

## Fact sheet 4: Eligibility and budget rules

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### 4.1. General eligibility rules

In order to receive funding, all the reported costs must be correctly calculated and accurately registered in the partner organisation's book-keeping system. They must also be eligible, i.e. compliant with the rules governing EU expenditure.

There are different levels of eligibility rules for expenditure (hierarchy of rules):

1. The European level: EU regulations;
2. The programme level: specific rules decided for the Atlantic Area Programme;
3. The national level: national rules applicable in each MS;
4. The partner institutional level: internal rules applicable to each partner organisation.

The stricter rule prevails if there are differences between rules at different levels.

#### 4.1.1 Eligibility period

The start date is the date of notification of PMC's approval by MA/JS. Costs paid prior to this date are not eligible, except for:

- ✓ Costs related to project preparation;
- ✓ Purchase of equipment items for which depreciation during project lifetime is eligible;
- ✓ Purchase of land or equipment subsequently provided in kind to the project.

The end date indicated in the application form is the date by which:

- ✓ All project activities must have been completed.

Generally, and according to the project cycle, the following costs are eligible:

- ✓ **Costs for the preparation** of an approved project can be reimbursed through a lump sum under the terms and conditions further explained;
- ✓ **Costs for the implementation** of an approved project are eligible from the notification of the approval date until the project end date, as set in the application form and subsequent revisions. On this basis, partners may decide at their own expense and risk to start the implementation of the project before the PMC approval/funding decision;
- ✓ **Costs for project closure** (e.g. preparation and submission of the last progress report, final report and costs for control of expenditure) are eligible, and must be paid before the deadline for submission of the final report (i.e. three months after project end).

#### **4.1.2 Overarching eligibility requirements**

All expenditure in the allowed budget categories has to be project-related, i.e. clearly connected to project activities traceable in the approved application form. Furthermore, the expenditure has to be incurred, accounted for and paid during the project period as defined in the Subsidy Contract. For expenditure to be considered eligible the procedure followed to procure goods and services should be fully documented at each stage of the process to demonstrate compliance in full with the applicable public procurement or other rules.

Generally speaking, to be eligible the following principles would apply. **Project costs must be:**

- ✓ Related to activities and be included in the estimated budget set out in the application form and subsequent revisions;
- ✓ Necessary for carrying out the activities and for achieving the project objectives;
- ✓ Related to items that did not receive support from other EU Funds or other contributions from third parties;
- ✓ Reasonable, justified, consistent with the applicable rules of the partner, the programme, national/regional and the EU rules, and be in accordance with the principles of sound financial management;
- ✓ Not in contradiction with any specific eligibility criterion applicable to the respective budget line;
- ✓ In line with the relevant public procurement rules;

- ✓ Incurred and paid by the beneficiary concerned in the period between the project start and end date, as defined in the approved application form and subsequent revisions;
- ✓ Identifiable, verifiable, plausible and determined in accordance with the relevant established accounting principles;
- ✓ Supported with sufficient evidence to allow identification and checking;
- ✓ Registered in a separate project specific account or identified using an adequate accounting code set in place specifically for the project;
- ✓ Validated by an authorised national controller.

When expenditure is reimbursed on the basis of an agreed lump sum or calculated using a flat rate that does not require supporting evidence of actual expenditure the last three principles do not apply.

#### **4.1.3 Non-eligible expenditure**

Non-eligible expenditure is set out in the chapter “Budget lines”. Nevertheless, the following items of expenditure are never considered eligible:

- ✓ In kind contributions not meeting requirements defined in Article 69(1) of Regulation (EU) No. 1303/2013;
- ✓ Fines, financial penalties and expenditure on legal disputes and litigation;
- ✓ Costs of gifts are not eligible; promotion, merchandising, communication, publicity or information items are not considered gifts;
- ✓ Alcoholic beverages other than those served at project meals and receptions;
- ✓ Costs arising from fluctuation in foreign exchange rate;
- ✓ Interest on debt;
- ✓ Purchase of land in excess of 10% or 15% (In accordance with Article 69(3)(b) of the CPR (EU) No 1303/2013;
- ✓ Recoverable VAT;
- ✓ Shared costs;
- ✓ Charges for national financial transactions;
- ✓ Discounts not considered when claiming the costs (only the discounted amount is to be regarded as eligible);

- ✓ Fees between beneficiaries of a same project for services, equipment and work carried out within the project;
- ✓ Any other cost not eligible according to general provisions on eligibility (as well as specific provisions at budget line level).

#### **4.1.4 Preparation costs**

Approved projects which have signed the subsidy contract with the MA are entitled to claim a lump sum payment in recognition of costs that would have been incurred in the preparation of the project proposal. The lump sum for preparation costs in the Atlantic Area Programme is fixed at EUR 16 000. This lump sum follows the co-financing rules of the Programme and, therefore, the associated ERDF is 75% of this value, that is EUR 12 000.

