

Information Note No. 6



To: All successful Ireland-Wales beneficiaries
From: Finance Unit, Ireland-Wales Programme
Date: 10th March 2009
Re: Eligibility Rules for Irish partners

Please find attached Eligibility Rules recently issued by the Department of Finance in Ireland.

These Eligibility Rules have been developed in accordance with Regulation EC 1083/2006, Article 56, Paragraph 4, which states:

- (a) *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.”*

These rules apply **in addition** to the eligibility rules for territorial cooperation set out in the Regulations, and the rules as set out in the Operational Programme.

Any expenditure that does not fall within the scope of these rules should not be included in Statements of Expenditure of Irish partners.

National Rules for Welsh participants were sent under separate cover as Information Note No. 3 on 8th December 2008.



Appendix 1

NATIONAL ELIGIBILITY RULES

FOR EXPENDITURE CO-FINANCED BY THE EUROPEAN REGIONAL DEVELOPMENT FUND (ERDF) BY BENEFICIARIES OF OPERATIONS UNDERTAKEN IN IRELAND UNDER EUROPEAN TERRITORIAL COOPERATION PROGRAMMES 2007-2013

Rule 1: General Rules on Eligibility

- 1.1 Expenditure shall be eligible for a contribution from the ERDF if it has **actually been incurred and paid** between 1 January 2007 and 31 December 2015, subject to the receipt of the goods and services in accordance with the objectives of the project/operation. Projects/Operations must not have been completed before the starting date for eligibility.
- 1.2 By way of **derogation** from this rule, overheads/indirect costs, in-kind contributions and depreciation costs on co-financed assets may, under specific conditions, be treated as eligible expenditure incurred and paid by Beneficiaries in implementing operations. The specific conditions for each of the three derogation categories are set out under Rules 3, 4 and 5.
- 1.3 Expenditure shall be eligible for a contribution from the ERDF only where it is incurred for **projects/operations approved by the Managing Authority** of the Operational Programme concerned or under its responsibility, in accordance with criteria set out by the Monitoring Committee.
- 1.4 New expenditure, added by revision of the Operational Programme, shall only be eligible from the date of the submission to the European Commission of the request for the revision to the Operational Programme.
- 1.5 **Proof of expenditure** is always required and the expenditure must be supported by receipted invoices or accounting documents of equivalent probative value, which have a proven link with the projects/operations. Equally, the supporting documentation must provide evidence of delivery of the product or service to which the expenditure relates. Effectively, this means any document required to support the accounting records in order to give a true and fair view of the transactions in accordance with accepted accountancy practice. The following is a list of records which meet the standard "document of equivalent probative value":
 - a) Original invoice or a version certified to be in conformity with the original on commonly accepted data carriers (see Section 1.8 for further information on commonly accepted data carriers);
 - b) Contract installment request supported by project Architect's / Engineer's certificate;
 - c) Fee payment request duly certified by project manager;

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- d) Payroll record to support salaries and wages claimed. Rates of pay should be justified and certified and the allocation of salaries/wages supported by logs/timesheets;
 - e) Travel and subsistence claims duly authorised and in accordance with approved rates. Invoices may be used where hotel and meal expenses are claimed in lieu of approved subsistence/per diem rates;
 - f) Record of calculation and allocation of overhead charge based on actual expenditure duly incurred and paid by the beneficiary/implementing body; and
 - g) Claim for contribution-in-kind duly assessed and certified as reasonable by the appropriate authority.
- 1.6 While bank statements should be available to provide proof of payment (in the cases (a) to (f) above), these alone do not constitute a “document of equivalent probative value” since they do not provide evidence (e.g. of the delivery of the product or service) to support the underlying transaction which generated the payment. In this regard, documents such as purchase orders, supplier statements and delivery dockets can provide secondary support to, but not replace, the documents listed at (a) to (g) above.
- 1.7 No project/operation may be funded by **more than one source** of European Funding⁵.
- 1.8 In accordance with the instructions as set out in Section 7⁶ of Circular 12/2008 these supporting documents must be kept in a proper manner and available for the European Commission and the European Court of Auditors for a period of three years after the closure of the Operational Programme i.e. up to at least 2018. All relevant bodies will be informed by the Managing Authorities when the closure process has been completed. The documents should be kept either as originals or in versions certified to be in conformity with the originals on commonly accepted data carriers. The following are considered commonly accepted data carriers:
- a) Photocopies of original documents;
 - b) Microfiches of original documents;
 - c) Electronic versions of original documents; and
 - d) Documents existing in electronic format only.
- 1.9 The procedures for certification of conformity of documents with the original document should comply with national legal requirements and can be relied upon for audit purposes. Under the Electronic Commerce Act, 2000⁷ (Sections 17 and 18) electronic originals or electronic copies of original documents are acceptable.

