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EUROPEAN STRUCTURAL FUNDS NATIONAL RULES ON ELIGIBILITY OF EXPENDITURE

esep

HIPP

The Scottish Government

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INTRODUCTION

The Scottish Government as Managing Authority has developed these rules in accordance with EC Regulation 1083/2006 Article 56 Para 4, which states:

> *"The rules on the eligibility of expenditure shall be laid down at national level subject to the exceptions provided for in the specific regulations for each fund. They shall cover the entirety of the expenditure declared under the operational programme".*

The rules take account of the general and respective fund regulations (as amended). Principally, these are (EC Regulations 1083/2006 (the Council Regulation - sometimes referred to as the General Regulation), 1080/2006 (ERDF) and 1081/2006 (ESF)) and are based on the key principles of real costs and actual project costs. They apply to all projects approved under the 2007-2013 operational programmes. The link to the EC Regulations is available here - http://ec.europa.eu/regional_policy/sources/docoffic/official/regulation/newregl0713_en.htm.

The purpose of these rules is to distinguish clearly between eligible and ineligible costs, and to ensure that only eligible activity / expenditure features in applications and ultimately claims. While every effort has been made to produce clear guidance on eligibility, there remains an onus on applicants to apply for grant responsibly and reasonably and to ensure compliance – in cases of doubt; clarification should be sought from the respective IAB or the Scottish Government. Applicants should include all project costs, including ineligible costs. A detailed breakdown of costs is required with the application to assist project appraisal, confirm eligibility and ensure value for money.

These are new rules for the new programmes and it is not necessarily appropriate to compare eligibility between programme periods. However, applicants may wish to note that:

- **there has been a significant change to the rules on in-kind contributions;**
- **match funding (for the first 12 months' activity) must be in place before any offer of Structural Fund support is made;**
- **central overheads, core costs and administration costs of an organisation are ineligible; and**
- **lead partners in projects have particular responsibilities.**

This guidance is structured as follows:

- Section 1 – General Rules
- Section 2 – Capital Projects (ERDF) – Eligible Costs
- Section 3 – Revenue Projects (ERDF and ESF) – Eligible Costs
- Section 4 – Participant Costs (ESF Specific) – Eligible Costs
- Section 5 – All Projects – Ineligible Costs

SECTION 1 – GENERAL PRINCIPLES

ALL EXPENDITURE MUST BE ELIGIBLE, PROPERLY INCURRED AND DEFRAYED BEFORE BEING INCLUDED IN CLAIMS FOR GRANT

1.1 Definitions

Terms used in this guidance have the following meaning:

- **Beneficiary** – the applicant for and direct / initial recipient of Structural Funds support
- **Participant –** person or organisation participating in a training course, grant etc scheme
- **Match funding** – own funds / resources or other partner contributions to a funding package
- **Recipient –** ultimate recipient of support in, for example, ERDF grant schemes
- **Lead applicant** – legal entity responsible for application and progress report and claim
- **Project partner –** organisation contributing directly to project delivery and defraying expenditure

1.2 Responsibilities of all Applicants

All applicants are responsible for ensuring:

- the project's sound financial management;
- the implementation, reporting, monitoring and control of the project, specifically, for ensuring no double funding for approved activity; and
- the retention and availability of all project documentation **with a clear audit trail through to bank statements in each case**.

1.2.1 Additional Responsibilities of Lead Applicant

Where there is a partnership project, a lead applicant will be appointed by the group. The lead applicant is responsible for ensuring:

- a clear relationship between partners participating in the project;
- that all expenditure presented by and declared on behalf of the partners participating in the project has been incurred and defrayed for the purpose of implementing the project and that it has met all other rules with regard to the programme;
- the availability and retention of all project documentation including those of all other partners **with a clear audit trail through to bank statements in each case**; and
- provision by other partners in the event of any requests for information etc. by the Managing Authority or its agents.

In the event of any recovery of grant the Managing Authority will pursue the lead applicant for payment.

1.3 Geographical Flexibility

As a general rule, projects receiving grant from the Structural Funds should be located in the programme area. At project level, activity outside the programme area may be eligible if the project would have difficulty in achieving its objectives otherwise. Additionally, participants who are employees are eligible on the basis of the location of their employer / employment. This will largely apply to projects funded under ESF Priority 2 – and applies equally to 'Convergence workers' resident in the LUPS area.

1.4 Fund Flexibility

While there is a general presumption against using the flexibility between funds provided for in the Regulations, we will consider on a case by case basis applications that seek to integrate ERDF and ESF eligible activities within one project and under one fund. The 10% flexibility effectively 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. Such flexibility will be limited to a maximum of 10% of approved eligible costs of the project. In the event of a project under spending, the 10% threshold will still be calculated against the originally (or subsequently revised) approved eligible costs.

1.5 Need for Structural Funds

The Structural Fund contribution should be the minimum amount required to allow the project to proceed.

1.6 Project Funding

Essentials:

- match funding must be cash
- it should normally 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 – normally the first 12 months - see below)
- In-kind is not eligible as match (except in very limited circumstances in ERDF capital projects)

Match funding must be from eligible partner organisations (public or similar organisations). This includes registered charities, trusts and industrial and provident societies. Direct private sector participation is not eligible as match funding and should be shown as a 'private sector participation'. Private sector is defined as profit retaining or distributing.

Evidence of all match funding must normally be provided prior to the issue of the grant offer package (for example, board minutes, committee minutes, budgets, grant offer letters).

However, exceptionally, for multi-annual projects, evidence must be provided for at least the first 12 months' activity and in advance of subsequent 12 month periods.

If the match funding package changes, the Managing Authority (MA) should be notified immediately. The MA will adjust (reduce) the level of grant payable to the project if appropriate.

In the event of project costs being less than approved costs at final claim stage, the Structural Funds contribution will be the net amount required after the full value of confirmed match funding has been taken into account. Where match funding is provided to a partner by a third party and the original offer is in terms of a percentage of project costs (rather than a fixed amount), Structural Funds grant will be maintained at the original (percentage) level.

1.7 Project Costs – Expenditure Actually Paid Out, In-Kind Contributions and Depreciation

Payments eligible for grant must have been **incurred and defrayed** by final beneficiaries, subject to the exceptions explained below.

Payments into **venture capital, loan and guarantee funds** (including venture capital holding funds) are treated as 'expenditure actually paid out' provided that the funds meet the requirements of the rules on the respective funds (see Annex 3).

Arrangements for grant schemes are also set out in the annex (Annex 4).

The cost of **depreciation** of equipment, which must be exclusively used in the project, will be treated as eligible expenditure, provided that:

- national or Community grants have not contributed towards the purchase of such equipment; and

- the depreciation cost is calculated in accordance with relevant accountancy rules and the organisation's accounting / depreciation policy; and

- the cost relates exclusively to the period of co-financing of the project in question.