Preparation costs have to be included in the project's budget when submitting the application. The project is free to choose how it shares the lump sum across the partnership.

After the signature of the subsidy contract and start of project activities, preparation costs may be claimed through the standard reimbursement procedure.

#### **4.1.5 In kind contribution**

Contributions in kind are eligible if they comply with the applicable rules in the EU Regulations provided they do not contravene any applicable national rules.

In kind contributions in the form of provision of works, goods, services, land and real estate for which no cash payment supported by invoices, or documents of equivalent probative value, has been made, and may be eligible according to Article 69 of Regulation No 1303/2014, which sets also a number of specific conditions<sup>1</sup>:

1. The ERDF amount paid to the operation (not individual partners) does not exceed the total eligible expenditure minus the in kind contributions, at the end of the operation;
2. The value attributed to contributions in kind does not exceed the costs generally accepted on the market in question;

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<sup>1</sup> Article 69.1 of CPR (EU) No 1303/2013.

3. The value and the delivery of the contribution can be independently assessed and verified;
4. In kind contributions in the form of equipment can be deemed eligible insofar as the item of equipment was not previously paid for or co-financed by European funds;
5. In the case of land and real estate, the value must reflect the nature of the transaction (transfer of ownership or leasehold) and be certified by an independent qualified expert or duly authorised official body;
6. In the case of provision of land or real estate, a cash payment, for the purposes of a lease agreement of a nominal amount per annum not exceeding a single unit of the currency of the MS, may be made.

In the case in kind contributions in the form of unpaid work, the value of that work is determined by taking into account the verified time spent and the rate of remuneration for equivalent work.

#### **Audit Trail**

- ✓ Document independently verifying the market value of the activity/asset;
- ✓ Timesheets and hourly rates for the task.

#### **4.1.6 Revenues**

##### **Definition**

According to the Article 61 of the CPR (EU) No 1303/2013, net revenues after project completion are cash in-flows directly paid by users for goods or services provided by a project, such as charges borne directly by users for the use of infrastructure, sale or rent of buildings, or payment for services less any operating costs and replacement costs of short-life equipment incurred during the corresponding period.

##### **How to deal with project revenues?**

At the project application stage:

- ✓ The eligible expenditure shall be reduced in advance taking into account the potential of the project to generate net revenue over a specific period covering both the implementation of the project and the period after its completion;

- ✓ When the amount of net revenues is known at the application stage, it must be specified in the application form, in the item net revenue generated by the project;
- ✓ Note that net revenues will be deducted from the total eligible expenditure and will consequently decrease the ERDF contribution. If the net revenues are only partially generated due to the eligible expenditure they should be reported on the pro-rata basis.

#### At the project implementation stage

- ✓ All revenues (including those not foreseen at the application stage) generated during the project's implementation as detailed in Art 65(8) of Regulation No 1303/2013 must be reported in the project progress reports before the closure of the project;
- ✓ Project partners are responsible for keeping account of all the revenues and to have the necessary documentation available (e.g. for control purposes). Please refer also to exemptions in Article 65 (8) of Regulation (EU) 1303/2013.

#### After the completion of the project

- ✓ If revenues are expected to be generated after the project end date (e.g. to ensure durability of the results), it must be estimated and deducted from the budget at the application stage;
- ✓ Where it is objectively not possible to estimate the revenue in advance, the net revenue generated within 3 years of the completion of the project or by the programme closure deadline, whichever is earlier, shall be reported to the JS and deducted from the expenditure declared by the programme to the EC.

#### **Please note**

If the project is subject to State aid rules (de minimis/general block exemption/ notification was made) the net revenues will not be deducted unless national rules request otherwise.

#### **4.1.7 Exchange rate**

In accordance with Article 28 b) of Regulation (EU) No 1299/2013, and by way of derogation from Article 133 of Regulation (EU) No 1303/2013, expenditure incurred in a currency other than the euro shall be converted into euro by the beneficiaries in the month during which the expenditure was submitted for verification to the First Level

Controller (FLC) in accordance with Article 23 of this Regulation; the relevant Commission calculator link will be used to calculate the rate:

[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/inforeuro/inforeuro\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm)

The conversion shall be verified by the controller in the MS or third country in which the beneficiary is located.

#### **4.1.8 Grant rate**

The maximum grant rate for all projects and partners is 75%.

Within a project, different grant rate are allowed among project partners on condition that the maximum grant rate of 75% established at project level is not exceeded.

The difference between the total project budget and the Interreg grant is called match-funding and must be provided by each individual project partner, as self-financing or as external financing by an associated partner.