Rule 2: Salaries, Wages, Travel and Subsistence Costs
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- 2.1 If an individual is allocated exclusively to an ERDF project/operation either by way of documented secondment or employment contract then the salary or wages costs are eligible.

⁵ Article 54 of General Regulation 1083/2006.

⁶ Section 7 of Circular 12/2008 relates to the retention of records and ensuring an adequate audit trail.

⁷ Copy can be found at this address <http://www.irishstatutebook.ie/2000/en/act/pub/0027/index.html>. Section 17 deals with electronic originals and Section 18 deals with retention and production.



- 2.2 Where a person is not exclusively allocated to the project, costs incurred in implementing projects/operations are eligible when they meet the following conditions:
- a) **Salary and Wage** costs including employer's PRSI are eligible if based on real costs (e.g. amounts paid to employee/revenue and not notional costs). The grades and pay scales should be shown where applicable and evidence of actual time spent on ERDF project/operation, such as time sheets/logs or other agreed methodology must always be maintained; and
 - b) **Travel and subsistence costs** of project staff members must relate to ERDF projects/operations only and beneficiaries must have appropriate documentation to support the costs. The travel and subsistence rates must be appropriate and justifiable (e.g. in line with applicable civil and/or public service rates and rules). Hotel and meal costs may be claimed in lieu of the per diem subsistence rate if evidenced by receipted invoices. However, the total cost should not exceed the equivalent civil/public service subsistence rate.

Rule 3: Overheads/Indirect Costs

- 3.1 Overheads/Indirect Costs are eligible when they meet the following conditions:
- a) Overheads/indirect costs for grants (i.e. not call for tenders) may be eligible where they are based on real costs which relate to the implementation of the project/operation co-financed by ERDF and are allocated pro rata to the project/operation, according to duly justified fair and equitable methods. These conditions must be confirmed and approved in writing in advance by the relevant Managing Authority;
 - b) In exceptional circumstances, and subject to the approval of the managing Authority, indirect costs declared on a flat rate basis, up to a maximum of 20% of the direct costs of an operation, may be deemed eligible. The flat rate must in the first instance be based on real costs which relate to the implementation of the operation and allocated in accordance with the preceding paragraph. Flat rates will be subject to periodic review as determined by the Managing Authority for each activity heading.
 - c) If the approved costs of the project/operation are based on a call for tenders then no overheads/indirect costs are eligible unless already included in the contract agreement price.

Rule 4: In-Kind Contributions

- 4.1 In-kind contributions are eligible, if approved by the Managing Authority,
4.2 provided all of the following conditions are met:
- a) The co-financing from the ERDF does not exceed the total eligible expenditure, excluding the value of the in-kind contribution;



- b) The value can be independently assessed and audited;
- c) In the case of unpaid voluntary work, the value of that work shall be determined, taking into account the time spent and the hourly and/or daily rates of remuneration for equivalent work (i.e. the value of volunteer time is based on the notional value of the tasks performed by the volunteer for the project and not the current earnings of an individual in their usual paid employment); and
- d) The overall contribution-in-kind cost of providing the service and/or goods (e.g. hours worked multiplied by hourly rate for equivalent work) is not greater than the market value for providing the same service and/or goods. This may arise where the number of hours spent by a volunteer in performing a specific task is greater than the hours required by a professional for the same specific task resulting in a cost greater than the market value, even if different hourly rates are applied to both the volunteer and the professional.

