

- A. Public liability insurance is what's intended here. Professional indemnity would also be eligible provided this was essential to delivery of the project and additional to standard provision that organisations / individuals could be expected to hold.

JOB ROTATION

- Q. *Job Rotation projects in the past have included a Manager or Supervisor's costs within an SME as an in-kind contribution to the project. These managers/supervisors basically job shadow the trainee during their time in the Company. In the new programme in-kind costs are ineligible. A potential project sponsor has asked if these costs are eligible project costs.*

- A. Job rotation should operate as a grant scheme (with the match funding provided by the project applicant(s)). A full audit trail would be required to ensure that expenditure was real and defrayed by the SME. This can include manager/supervisor time provided it can be supported by timesheets, pay / salary records in the usual way. If this is not possible, e.g. if the SME declines to make this information available, it would have to be excluded or to the extent that it is verifiable shown as private sector participation which is a non eligible cost.

MATCH FUNDING

- Q. *The national rules state, 'Evidence of all match funding must be provided prior to the issue of the grant offer package'. Can you confirm if this includes the lead partner?*

- A. Yes. However, it may be helpful to explain that for multi-annual projects, evidence must be provided for at least the first 12 months' activity. Some match funding providers can only commit in annual tranches so it is reasonable to accommodate them.

Evidencing Match Funding

Match Funding

- match funding must be cash
- it must be at least 55% (or 50% in H&I) of eligible project costs
- it can come from the lead partner and other partners
- it must be committed and evidenced at application stage (at least for a 'reasonable' initial period – see above)

Q: *Project sponsors have queried what the Managing Authority mean by the phrase that "Match Funding must be cash".*

A: The Managing Authority accept that in a number of cases Match Funding will not be in the form of a direct cash contribution. It should however be in the form of a demonstrably direct and transparent contribution to the cost of delivering a project.

This may include for example a project partner meeting the employment costs of a member of their staff engaged directly in the delivery of the project.

In-kind contributions such as the provision of accommodation will not be deemed to be a direct contribution to the costs delivering the project and remain ineligible as no expenditure has been defrayed by the provider. It should be noted that in-kind contributions are only eligible in ERDF capital projects and relating to the provision of land or real estate.

In-kind

In-kind is not eligible as match but the **real** cost of the activity, provided it is eligible and included in project costs, can attract ESF.

Options

There are three ways essentially of doing this:

- the partner is only contributing to project costs by putting in (real) match money, but does not defray expenditure. The partner contribution would feature in the application, be supported by a match funding offer letter and be traceable through the lead partner's bank account as a cash receipt (or receipts)
- the partner is participating actively in the project, puts in (real) match money, defrays expenditure and receives ESF at up to 45% (or 50%) on that amount. The partner contribution would feature in the application and be supported by confirmation of availability of match funding. For practical purposes and to avoid unnecessary transactions between project partners, the partner would merely notify and evidence expenditure defrayed to the lead partner for inclusion in the quarterly progress reports and receive grant (at the approved rate) via the lead partner.
- the 'partner' provides a service to the lead partner, effectively as a contractor and receives payment in full. These costs, to the lead partner, would then be eligible for ESF. This 'contractual' relationship would have to be procured competitively and

contractors selected on best value principles. In practice, this approach would require more match from the applicant (or other partners) as the 'contractor' would not be contributing match.

OTHER ELIGIBLE COSTS SECTION 3.8

- Q:** *Section 3.8 of the NR states that other eligible costs should not exceed 20% of total approved eligible costs. They then go on to state "In the event of a project underspending, approved costs will remain the baseline for establishing the eligibility of other costs. Does this mean that the original approved costs will remain the baseline or the revised approved costs?*
- A:** Original approved costs remain the baseline for establishing the 20% limit. Provided other eligible costs come in on or under the originally approved value, they remain eligible in full. Other eligible costs are as shown under the Other Costs heading which is within the Other Cost section. Expenditure headings don't cover all potential expenditure, costs shown under the other costs heading within other costs section must be listed and justified.

PARTICIPANT COSTS

Subsistence Payments – Vouchers

- Q:** *Is the use of shopping vouchers as bonus/subsistence payments, to provide assistance until first wage/weekly living allowance, to participants eligible?*
- A:** Vouchers classed as subsistence payments are **not eligible**. If no other support is available from other organisations the MA and the IAB will consider the eligibility of this on a case by case basis.

Any bonus payments would be eligible, if they can be shown to be directly related to the training of beneficiaries and are reasonable.

Driving Lessons (ESF – LUPS – P2)

- Q:** *A need has been identified within Businesses for employees who have the ability to drive.*

A large part of the area is rural, with inconsistent public transport provision, restricting employees travel to work area. Would this be eligible under P2?

- A:** *As P2 supports people already in employment then the lack of a driving licence is not a barrier to employment and therefore is **not eligible** for support in this case.*

Costs under P1 (training for unemployed people) will be deemed eligible if they can be shown to be directly related to the training of participants and are reasonable.