In kind contributions will only be treated as eligible expenditure in ERDF capital projects and only where they comprise the provision of land or real estate provided it is not owned by the applicant or a project partner and provided that**:**

- they are identified and independently valued by an independent qualified valuer or duly authorised official body at application stage; and

- their value can be independently assessed and audited; and

- they comply with the provisions of the rules on the Purchase of Land and Real Estate (see 2.1 and 2.2 below); and

- national or Community grants have not contributed towards its purchase and / or development.

1.8 Proof of Expenditure

All payments by final beneficiaries must be supported by a fully transparent audit trail including transaction lists traceable through to bank statements. Receipted invoices vouching individual items of expenditure are ideal. Where this cannot be done, payments must be supported by accounting documents of equivalent probative value. For example, salaries must be supported by payroll records, BACS lists and bank statements. Or, where projects are executed in the framework of public procurement procedures, payments by final beneficiaries must be supported by works certificates issued in accordance with the provisions of the signed contracts. Where electronic media are used for procurement / ordering / purchasing, payment, banking (bank statements) print-offs or 'screen shots' should be retained.

Final recipients of grant schemes are under an equivalent obligation to maintain a properly vouched audit trail of payments by them in respect of activities and / or investments supported by ERDF.

All expenditure **must** be incurred and defrayed (i.e. left the bank account) before it is included in any claim. Notwithstanding this requirement, payroll costs may be claimed 'gross' and include associated National Insurance, superannuation and PAYE.

Documents (or any electronic record) must be retained for a period of 3 years following payment of the final balance of funds by the Commission to the Scottish Government, as Managing Authority. This means the end of 2019 at the earliest.

1.9 VAT

VAT which is recoverable, by whatever means, is ineligible, even if it is not actually recovered by the final beneficiary or individual recipient. Irrecoverable VAT can be claimed as an eligible cost provided the claim is substantiated by appropriate evidence from the organisation's auditors or accountants.

1.10 Other Taxes and Charges

Other taxes and charges (in particular direct taxes and social security contributions on wages and salaries) which arise from co-financing by the Structural Funds do not constitute eligible expenditure except where they are genuinely and definitively borne by the final beneficiary or individual recipient.

1.11 Compliance

1.11.1 Procurement (Contracting)

Contracting for the provision of works, materials and / or services is eligible. Applicants should pay particular regard to and comply with the thresholds for publishing invitations to tender in the Official Journal of the EU and (Scottish) national procurement rules. Contracts must either be competitively tendered or procured in line with an organisation's standing orders and /or procurement policy to ensure value for money. Notwithstanding this, we recognise that proportionate effort should be used to secure best value. It is important to demonstrate that reasonable steps were taken. By way of illustration, it may be helpful to consider this indicative hierarchy:

Official Journal of EU
Scottish (national) procurement rules
Standing Orders / procurement policy
www.scotland.gov.uk/topics/government/procurement

Advertising	OJEU
	Trade journals / national newspapers / internet
Quotations	Letters
	Telephone quotes (records kept)
Purchase	small items / consumables
	benchmarking

1.11.2 State Aids

Projects must comply with the prevailing State Aid Rules.

1.12 Accounting Treatment of Receipts

1.12.1 Project Income

These ‘receipts’ will tend to accrue immediately to revenue projects (ERDF and ESF) for the duration of the project, for example from services, enrolment / tuition fees or other equivalent receipts representing income. This reduces the net cost of projects (in ‘real’ time) and thereby the amount of Structural Funds grant required for the project in question.

Applications must estimate income likely to be generated by the project and claims must show clearly actual income received and deducted from the claim.

1.12.2 Revenue Generation

Projects (largely capital ERDF) may also have the potential to generate revenue following completion of an asset (building or facilities) the use of which is charged for, for example, through rent or lease. Article 55 of the Council Regulation 1083/2006 (as amended) (also know as the General Regulation) confirms the broad principles. However, in the absence of definitive Commission guidance / advice, particularly in relation to the calculation of net revenue, projects that have the potential to generate revenue will be assessed on a case – by – case basis.

This does not apply where the receipts generated within the framework of financial engineering measures referred to in the Rules on Venture Capital and Loan Funds, and Guarantee Funds (see below).

1.13 Winding Up

In the event of (or prospect of) liquidation of an applicant organisation, the Managing Authority should be advised as soon as possible. Catalogued archives of project documents should be retained. On no account should documents be destroyed without the prior consent of the MA.

SECTION 2 – CAPITAL PROJECTS – ERDF - (ELIGIBLE COSTS)

2.1 Purchase of Land

The cost of purchase of land not built on is eligible for co-financing by the Structural Funds under the following conditions:

- there is a direct link between the land purchase and the objectives of the project co-financed;
- the land purchase cost may not represent more than 10 % of the total approved eligible costs of the project;
- a certificate is obtained from an independent qualified valuer or duly authorised official body confirming that the purchase price does not exceed the market value.
- only expenditure incurred and defrayed within the eligible programme period can be taken into account in this calculation, i.e. from 01 January 2007;
- the date the land was acquired is clearly indicated and evidence of this provided as an enclosure to the application form; and
- national or Community grants have not contributed towards the its purchase and / or development.

2.2 Purchase of Real Estate

2.2.1 General rule

The cost of purchase of real estate, i.e. buildings already constructed and the land on which they are built, is eligible for co-financing by the Structural Funds if there is a direct link between the purchase and the objectives of the project concerned under the conditions set out in point 2.

2.2.2. Terms of eligibility

A certificate is obtained from an independent qualified value or duly authorised official body establishing that the price does not exceed the market value and either attesting that the building is in conformity with national regulations or specifying the points which are not in conformity where their rectification by the final beneficiary is foreseen under the project.

The building should not have received, within the previous 10 years, a national or Community grant which would give rise to a duplication of aid in the event of co-financing of the purchase by the Structural Funds.

The real estate is used for the purpose and for the period decided by the MA in line with EC Regulation 1083/2006, Article 57.

The building may only be used in conformity with the objectives of the project.

2.3 Purchase of Equipment

For vocational training and research and development facilities, essential items of equipment for the sole purpose of project delivery such as information technology equipment, research equipment, some teaching furnishings, machinery for skills enhancement delivery may be considered. The eligibility of such items will be appraised on an individual project basis.

2.3.1 Moveable Infrastructure – Fixtures and Fittings

Fixtures and fittings are only eligible if they are purchased for and used specifically for the project. Ideally, this would form part of the initial 'fit out' of eligible premises. The eligibility of such items will be appraised on an individual project basis. For example:

- for vocational training and research and development facilities essential items of equipment for the sole purpose of project delivery such as information technology equipment, research equipment, teaching furnishings, machinery for skills enhancement delivery; and

- for community development, essential fixtures and fittings directly related to the sole purpose of the project may be considered.

In cases where items of equipment have been purchased, an inventory must be retained for audit purposes.