Rule 5: Purchase cost of assets and depreciation charge
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- 5.1 Having regard to the provisions of Department of Finance Circular 02/2004⁸, an asset is defined, for the purposes of these National Eligibility rules, as any tangible item with a useful economic life of more than 1 year and a cost of greater than €1,000 (net of VAT).
- 5.2 The **full purchase cost** of an asset (excluding the purchase of land which is dealt with separately under Rule 7), used wholly and exclusively for the co-financed project/operation, can be classified as eligible expenditure and may be charged to the project only where:
 - a) The asset is purchased within the period of co-financing;
 - b) The asset has a useful economic life less than or equal to the remaining life of the project; and
 - c) Expenditure relates to the purchase or construction of plant and equipment that is to be permanently installed and fixed in the project, provided that it is included in the inventory of durable equipment of the body responsible for implementation and that it is treated as capital expenditure in accordance with standard accounting practice.
- 5.3 **In all other cases**, the depreciation method for claiming expenditure should be used.
- 5.4 The **depreciation** charge for an asset directly used for the project/operation can be declared as eligible expenditure for a contribution from the ERDF, provided that the following conditions are met:
 - a) The purchase cost of the asset has not been already declared as eligible expenditure;

⁸ Circular 02/04 – Increase in the Value Threshold for Inclusion of Assets in Asset Registers. Copy available on Department of Finance website:
<http://www.finance.gov.ie/viewdoc.asp?DocID=4955&CatID=28&StartDate=01+January+2004&m=>



- b) The depreciated asset is used exclusively for the duration of the project/operation within the co-financing period. If the asset is not used exclusively for the duration of the project/operation then the depreciation charge may be apportioned to the project as an overhead/indirect cost if all the conditions set out under Rule 3 are met;
- c) National or European Community grants have not contributed towards the purchase of such asset; and
- d) The depreciation charge is calculated in accordance with generally accepted accounting practice.

Rule 6: Purchase costs of second-hand equipment
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- 6.1 The purchase of second-hand equipment is eligible provided that the conditions set out below are met in full:
- a) The seller of the equipment shall provide a declaration stating its origin, and confirming that the equipment has not been purchased with the aid of National or Community grants;
 - b) The price of the equipment shall not exceed its market value and shall be less than the cost of similar new equipment; and
 - c) The equipment shall have the technical characteristics necessary for the project/operation and comply with applicable norms and standards.
- 6.2 It should be noted that where the value of second-hand equipment exceeds €1,000 the provisions of Rule 5 also apply.

Rule 7: Land Costs

- 7.1 The purchase cost of land, and any associated costs, is not eligible.

Rule 8: Purchase of real estate
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- 8.1 The cost of purchase of real estate i.e. buildings already constructed and the land on which they are built, is not eligible for co-financing.

Rule 9: Leasing and Rental Costs

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- 9.1 The leasing/rental costs of projects/operations are eligible only when the following conditions are met:
- a) The lease/rental costs are **exclusively related** to the ERDF co-financed project/operation, and are incurred within the period of eligibility of the project/operation;
 - b) The lease/rental costs are **exclusively related** to the ERDF co-financed project/operation, but the lease/rental period exceeds the period of eligibility of the project/operation, only those costs incurred within the project eligibility period are eligible;
 - c) If the lease/rental costs are **not exclusively related** to the project/operation, then the lease/rental costs are ineligible, but may be claimed as an overhead/indirect cost if all the conditions set out under Rule 3 above are met; and
 - d) The maximum amount of ERDF eligible expenditure shall not exceed the market value of the asset leased/rented as supported, where possible, by a receipted invoice or an accounting document of equal probative value detailing the purchase cost to the lessor of the asset being leased/rented.

Rule 10: Financial & Legal Charges

- 10.1 The financial/legal charges of projects/operations are eligible only in the following circumstances:
- a) charges for transnational financial transactions⁹;
 - b) the bank charges for opening and administering a bank account or accounts, where the implementation of an project/operation requires a separate bank account or accounts to be opened;
 - c) legal consultancy fees, notarial fees, the costs of technical and financial experts and accountancy and audit costs, if they are directly linked to the co-financed project/operation and are necessary for its preparation or implementation; and the cost of guarantees, not including interest on debt, provided by a bank or other financial institutions to the extent to which the guarantees are required by national or Community legislation.