PROTECTIVE CLOTHING

Q. *A project sponsor has listed V neck T Shirts for Childcare participants under protective clothing - childcare participants wear t-shirts on placement as protective clothing and helps with security for staff, children and families.*

A. Ineligible. The intention of allowing protective clothing is for the participants in training projects – hard hats, goggles, etc.

PURCHASE OF EQUIPMENT (ESF)

CCTV Cameras

Q: *In an ILM project Is the purchase and fitting of CCTV cameras for tenants to enable them to see who is at their door on a small monitor eligible for ESF support?*

A: The National Eligibility Rules state that costs for CCTV for Town Centres and/or as a stand-alone initiative are **not** eligible for Structural Fund support.

EC Regulation 1081/2006 P2 states:

The following expenditure shall **not be eligible** for a contribution from the ESF:

(c) purchase of furniture, equipment, vehicles, infrastructure, real estate and land.

If this was equipment being used in a class room environment and could be installed, removed and re-used as part of the training course this would, if deemed as a training material, be eligible. However, if it is providing an asset, as in this case, then it is **not** eligible for ESF support.

Materials used as part of a ESF training/employability (on-site)

Q: *The costs for materials installed in homes as part of an ESF training/employability project (e.g. loft insulation, draft proofing).*

A: In line with the response to the question of purchase of CCTV equipment. EC Regulation 1081/2006 P2(c) applies.

If this was materials being used in a classroom environment and could be installed and, removed and re-used as part of the training course this would, if deemed as a training material, be eligible. However, if it is providing an asset, as in this case, then it is **not** eligible for ESF support.

REAL ESTATE

See Section 2.2 of the National Rules.

REVENUE

Detailed Commission guidance is still in draft stage. It is unlikely that any definitive guidance will be available until October / November. In the interim, applicants should liaise closely with the IAB.

SALARY COSTS

Projects funded under EU Structural Funds may include staff costs in support of the project as eligible expenditure provided that these represent real costs which have been set out in the project application and have a complete and transparent audit trail.

The **National Rules** Section 3.1 covers Salary Costs.

10% Flexibility

Q: *Two members of staff working on a project, one approximately 8% and the other 4% of their contracted hours, delivering aspects of the training course, are they eligible for Structural Fund support. In one instance providing specific technical skills in addition to other activity and elements of courses which participants are required to undertake to get the full qualification.*

A: There are 2 “flexibilities” that apply to the 10% limit:

i) Intensive input required at key points in project implementation duly justified in advance in the project application and subsequently through timesheets.

It is recognised that, in a limited number of cases, there might be a requirement for intensive staff inputs at key stages of the project implementation which fall below the 10% limit, but which are essential to the project, for example due to their highly specialised nature. Such inputs will be regarded as **eligible, by exception**, based on the judgement of the IAB and subject to approval by the Portfolio Manager in the MA.

ii) Accumulation of concurrent inputs across a number of projects, where an individual member of staff's time for any single project is under 10%. Accumulation is allowed where there is more than one project running concurrently per organisation, provided the aggregate effort for the period (normally quarterly) is greater than or equal to 10% of the individuals contracted hours.

The 10% flexibility rule is for intensive project activity over a short period. In this case the costs were less than 10% for a full year and relate to activity which would have been undertaken without ESF funding. The MA therefore ruled that this did not comply with flexibilities set-out in the National Eligibility Rules and was **not** eligible for ESF support.

Lecturers' Timesheets

Q: *A number of project sponsors have raised the issue of keeping timesheets to support the time spent on the project.*

A: The National Eligibility Rules state at P3.12. that:

“Where staff are involved in the project for only part of their contracted hours, they must complete timesheets (vouched by a line manager) throughout the projects life, showing the division of time between project and other activity”.

If a project sponsor does not have timesheets they will have to provide other evidence which supports their project costs to the MA/IAB for consideration on a case by case basis. This timekeeping methodology should be agreed at approval stage of the project.

If the project sponsor fails to provide the MA/IAB with sufficient evidence to support these costs the expenditure will be deemed as **ineligible** and any grant previously paid out will be recovered.

Teachers' Salaries

Q: *Would the costs of teachers providing support on an ESF project be eligible?*

A: This activity would be considered eligible if it met the criteria as set down in the 10% rule as per the National Eligibility Rules (see above).

It should be, where possible, justified in advance in the project application and subsequently supported through timesheets.

It should be noted that the hourly rate should be calculated in line with the National Eligibility Rules.

Sick Pay

Q. *What is the status of someone who is off sick? Are we able to claim for the hours that they are off sick or will we be expected to adjust the claim by the number of hours they are off sick and bear the cost of that ourselves?*

A. Where the person is not on the project 100% of time, then time is only claimable according to timesheets and when working on project activity, and therefore no salary is eligible when the person is off sick.

Where a staff member/ employee is 100% on project salary would remain eligible until such time as statutory sick pay is payable (more than 4 days) . At such time the salary becomes ineligible and payments must be met by employer. Noting statutory sick pay is ineligible at all times.