Note: Revenue projects please see Section 3.

2.3.2 Purchase of Second-Hand Equipment

The purchase costs of second-hand equipment are eligible for co-financing by the Structural Funds under the following three conditions:

- the seller of the equipment provides a declaration stating its origin, and confirm that at no point during the previous 10 years has it been purchased with the aid of national or Community grants;

- the price of the equipment should not exceed its market value and is less than the cost of similar new equipment; and

- the equipment has the technical characteristics necessary for the project and comply with applicable norms and standards.

2.4 Pre- Contract and Contract Implementation

Pre-contract works including design, bills of quantity and tender preparation are eligible. **This does not include project feasibility studies, which are ineligible.** Project management and supervision associated with the implementation of the project works, including Clerk of Works are eligible.

- This expenditure must have been incurred within the Programme period.

- Fees for external consultants, are eligible where it can be demonstrated that they have been incurred as a result of a competitive tendering process, or where best value can be demonstrated in line with the applicant's 'standing orders'.

- Fees that have been subject to an approved tender process may be included at the market rate resulting from that exercise.

Such work must be advertised in the Official Journal, where the value is close to or exceeds public procurement thresholds.

2.4.1 Expenditure by public administrations relating to the execution of projects

The following expenditure of public administrations is eligible for co-financing if it relates to the execution of a project provided that it does not arise from the statutory responsibilities of the public authority or the authority's day-to-day management, monitoring and control tasks.

- Costs of professional services rendered by a public service in the implementation of a project. The costs must either be invoiced to a final beneficiary (public or private) or certified on the basis of documents of equivalent probative value which permit the identification of **real costs** paid by the public service concerned in relation to that project.

- Costs of the implementation of the project, including the expenditure related to the provision of services, borne by a public authority that is itself the final beneficiary and which is executing a project on its own account without recourse to outside engineers or other firms. The expenditure concerned must be certified on the basis of documents which permit the identification of real costs paid by the public service concerned in relation to that project. **On-costs / charge-out rates are ineligible.**

Where staff are also engaged in non-project related work only the portion of staff costs directly attributable to the project should be shown. Actual costs are required for claims and should be backed up by timesheets or other media where time spent on the eligible activity can be clearly demonstrated.

2.5 Other Eligible Costs

See Annex 1.

2.6 Contingencies

Contingencies are an acceptable and reasonable cost at application stage. Where the contingency covers genuine, unforeseen eligible expenditure, the costs should be reported against the appropriate, approved expenditure heading with a full explanation provided as a separate attachment to the claim.

2.7 Retentions

For the retention to be eligible, the retention must be paid within the eligible expenditure period of the Programme, and defrayed no later than final claim stage.

2.8 Capitalised Revenue Costs

This can include:

- value of leasing and hire purchase associated with the project, where, for example, it may be preferable to make a one-off payment up front rather than several payments over a period of time; and

- marketing costs associated with the development and pre-opening of the project. A copy of the costed marketing strategy may be required as justification.

SECTION 3 - REVENUE PROJECTS (ERDF and ESF) ELIGIBLE COSTS

3.1 Staffing

Staffing costs are eligible for personnel directly engaged in a project, whether full or part time. This includes costs for direct activity essential to the delivery of the project. On that basis, reasonable and justifiable costs defrayed in managing and delivering eligible activities are eligible, provided that applicants can justify the involvement of staff in supported activity and evidence this through timesheets or other time recording systems. **We will not pay grant in respect of the running costs of an organisation. Only the real costs defrayed by the organisation in delivering eligible activity as set out in the approved application will be accepted for funding.**

3.1.1 Scope

Essentially the focus is on the type of activity undertaken to implement the project. Eligible expenditure should be for staff involved directly in project activity. This means activity explicitly set out in the approved application.

This **includes**:

- training to beneficiaries
- advisory/training services to business
- appraisal of grants/access to finance applications and management of successful applications
- research activities in funded research projects
- development of materials/courses for the project
- essential software programming for the project
- direct project management (which may include financial management related to specific Structural Funds compliance requirements)
- cleaning, where directly associated with and duly justified by the project
- participant recruitment, principally under projects in Priority 1 of the respective European Social Fund Operational Programmes, targeting the hardest-to-reach client groups

and **excludes**:

- project development
- application for EU funding
- human resources associated with the project
- procurement
- IT equipment administration/upkeep, unless there are special requirements associated with the project (e.g. dedicated IT equipment specially purchased for the project)
- costs associated with the project's future

- the management of the organisation running the project

3.1.2 Applicant's requirements

The job descriptions of all staff employed to deliver elements of the project should accurately summarise their contributing activity. 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 project's life, showing the division of time between project and other activity.

All staff costs included in a project should be in accordance with the following conditions:

- Staffing costs should include employer's National Insurance and Superannuation contributions (**commissions and benefits in-kind – such as bonuses – are ineligible**).

- Only **actual costs** can be included in claims.

- There should be a clear audit trail for staff costs from time sheets through payroll records, via BACs to the bank statement.

- Where staff are also engaged in non-project related work, only time spent which is directly attributable to the project should be shown and must be backed up by timesheets or other time recording systems, showing project activity where time spent on eligible activity can be clearly demonstrated.

- Where staff are costed at an hourly rate, the calculations must be acceptable, i.e. the total staff cost divided by the number of hours worked per year. Hours worked are contracted hours and, if appropriate, include paid holidays – costed on the basis of the contract(s).

- Where staff are part-time or have joined / left the organisation during the year, a pro-rata rate should be calculated.

- Consultancy fees and sub-contractor fees should **not** be included in staff costs.

3.1.3 Methodologies

Where staff share their time between project activities and other duties, costs have to be claimed on the basis of hours worked and hourly rates. Section 3.1.2 outlines the rationale for doing so by calculating costs on the basis of hourly rates for staff. Unless an alternative methodology can be properly justified, the presumption is that any apportionment of staff costs should be on the basis of time spent and recorded by timesheet.

In considering a single methodology for calculating hourly rates, it is important to reach a balance between costs accepted as eligible for grant and costs to be met fully by partners. A reasonable approach is to accept for grant an appropriate (proportionate) share of annual leave and public holidays. The methodology set out below therefore deducts leave entitlement and is applied to actual hours worked as recorded by timesheet (excluding holidays). This ensures that both ESF and the applicant absorb a fair share of salary costs.

This is the preferred methodology, given National Rules emphasis on retaining timesheets and claiming on the basis of hours worked.

Calculating Staff Costs at Application Stage

Calculate hourly rate as:

Calculate hours per year as 52 weeks multiplied by five days, less annual and public holiday entitlement, multiplied by number of hours worked each day;

Divide Annual Salary (including employer costs) by annual hours to give hourly rate.

Claim = Hourly rate X actual hours worked on project in claim period.