⁹ These include all financial transactions outside the state.



Rule 11: Technical Assistance

General Eligibility for Technical Assistance

11.1 The technical assistance costs¹⁰, including central services provided by the Department of Finance, for the preparatory, management, monitoring, evaluation, information and control activities of the ERDF Operational Programmes together with activities to reinforce the administrative capacity for implementing the ERDF actions are eligible if they meet the following conditions:

- a) Costs relating to the preparation, selection, appraisal and monitoring of the assistance and of projects/operations;
- b) Costs relating to meetings of monitoring committees and sub-committees relating to the implementation of assistance. This expenditure may also include the costs of experts and other participants in these committees, including third-country participants, where the chairperson of such committees considers their presence essential to the effective implementation of the assistance;
- c) Costs relating to audits and management checks of Managing Authorities, Intermediate Bodies, Beneficiaries and projects/operations;
- d) Expenditure relating to studies, seminars, information and publicity actions and evaluation;
- e) The development, hosting, maintenance and support of the IT Systems for the certification of expenditure;
- f) The acquisition, installation, hosting, maintenance and support of computerised systems for management, monitoring and evaluation. Depreciation costs may be claimable if all the conditions set out under Rule 5 are met.

Staff Costs

11.2 Expenditure on salaries, including social security contributions and other pension costs, travel and subsistence, is eligible only in the following cases:

- a) the staff in the ERDF Financial Control Unit;
- b) other civil servants or other public officials seconded by duly documented decision of the competent authority to carry out tasks required under the categories of expenditure outlined in Rule 11.1;
- c) other staff employed to carry out specific tasks required under the categories of expenditure outlined in Rule 11.1 e.g. IT specialists or auditors; and

¹⁰ Article 46 (1) of General Regulation 1083/2006 – Technical Assistance of the Member State: *"The Funds may finance the preparatory, management, monitoring, evaluation, information and control activities of operational programmes together with activities to reinforce the administrative capacity for implementing the Funds...."*



- d) the staff of Managing Authorities and Regional Assemblies involved in the carrying out of tasks required under the categories of expenditure outlined in Rule 11.1.

- 11.3 The ERDF contribution to the technical assistance expenditure is limited to the maximum amount approved for this cost by the Operational Programmes Commission Decisions and this shall be within a limit of 6% of the total amount allocated under the European Territorial Cooperation Objectives, as required by Article 46 of the General Regulation.

Rule 12: Revenue Generating Projects

- 12.1 A revenue-generating project, for the purposes of ERDF co-financed operations in Ireland and in accordance with Article 55 of the General Regulation 1083/2006, means any operation involving the provision of services against payment (e.g. admittance fees, rents etc.).
- 12.2 Beneficiaries must have written approval from the Managing Authority prior to the inclusion of such projects/operations in the declaration of eligible expenditure to be submitted for ERDF funding.
- 12.3 There are certain conditions applicable to assessing and implementing ERDF co-financed revenue generating projects. A technical working group in the EU Commission is considering this issue and further guidance will issue in due course.

Rule 13: Value Added Tax (VAT)

- 13.1 The cost of VAT is eligible only in circumstances where such VAT is not recoverable by the beneficiary by any means.

Rule 14: Sub-contracting Costs

- 14.1 Sub-contracting costs are eligible where the sub-contracting does not add to the cost of execution of the project/operation, without adding proportionate value to it.
- 14.2 Sub-contracts with intermediaries or consultants in which the costs are defined as a percentage of the total cost of a project/operation are not eligible unless such costs are justified by the beneficiary by reference to the actual value of the work or services provided. If such justification can not be provided the costs for sub-contracting are not eligible.

Rule 15: Location of operation

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15.1 In respect of Territorial Cooperation Programmes, the eligible area for implementing operations are specified by the respective individual Operational Programmes, as are any specific rules on location of operations. Beneficiaries are advised to consult with the relevant Managing Authorities.