Superannuation

Q. *Unfortunately we are unable to offer our employees a fully superannuated pension scheme but do offer what we believe to be the next best alternative, namely the option to contribute to a company pension scheme. Whilst employees are not compelled to join the scheme if they choose to do so the company will contribute the equivalent of 8% of their salary to the scheme in addition the individual's own contributions. However, as it is a pension scheme it does not provide the other benefit commonly found in a superannuation scheme, namely life insurance.*

A separate, standalone insurance policy has been arranged to provide a separate Death In Service insurance. As is common with this type of policy, it provides no benefit to employees and can only pay out after death in line with the wishes of the trustees. We do this because it is much cheaper and more flexible for employers of our size to provide schemes in this way when compared to a traditional superannuation scheme.

The DIS insurance provides cover of up to 4 times salary for all employees in line with Inland Revenue benefits in kind exemption rules. All employees join the scheme on commencement of their employment.

A. Eligible – provided this is to compensate for the absence of life cover in the standard superannuation scheme, that it is open to all and does not duplicate other cover. Only costs relating specifically to employees engaged in ESF projects and only for periods covered by a claim period.

TRAINING

Q. *Please confirm if training for public sector workers is eligible or ineligible?*

A. The programmes allow for this under ESF P3. Under the programmes' P2, and properly justified, training for low-wage / low-skill employees may be eligible provided it is not to meet statutory obligations and secures a new / enhanced skill(s) or qualification. Ideally, participants should have elected / chosen to participate.

Q. *Can participants under ESF P2 be employees of companies larger than SMEs?*

A. Yes, in H&I and LUPS.

Training to achieve statutory qualification

Q. *Upskilling of **employed** beneficiaries in care and childcare sectors. Scottish Social Services Council has issued guidance on required qualifications and the registering of all those working in the sector.*

A. These are ineligible, regardless of whether this represents enhanced skills for participants. If these qualifications become compulsory we should not support them under ESF.

Transnationality

Transnational activity is clearly allowed under the programmes. The Commission are very keen on it - they have Committees looking at it as part of the current programmes, and it will be something we will be asked to report on - probably in the AIRs as well. That said, justification would have to be clearly argued. Applicants must demonstrate genuine additional impact / output to the project as a result of this being included. Benefit to the project and programme have to be the motivation rather than the transnational; activity itself.

TRAVEL AND SUBSISTENCE

Foreign Travel

Q: *Is foreign travel a legitimate eligible cost for Structural Fund support?*

A: Foreign travel would be an eligible cost if the project sponsor can provide evidence of a direct link to the project activity; it must be of benefit to the project, **not** the project sponsor/organisation.

An example of this would be attendance at trade fairs/exhibitions/conferences promoting the project/project activity.

UNEMPLOYED – DEFINITION (16 HOUR RULE)

Q. *The IAB have been asked if 16 hour rule , included previously as part of the definition of unemployment in ESF core guidance, is still allowed and that participants on projects in p1 ESF would be eligible should they meet this criteria.*

A. Definition of unemployment

Time spent in receipt of Incapacity Benefit, Sickness Benefit or a Severe Disablement Allowance can be deemed as periods of unemployment.

Periods spent in custody are deemed to be periods of unemployment.

The following conditions **do not affect** qualifying periods of unemployment:

- period of unpaid work;
- casual or temporary work of not more than 4 weeks; or
- part-time employment of less than 16 hours per week in total, provided that the skills applied to such employment do not offer significant prospects of a more substantial involvement in the labour market.
- Time spent on an earlier ESF funded course (this is where the course now being provided builds upon the earlier course and takes the beneficiary further along the pathway to employment).
- Time spent on work-related Government Programmes such as New Deal, Training for Work, Skillseekers etc:
- For Intermediate Labour Market projects, beneficiaries who leave the project and who wish to rejoin the project at a later date will not have their period of unemployment affected by the fact that they were given 'employed status' whilst on the ILM project (provided they have not been employed elsewhere in the intervening period).

VEHICLE COSTS

Q. *Could you please confirm eligibility surrounding project vehicle costs for the following?*

A. See table below:

	Purchase	Depreciation	Leasing
Vehicle	X	√	√
Insurance	X	√	*
Road Tax	X	X	*
RAC/AA	X	X	X
MOT/Servicing	X	X	*
Fuel	X	√	√
Mileage	√*	X	X

* personal vehicles used on official business can be paid mileage

* depends on terms of lease. Normally expect leasing costs to include these. Leasing costs should not exceed the original value of the asset.

NB Depreciation – asset must be for **exclusive** use of project – see National Rules for further guidance on depreciation

WAGE SUBSIDIES

Q. *It appears that wage subsidies should be equivalent (in line) to national minimum wage. Does this mean this is the base figure for eligible expenditure, no more no less.*

A. We should ensure that wages comply with minimum wage requirements. In duly justified cases, it would be acceptable to exceed the minimum.

Q. *Can the wage subsidy be the full amount or is it a proportion of this.*

A. The wage subsidy should be a proportion. 50% would help avoid state aid issues.

Q. *Is there a maximum length of time the subsidy is payable?*

A. 1 year should be the norm with regard to 'national' arrangements defined by DWP.

OTHER

Q. *What is the definition of a new business – is it a business under 6 months old?*

A. Need to check precise definitions in indicators.