Example:

Gross Salary (including employer's NI and superannuation) £26,400.00
Days worked per week 5 = 52 weeks x 5 = Per Year 260
Public and Annual Holidays 36
Worked days per Year = 260-36 = 224
Hours worked per day 7 (35 hour week)

Hourly Rate £26,400.00 / (224 X 7) = £16.84

Claim would equal actual timesheet hours worked X £16.84

Calculating Staff Costs at Claims Stage

The hourly rate **must** be based on the actual costs for the period.

The rate should be calculated as follows:

1) Annual hours minus Public and Annual Holidays (Total No. of hours as per organisation policy/individuals contract of employment.

2) To calculate the Annual Gross Salary costs multiply up the **eligible** monthly salary by number of pay periods, to give an equivalent actual annual salary relative to that month.

3) Divide the Annual Gross Salary costs by the number of annual hours to calculate the hourly rate.

4) Multiply the hourly rate by the number of hours worked on the project (supported by timesheets) to calculate the eligible staff costs in the period.

The Gross Staff Costs should only include the following:

1) Basic Pay

2) Employers Super Ann/Pension contribution

3) Employers National Insurance contribution

4) Unsocial Hours Payments

5) Responsibility Payments

Items 4 and 5 above must relate directly to the basic salary of the individual and be paid at the same rate per month.

6) Pension Salary Sacrifice

7) Islands Allowance

8) Hoilday Pay in the month in which it is incurred by the employer.

If additional payments are made out with the basic salary, and these are eligible for ESF/ERDF support, but these payments are NI and Pensionable, additional calculations on the eligible NI and Pension may be required.

The following costs should not be included in your hourly rate calculation:

1) Statutory Sick Pay – Ineligible

2) Statutory Maternity Pay – Ineligible

3) Bonuses – Ineligible

4) Overtime payments should not be included in the hourly rate calculation (these are only eligible if directly related and justified to project activity and **should be claimed separately)**.

5) Travel & Subsistence payments should be claimed as separate cost.

6) First Aid payments – Ineligible

7) Back pay/Pay adjustments – are eligible however they should be accounted for or claimed separately and **not** form part of the hourly rate calculation.

It should also be noted that if your calculation takes you above the actual costs in month (as calculated above) **the claim must be capped at the actual costs for the month**.

<u>Note.</u>

The calculation of staff costs can be a difficult area and must at all times be auditable back through timesheets, payroll, and contracts of employment. Calculations can be complicated by weekly pay, part time working, salary increases and flexible working and time off in lieu systems. If applicants have any query on how they should calculate costs they should contact the IAB.

Timesheets should also include a brief description of activity and be signed by the employee and their line manager.

Methodologies to accommodate staff costs where staff time is shared across two or more activities, and crucially between eligible and ineligible activities, have been developed to ensure that applicants can recover a reasonable share of real costs incurred and defrayed in project delivery. The fundamental principle of additionality requires that costs and effort should be genuinely additional to an organisation's 'core' activities. Unless there is a demonstrable benefit from the marginal involvement of members of staff, any apportionment below 10% will be deemed ineligible.

For the avoidance of doubt, there are two "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 supported 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 judgment 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 quarter) is greater than or equal to 10% of the individual's contracted hours.

While this is essentially a clarification of the degree of flexibility available in assessing the eligibility of staff input to projects, in some cases it may be that applicants have not applied this flexibility hitherto. Where projects have not been closed, it remains open to applicants to claim under the flexibility, subject, as noted, to sufficient justification being provided, including timesheets, for (i) above and sufficient supporting information being held re (ii). In the case of (ii), time spent on closed projects may be aggregated with live projects to allow staff time to be claimed on live projects provided the 'concurrency' requirement has been met.

It should be noted that, while the 10% threshold does not have to be met in individual progress reports and claims, applicants will be required to demonstrate at final claim stage that 10% has been achieved, either directly or by accumulation. Failure to do so will result in recovery of any grant paid in respect of these staff.

3.1.4 Superannuation

Employer superannuation costs are eligible for grant. Alternatively, where an employer pension scheme does not provide the other benefit commonly found in a superannuation scheme, namely life insurance, any separate, standalone insurance policy arranged to provide a separate Death In Service insurance would be 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 would be eligible.

3.2 Consultancy Fees and Contractors' Charges

Costs for work done by an independent consultant or sub-contractor will only be eligible if the work is **essential to the project** and the costs are reasonable:

- Where consultancy fees and contractors charges have been subject to an approved tender process, the market rate resulting from that exercise may be included for support, provided the original tender is no more than 3 years old.
- Where an organisation's standing orders provide, consultants / contractors may be engaged on the basis of quotations.
- De minimis – provided any engagement is for a limited period only and charges do not exceed £500 per day, tendering / quotations are not necessary
- Mentors – only real costs associated with travel, any necessary overnight accommodation and materials are eligible

- Costs associated with payment of consultants that provide support in completion of application / claim forms and with management fees are **not** eligible.

3.3 Project Evaluation Fees

Costs of independent evaluations will be eligible if the work is essential to the project and/or a condition of grant (see Consultancy Fees above). It should be noted that where the grant award exceeds £5(M) the project sponsor will be required to carryout a separate evaluation.

3.4 Staff Travel

Staff travel costs must be directly related to and essential for the effective delivery of the project. Certified travel claims must be retained. Actual costs up to a maximum of mileage at the public sector rate per mile (or comparable) or economy class travel on public transport must be claimed.

3.5 Premises Costs

This should include actual cost of rent, rates, heat, light, cleaning and service charges associated with the premises where it can be clearly demonstrated that these are directly related to the delivery of the project and are additional, i.e. **project expenditure over and above existing operating costs, e.g. if you have to rent additional premises.**

Where the para above applies, and where only a part of the premises is used for the project then the amount charged should be apportioned accordingly based on, for example, floor space occupied. In this case calculations should show the actual annual rental cost to the applicant, the period of project usage, the proportion of the building used for the delivery of the project and the resultant eligible rental cost.

Notional rental charges where the applicant owns the premises, or occupies premises rent-free, are ineligible.

3.6 Insurance

Similar principles apply. Insurance of buildings, contents and for public liability are eligible provided it can be clearly demonstrated that these directly relate to the delivery of the project and are additional. Professional indemnity is also eligible provided it is essential to the delivery of the project and additional to standard provision that organisations / individuals could be expected to hold.

3.7 Marketing

This heading may include costs related to appropriate and proportionate aspects of marketing specific to the project on, for example, design and production of marketing materials, facilitation of appropriate conferences and seminars, and targeted advertising campaigns.

3.8 Other Eligible Project Costs

This should cover software, ‘consumables’ and other reasonable costs **where it can be clearly demonstrated that these are directly related to the delivery of the project** and should not exceed 20% of total **approved** eligible costs. In the event of a project under spending, approved costs will remain the baseline for establishing the eligibility of other costs. 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 do not cover all potential expenditure, costs shown under the other costs heading within other costs section must be listed and justified.

Consumables may include items such as the actual cost of teaching materials, telephone (showing dedicated line and / or call charges), stationery, and other costs, which the applicant can demonstrate are essential to the effective delivery of the project and where an itemised audit trail can be provided. Items that do, or would normally, feature on an organisation's asset register or would be, or are later, capitalised in the organisation's accounts are ineligible. However, depreciation of these items is potentially eligible.

3.9 Dependent Care – Provision for dependents to allow participation in projects

- Actual payments made for nursery provision (running costs only)
- Actual payments made for care for other dependants

3.10 Equipment

3.10.1 ERDF (Revenue) purchase of equipment / depreciation

The purchase of equipment on an ERDF Revenue project is **ineligible**. However, any items of equipment exclusively used in the project can be depreciated (see Depreciation section for further detail).

3.10.2 ESF

EC Regulation 1081/2006, Article 11 Paragraph 2 precludes the purchase of furniture, equipment and vehicles from a contribution from ESF; however, depreciation costs in respect of project delivery related items used exclusively in the project are eligible (See Depreciation section for further detail).

3.11 Repairs and Maintenance

These costs must relate to equipment specifically included as eligible items of expenditure within the approved application and within the lifetime of the project (i.e. start and finish date). Repairs and maintenance are **only eligible** for Structural Fund support in the following circumstances:

- Where the equipment has been accepted as eligible for **depreciation** under the project, or
- Where the equipment has been accepted as eligible for **leasing** and the applicant is responsible for repairs and maintenance.

3.12 Depreciation

It is important to establish here what the applicant's depreciation policy is and how old the equipment concerned is, e.g. IT equipment might reasonably be written down over 4 years. IT equipment less than 4 years old related to a project would be eligible.

No depreciation can be claimed in respect of equipment / goods, which have benefited from national or European grants at the time of their purchase. Depreciation, directly linked to the project, should be calculated in line with the applicant organisation's accounting policy.

Claims for depreciation should be based on the original purchase costs of the owned equipment.

Depreciation may be claimed on second-hand equipment provided the equipment was not originally purchased using a national or European grant.

Where deferred credits are used to offset depreciation costs, the amount of the deferred credit must be deducted from the depreciation costs for grant purposes.

Documentation showing how depreciation costs have been calculated must be kept for audit purposes. This will include: invoices; payments records including BACs lists and bank statements; descriptions and location of the items purchased; the method of depreciation; and, where relevant, the estimated residual value.

3.13 Leasing

Expenditure incurred and defrayed in relation to leasing operations is eligible for co-financing under the Structural Funds subject to the rules set out in points in Annex 5.

3.14 Vehicles

Purchase of vehicles is ineligible. In duly justified cases, The cost of depreciation, leasing or mileage rates applying to individuals/employees using their own vehicles on official business may be eligible for support.

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

X ineligible
√ eligible
* 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.

SECTION 4 – PARTICIPANT (BENEFICIARY) COSTS ELIGIBLE COSTS (ESF SPECIFIC)

4.1 Wage Subsidies

4.1.1 Wages for wage subsidy schemes / allowances for training and counselling projects

Wages and allowances may include Employers' National Insurance and Superannuation costs.

- ESF can contribute towards a wage subsidy. Wages should comply with minimum wage requirements.

- In duly justified cases, it would be acceptable to exceed the minimum.

- Wage subsidies may be used to support either temporary or permanent jobs but must lead to enhanced employability or stable employment, including self employment. ESF cannot be used to support or substitute for permanent jobs in the public sector, e.g. local or central government, or health authorities. Projects delivering wage subsidy actions must be able to demonstrate an improvement in the trainee's job skills by the end of the action or project.
- Grant rates should not exceed 50%. 1 year should be the normal maximum.

4.1.2 Financial Incentives

Financial incentives to encourage attendance and / or completion of training courses may be accepted in duly justified cases in terms of the participant.

4.2 Training Allowances

- Where intermediate labour market projects also provide training allowances, allowances should be equivalent to the minimum wage.
- Training allowances paid to participants while on a course are eligible

4.3 Participants - unemployed

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).

4.4 Participants – in employment

- participants under LUPS and H&I ESF P2 may be employees of companies larger than SMEs
- training for public sector workers is eligible 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.

4.5 Participant Allowances

Participant allowances can only be used to purchase specialist items, specifically related to delivery of the project, but not for general one-off costs (e.g. purchase of a suit to attend an interview or tools).

Participant travel costs must be directly related to and essential for the effective delivery of the project. Certified travel claims must be retained. Actual costs, up to a maximum of mileage at the public sector rate per mile or economy class travel on public transport must be claimed. In duly justified cases, other means of travel may be accepted (e.g. taxi).

For external courses, only the actual costs of travel, board and lodgings may be claimed. Claims should either be submitted on the basis of actual expenditure and supported by receipts or consistent with recognised standard subsistence rates.

4.6 Transnational Projects (ESF only)

This kind of activity is eligible. Justification has 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. All items of expenditure claimed under this heading must conform to the National Rules on expenditure. In the case of accommodation, travel and subsistence only standard / economy class travel is eligible. Subsistence amounts must be reasonable, justified in advance and supported by appropriate receipts. Standard (daily) rates are not acceptable as eligible expenditure. No other additional payments to staff or participants are eligible.

Travel outside of the EU would need additional justification.

SECTION 5 – ALL PROJECTS: INELIGIBLE COSTS

Applicants should include all project costs, including ineligible costs in applications and claims distinguishing clearly between the two!. This list is intended as a point of easy reference. Definitive guidance is to be found in earlier sections of this document.

5.1 Financial and Other Charges and Legal Expenses

Accounting costs, preparation etc of annual accounts, year end auditing

Bank charges on accounts.

Costs of guarantees provided by a bank or other financial institution.

Financial charges.

Debit interest (other than expenditure on interest subsidies to reduce the cost of borrowing for businesses under an approved State aid scheme), charges for financial transactions, foreign exchange commissions and losses, and other purely financial expenses are not eligible for co-financing by the Structural Funds.

Loan charges – the nature and amounts of any loan charges included in the overall project costs should be brought to the attention of the IAB.

Service charges – arising on leases and hire purchase arrangements.

Costs resulting from the **deferral of payments to creditors**.

Costs involved in **winding up** a company.

Bad debts.

Fines, financial penalties and expenses of litigation.

Legal fees for advice, notary fees and the costs of technical or financial expertise.

These costs are eligible if they are directly linked to the operation and are necessary for its preparation or implementation or, in the case of accounting or audit costs, if they relate to requirements by the managing authority.

5.2 Moveable Infrastructure

Purchase of moveable infrastructure, such as motor vehicles, ferries, is ineligible. Equipment can be eligible in the circumstances described previously.

5.3 Recoverable VAT

Recoverable VAT is not eligible whether or not the applicant elects to recover.

VAT does not constitute eligible expenditure except where it is genuinely and definitively borne by the final beneficiary. **VAT which is recoverable, by whatever means, cannot be considered eligible**, even if it is not actually recovered by the final beneficiary or individual recipient. The public or private status of the final beneficiary or the individual recipient is not taken into account for the determination whether VAT constitutes eligible expenditure in application of the provisions of this rule.

It is recognised that some final beneficiaries are unable to recover VAT. **Non-recoverable VAT can be claimed as an eligible cost provided their claim is substantiated by appropriate evidence from the organisations auditors or accountants.**

VAT which is not recoverable by the final beneficiary or individual recipient by virtue of the application of specific national rules will only constitute eligible expenditure where such rules are in full compliance with the Sixth Council Directive 77/388/EEC on VAT (1).

Where the final beneficiary or individual recipient is subject to a flat-rate scheme under Title XIV of the Sixth Council Directive 77/388/EEC on VAT, VAT paid is considered recoverable for the purposes of point 6.1.

5.4 Finance Leases

Finance leases are similar to hire purchase agreements – at the end of the lease the equipment becomes the property of the lessee. These are ineligible costs.

5.5 Education Maintenance Allowances

EMA payments which are 100% re-imbursed are not eligible for ESF support.

5.6 Staff Related Costs

- Staff costs that are not directly attributable to project delivery
- Staff training, except where set out as eligible activity under Priority 3 of both ESF Programmes
- Training that is mandatory under statutory provision regardless of whether this represents enhanced skills for participants. Where qualifications are or become compulsory, costs are ineligible under ESF.
- Redundancy payments
- Payments for unfunded pensions
- Maternity, adoption or sick pay

5.7 Other Ineligible Costs

- Expenditure defrayed outwith the eligible programme period, including site acquisition
- Related to research or studies carried out in respect of the project prior to the official project start date
- Volunteer costs
- Gifts
- Repairs and maintenance unless covered by the eligible cost description
- CCTV for town centres and / or as a stand-alone initiative
- Civic sculpture
- Compensation for loss of office
- Costs of works being carried out as a statutory requirement.

- Any actions previously funded by European Structural Funds under other Programmes or EU-funded initiatives
- Purchase of ID
- Subscriptions or memberships of trade or professional organisations

ANNEX 1

ERDF CAPITAL – OTHER ELIGIBLE COSTS

Site Investigation: This should take account of specialist investigations required to identify contamination and recommend particular treatments etc.

Site Decontamination: Specialist treatments to clear a site of particular contamination and dangers.

Site Preparation / Clearance: This should include demolition works and the general preparation of sites, which is not part of specialist decontamination works.

Site Servicing: This may include the following elements:

- The provision of external utilities such as telecommunications, electricity and gas provision to the entire site and / or building
- The provision of water and sewerage services within the site / project boundary
- The construction / improvement of access roads and junctions within the site boundary

Preliminaries: As detailed in the Bill of Quantities.

Main Building Contract Works: This may include the following elements of work:

- External / structural refurbishment of existing premises
- Internal sub-division of existing premises
- New build premises
- External decoration and associated works as part of a larger project
- Internal decoration and associated works as part of a larger project

Internal Services: This should include the provision of services/utilities within a building such as heating, lighting, plumbing and telecommunications.

Main Environmental Contract Works: This may include the following elements of work:

- Hard and soft landscaping as part of a larger industrial / commercial development
- Hard and soft landscaping as part of a larger tourism / cultural development
- Hard and soft landscaping to promote environmental sustainability
- Street furniture and lighting
- Traffic management and urban centre regeneration works
- Creation and improvement of footpaths
- Creation and improvement of cycle paths
- Improvements to inland waterways

Specialist Treatments as part of a Larger Project: This should cover any specialist treatments not included under other headings such as:

- Stone cleaning
- Floodlighting
- Asbestos removal
- Damp and rot
- Special needs accessibility

Applicants should specify the type of treatment(s) in an appendix. If treatments are associated with listed buildings they should be in accordance with the guidelines set down by Historic Scotland.

Security Provision: This should only include eligible security provision, which will ensure the success of the wider project.

Signage: This should include relevant signs including those acknowledging the contribution of the Structural Funds to the project.

ANNEX 2

FLAT RATES

Use of Flat Rate Costs calculated by application of standard scales of unit costs.

The use of flat rate costs calculated by application of standard scales of unit costs can be used by Applicants for the 2007 – 2013 ESF programmes. In order for a unit costing methodology to be eligible, Applicants must apply to the Managing Authority **in advance of the project starting**, to use the unit costing methodology for their project.

Once the unit costing methodology is agreed by the Managing Authority, the National Rules do not apply to those elements of their project which use unit costing (Monitoring and Compliance arrangements specific to projects using unit cost methodology will be to ensure that the unit costing methodology is applied in line with Regulation (EC) No. 1080/2006 as amended by Regulation (EC) No. 396/2009 and 7(4) of Regulation (EC) No. 1080/2006 as amended by Regulation (EC) 397/2009. Where a project also has other costs the National Rules apply.

The Flat Rate must be:

1) Established in Advance;

2) Fair;

3) Equitable; and

4) Verifiable.

Monitoring the application of the Flat Rate Methodology

There are 4 key stages that **must** be followed by the MA, AA and IAB to ensure compliance with the regulations on the application of flat rate methodologies – these are set out below:

Stage 1

The MA and AA will assess and agree any flat rate methodology suggested by the Applicant. There will be “exceptions” to the flat rate that must be agreed by the MA and AA before the project begins and the MA will be required to write to the applicant setting out the flat rate methodology that has been agreed, acceptable “exceptions” to the flat rate methodology and any other significant issues which should be considered by the applicant when applying the flat rate to their project.

There is a requirement to carry out an on-the-spot check to ensure that the methodology is being applied correctly by the applicant. However, this check will not try to verify the basis of the flat rate methodology once it has been agreed by the MA and AA. Stages 2 – 4 (below) cover these audit requirements.

Stage 2

The applicant will have an early “systems audit” where the MA and IAB will check to ensure that the methodology can be applied at every claim stage and the units verified for every claim. Any improvements to the system will be highlighted in writing to the applicant and if necessary, added as condition of grant.

Stage 3

When a claim is received by the IAB from the applicant, the normal verification process will be followed for all elements which do not relate to flat rate costs. For the flat rate costs element of a claim, the IAB will check for evidence that the unit costs claimed have been defrayed within the PRC claim period.

Stage 4

Every project that uses an MA/AA approved flat rate cost methodology (in line with Stage 1 above) will be subject to an Article 60(b) on-the-spot compliance check.

ANNEX 3

FINANCIAL ENGINEERING INSTRUMENTS (i.e. Venture Capital and Loan Funds)

EC REGULATION 1828/2006 – SECTION 8 – ARTICLES 43 – 46

Article 43

General provisions applicable to all financial engineering instruments

1. Articles 43 – 46 shall apply to financial engineering instruments in the form of actions which make repayable investments, or provide guarantees for repayable investments, or both, in the following:

(a) enterprises, primarily small and medium-sized enterprises (SME's), including micro-enterprises, as defined in Commission Recommendation 2003/361/EC([1]) as of 1 January 2005, in the case of financial engineering instruments other than urban development funds;

(b) public-private partnerships or other urban projects included in integrated plans for sustainable urban development, in the case of urban development funds.

2. When the Structural Funds finance operations comprising financial engineering instruments, including those organised through holding funds, a business plan shall be submitted by the co-financing partners or shareholders or by their duly authorised representative.

The business plan shall specify at least the following:

(a) the targeted market of enterprises or urban projects and the criteria, terms and conditions for financing them;

(b) the operational budget of the financial engineering instrument;

(c) the ownership of the financial engineering instrument;

(d) the co-financing partners or shareholders;

(e) the by-laws of the financial engineering instrument;

(f) the provisions on professionalism, competence and independence of the management;

(g) the justification for, and intended use of, the contribution from the Structural Funds;

(h) the policy of the financial engineering instrument concerning exit from investments in enterprises or urban projects;

(i) the winding-up provisions of the financial engineering instruments, including the reutilisation of resources returned to the financial engineering instruments from investments or left over after all the guarantees have been honoured, attributable to the contribution from the operational programme.

The business plan shall be assessed and its implementation monitored by, or under the responsibility of, the Member State or the managing authority.

The assessment of the economic viability of the investment activities of the financial engineering instruments shall take into account all sources of income of the enterprises concerned.

([1]) OJ L 124, 20.05.2003. p. 36.

3. Financial engineering instruments, including holding funds, shall be set up as independent legal entities governed by agreements between the co-financing partners or shareholders or as a separate block of finance within a financial institution.

Where the financial engineering instrument is established within a financial institution, it shall be set up as separate block of finance, subject to specific implementation rules within the financial institution, stipulating, in particular, that separate accounts are kept which distinguish the new resources invested in the financial engineering instrument, including those contributed by the operational programme, from those initially available in the institution.

The Commission may not become a co-financing partner or shareholder in financial engineering instruments.

4. Management costs may not exceed, on a yearly average, for the duration of the assistance any of the following thresholds, unless a higher percentage proves necessary after a competitive tender:

(a) 2% of the capital contributed from the operational programme to holding funds, or to the capital contributed from the operational programme or holding fund to the guarantee funds;

(b) 3% of the capital contributed from the operational programme or the holding fund to the financial engineering instrument in all other cases, with the exception of micro-credit instruments directed at micro-enterprises;

(c) 4% of the capital contributed from the operational programme or the holding fund to micro-credit instruments directed at micro-enterprises.

5. The terms and conditions from contributions from operational programmes to financial engineering instruments shall be set out in a funding agreement, to be concluded between the duly mandated representative of the financial engineering instrument and the Member State or the managing authority.

6. The funding agreement referred to in paragraph 5 shall include at least:

(a) the investment strategy and planning;

(b) monitoring of implementation in accordance with applicable rules;

(c) an exit policy for the contribution from the operational programme out of the financial engineering instrument;

(d) the winding-up provisions of the financial engineering instrument, including the reutilisation of resources returned to the financial engineering instrument from investments or left over after all guarantees have been honoured that are attributable to the contribution from the operational programme.

7. Managing authorities shall take precautions to minimise distortion of competition in the venture capital or lending markets.

Returns from equity investments and loans, less a *pro rata* share of the of the management costs and performance incentives, may be allocated preferentially to investors operating the market economy investor principle up to the level of remuneration laid down in the by-laws of the financial engineering instruments, and they shall then be allocated proportionally among all co-financing partners or shareholders.

Article 44

Additional provisions applicable to holding funds

1. Where the Structural Funds finance financial engineering instruments organised through holding funds, the Member State or managing authority shall conclude a funding agreement with the holding fund, setting out the funding arrangements and objectives.

The funding agreement shall, where appropriate, take account of the following:

(a) as regards financial engineering instruments other than urban development funds, the conclusions of an evaluation of gaps between supply of such instruments to, and demand for such instruments by, SMEs;

(b) as regards urban development funds, urban development studies or evaluations and integrated urban development plans included in operational programmes.

2. The funding agreement referred to in paragraph 1 shall, in particular, make provision for:

(a) the terms and conditions for contributions from the operational programme to the holding fund;

(b) a call for expression of interest addressed to financial intermediaries or urban development funds;

(c) the appraisal, selection and accreditation of financial intermediaries or urban development funds by the holding fund;

(d) the setting up and monitoring of the investment policy or the targeted urban development plans and actions;

(e) reporting by the holding fund to Member States or managing authorities;

(f) monitoring the implementation of investments in accordance with the applicable rules;

(g) audit requirements;

(h) the exit policy of the holding fund out of the venture capital funds, guarantee funds, loan funds or urban development funds;

(i) the winding-up provisions of the holding fund, including the reutilisation of resources returned to the financial engineering instrument from investments made or left over after all guarantees have been honoured which are attributable to the contribution from the operational programme.

The investment policy referred to in point (d) shall comprise at least an indication of the targeted enterprises and the financial engineering products to be supported.

3. The terms and conditions for contributions to venture capital funds, guarantee funds, loan funds and urban development funds from holding funds supported by operational programmes shall be set out in a funding agreement, to be concluded between the venture capital fund, guarantee fund, loan fund or urban development fund, on one hand, and the holding fund, on the other.

The funding agreement shall include at least the elements listed in Article 43(6).

Article 45

Additional provisions applicable to financial engineering instruments other than holding funds and urban development funds

Financial engineering instruments other than holding funds and urban development funds shall invest in enterprises, primarily in SMEs. Such investments may be made only at the establishment, in the early stages, including seed capital, or on expansion of those enterprises, and only in activities which the managers of the financial engineering instruments judge potentially economically viable.

They shall not invest in firms in difficulty within the meaning of the Community Guidelines on State aid for rescuing and restructuring firms in difficulty ([1]) as of 10 October 2004.

Article 46

Additional provisions applicable to urban development funds

1. Where Structural Funds finance urban development funds, those funds shall invest in public-private partnerships or other projects included in an integrated plan for sustainable urban development. Such public-private partnerships or other projects shall not include the creation and development of financial instruments such as venture capital, loan and guarantee funds.

2. For the purposes of paragraph 1, urban development funds shall invest by means of equity, loans and guarantees.

Urban projects receiving grant assistance from an operational programme may also be supported by urban development funds.

3. Where Structural Funds finance urban development funds, the funds concerned shall not re-finance acquisitions or participations in projects already completed.

([1]) OJ C 244, 1.10.2004, p. 2.

VENTURE CAPITAL AND LOAN FUNDS:

1.1 Venture Capital and Loan Funds are established with the sole purpose of providing direct financial support to Small and Medium sized Enterprises (SME) and other eligible beneficiaries.

1.2 The funds should be set up as separate legal entities and meet the management and reporting procedures required by the Managing Authority.

1.3 The funds must be established with all match funding committed and in place from the outset. This enables ERDF to be drawn down in a single claim.

1.4 The full value of the fund must be invested by the final spend date for the programme – 31 July 2015.

1.5 Loan Funds by definition provide financial assistance to SME's and other eligible beneficiaries that will be repaid and which in turn will replenish the loan fund. The full value of the original approved loan fund must be fully allocated by the final spend date for the programme – 31 July 2015.

<u>Administering the Fund</u>

In the majority of cases, it is not a condition that SME's must incur expenditure on particular goods or services. Capital, loans or guarantees are often given for the development or expansion of the SME's general business activities, including working capital. In these circumstances the fund administrator should ensure they retain the following documents:

- Application Forms;
- Business Plans;
- Annual Accounts;
- Checklists and reports of the Venture Capital Fund assessing the application;
- The signed investment, loan or guarantee agreement;
- Reports by the Enterprise;
- Reports on visits and Board Meetings;
- Reports by the loan intermediary to the guarantee fund supporting claims;
- Environmental Approvals;
- Equal Opportunities Reports; and
- Declarations made in connection with receipt of de-minimis aid.

Evidence of expenditure in the form of receipted invoices and proof of payment for goods and services by SMEs is **only required** as part of the audit trail where the capital, loan or guarantee to the SME is conditional on it incurring the expenditure on particular goods or services. However, in all cases, there must be proof of transfer of the capital or loan by the venture capital or loan intermediary to the enterprise.

Ineligible Sectors

The following sectors are ineligible for investment provided under the VCLF:

- Retail
- Motor Vehicles
- Real Estate/Property Development
- Professional Services

- Social and Personal Services
- Pubs, Clubs and Restaurants
- Local Services
- Banking and Insurance
- Nuclear Decommissioning

ANNEX 4

GRANT SCHEMES

1. Grant schemes are defined as financial support to SMEs and other eligible recipients provided as part of a wider business support service and subject to state aid rules. A grant scheme should not be set up as a single separate entity. ERDF/ESF should be drawn down retrospectively in the usual manner.

2. Contributions to SMEs are subject to thresholds depending on the type of activity you are funding. It should be noted that the ERDF/ESF contribution to the grant will be in line with the approved grant level to the project:

2.1 Investment in both tangible and intangible assets are subject to a maximum of 30% (LUPS) and 50% (H&I) of the SME's project costs.

2.2 For Services provided by outside consultants the contribution shall not exceed 50% of the costs of such services. The services concerned shall not be a continuous or periodic activity nor relate to the enterprise's usual operating expenditure such as routine tax consultancy services, regular legal service, or advertising.

2.3 For participation in fairs and exhibitions the contribution shall not exceed 50% of the additional costs incurred for renting, setting up and running the stand. This exemption shall only apply to the first participation of an enterprise in a particular fair or exhibition.

2.4 Where the aid is granted for general training, it shall not exceed 50% of the costs for investment in large enterprises and 70% for small and medium sized enterprises.

Administering the Grant Scheme

3. The Grant Scheme Administrator is responsible for retaining the following documents:

- The application from the grant recipient requesting an award from the grant scheme;
- Evidence on how the application was assessed;
- Information on who assesses and authorises the awards;
- Information on the aim and objectives of the grant scheme/awards;
- Evidence of the notification given to the recipient of the approval of an award;
- Evidence showing defrayment of the grant to the recipient, i.e. bank statement; and
- Either receipted invoices or invoices and bank statements from the recipient showing the defrayment of the invoiced amounts.

ANNEX 5

LEASING

Aid via Lessor

The lessor is the direct recipient of the Community co-financing, which is used for the reduction of the lease rental payments made by the lessee in respect of assets covered by the leasing contract.

Leasing contracts for which Community aid is paid will include an option to purchase or provide for a minimum leasing period equal to that of the useful life of the asset to which the contract relates.

Where a leasing contract is terminated before expiry of the minimum leasing period without the prior approval of the competent authorities, the lessor will undertake to repay to the national authorities concerned (for credit to the appropriate fund) that part of the Community aid corresponding to the remainder of the leasing period.

The purchase of the asset by the lessor, supported by a receipted invoice or an accounting document of equal probative value, constitutes the expenditure eligible for co-financing. The maximum amount eligible for Community co-financing will not exceed the market value of the asset leased.

Costs connected with the leasing contract (notably tax, lessor's margin, interest refinancing costs, overheads, insurance charges), other than the expenditure referred to in point 2.4, are not eligible expenditure.

Community aid paid to the lessor must be used in its entirety for the benefit of the lessee by means of a uniform reduction in all the leasing rentals for the duration of the leasing period.

The lessor will demonstrate that the benefit of the Community aid will be transferred fully to the lessee by establishing a breakdown of the rental payments or by an alternative method giving equivalent assurance.

The costs referred to in point 2.5, the use of any fiscal benefits arising from the leasing operation, and other conditions of the contract will be equivalent to those applicable in the absence of any Community financial intervention.

Aid to Lessee

The lessee is the direct recipient of the Community co-financing.

The leasing rentals paid to the lessor by the lessee, supported by a receipted invoice or an accounting document of equivalent probative value, constitute the expenditure eligible for co-financing.

In the case of leasing contracts which include an option to purchase or which provide for a minimum leasing period equal to the useful life of the asset to which the contract relates, the maximum amount eligible for Community co-financing must not exceed the market value of the asset leased. Other costs connected with the leasing contract (tax, lessor's margin, interest refinancing costs, overheads, insurance charges, etc.) are not eligible expenditure.

The Community aid in respect of leasing contracts referred to under point 3.3 is paid to the lessee in one or more tranches in respect of leasing rentals effectively paid. Where the term of the leasing contract exceeds the final date for taking account of payments under the Community assistance, only expenditure in relation to leasing rentals falling due and paid by the lessee up to the final date for payment under the assistance can be considered eligible.

In the case of leasing contracts which do not contain an option to purchase and whose duration is less than the period of the useful life of the asset to which the leasing contract relates, the leasing rentals are eligible for co-financing by the Community in proportion to the period of the eligible project. However, the lessee must be able to demonstrate that leasing was the most cost-effective method for obtaining the use of the equipment. Where the costs would have been lower if an alternative method (for example hiring of the equipment) had been used, the additional costs will be deducted from the eligible expenditure.

Sale and Lease-Back

Leasing rentals paid by a lessee under a sale and lease-back scheme may be eligible expenditure under the rules set out in point 3. The acquisition costs of the asset are not eligible for Community co-financing.