## **4.2. Budget lines**

Project budget must be structured according to the following budget lines:

- 4.2.1. Staff costs
- 4.2.2 Office and administrative expenditure
- 4.2.3. Travel and accommodation
- 4.2.4. External expertise and services
- 4.2.5. Equipment (including, laboratory goods, consumables, etc.)
- 4.2.6. Small Infrastructure and works

### **Please note**

- ✓ These budget lines apply to all work packages, excluding the management and communication work packages where budget line 6 is not applicable.
- ✓ Investment expenditure must be included under budget lines 5 and/or 6.

### 4.2.1 Staff costs

#### Definition

This category covers expenditure of staff members directly employed by the partner organisation engaged to formally work full time or part time on the project, for activities that otherwise would not be carried out if the project did not happen.

They include costs of employment in line with the employment/work contract, and costs of natural persons working for the partner organisation under a contract other than an employment/work contract and receiving salary payments.

Overheads and any other office and administrative expenditure cannot be included in this budget line.

**The staff costs can be calculated with two different methods.** Partners must choose one of the two following methods:

- a) **Flat rate:** calculated as 20% of the direct eligible costs of the total project budget excluding staff costs. No supporting documents will be required when this method is chosen;
- b) **Direct costs:** based on real and project related staff expenditure. This option will require supporting documentation according to the following table:

DIRECT COSTS		
Calculation	Working hours	Audit trail
<b>1. Full time assignment</b>		
100% of working time allocated to the project	No obligation regarding the use of time sheets	<ol style="list-style-type: none"> <li>1. Employment/work contract or an appointment decision/contract considered as an employment document demonstrating that the person is exclusively working FT on the project;</li> <li>2. Job description providing information on responsibilities related to the project;</li> <li>3. Payslips or other documents of equivalent probative value;</li> <li>4. Proof of payment of salaries and the employers contribution as well as pension contributions;</li> <li>5. Evidence of pay scales applicable to the post within the organisation.</li> </ol>



DIRECT COSTS		
Calculation	Working hours	Audit trail
<b>2. Part time assignment</b>		
<b>2.1 With a fixed monthly percentage of time worked on the project</b>		
The percentage fixed in the employment/work contract or other equivalent document is multiplied by the monthly gross employment costs of the employee.	Time sheets signed by the employee and supervisor indicating the hours worked for the project and the related tasks on a daily basis. <u>Exception:</u> No need to provide timesheets if part time hours are fixed and contracted. The time registration system must cover 100% of the working time of the employee.	<ol style="list-style-type: none"> <li>1. Employment/work contract or an appointment decision/contract considered as an employment document as well as the hourly rate;</li> <li>2. Authorised salary scales for the post within the organisation;</li> <li>3. Document setting out the % of time to be worked on the project per month (if not specified in the contract);</li> <li>4. Job description providing information on responsibilities related to the project (can be included in the employment/work contract);</li> <li>5. Payslips or other documents of equivalent probative value;</li> <li>6. Proof of payment of salaries and the employer's contribution and pension contribution.</li> </ol>
<b>2.2 With a flexible hourly basis</b>		
The employee's hourly rate as indicated in the employment contract is multiplied by the number of hours worked in the project.	Timesheets signed by the employee are required and must cover 100% of the hours worked by the employee (including the working time not related to the project).	<ol style="list-style-type: none"> <li>1. Employment/work contract or an appointment decision/contract considered as an employment document as well as the hourly rate;</li> <li>2. Document setting out the % of time to be worked on the project per month (if not specified in the contract);</li> <li>3. Job description providing information on responsibilities related to the project (can be included in the employment/work contract);</li> <li>4. Payslips or other documents of equivalent probative value;</li> <li>5. Proof of payment of salaries, the employers and pension contribution as well as authorised salary scales for the post within the organisation.</li> </ol>

**Please note:**

- ✓ Under this budget line it is suggested not to exceed 60% of the total project budget.

**4.2.2 Office and administrative expenditure****Definition**

This category covers operating and administrative expenses of the partner organisation that support delivery of project activities. They are to be budgeted, calculated, and

reported as a flat rate of 15% of direct staff costs<sup>2</sup> (if the partner choose the method of flat rate for staff costs, office and administrative expenditures cannot be claimed).

Expenditures under this category cover the following<sup>3</sup>:

- ✓ Office rent;
- ✓ Insurance and taxes related to the buildings where the staff is located and to the equipment of the office (e.g. fire, theft insurances) ;
- ✓ Utilities (e.g. electricity, heating, water) ;
- ✓ Office supplies (e.g. stationary);
- ✓ General accounting provided inside the beneficiary organisation;
- ✓ Archives;
- ✓ Maintenance, cleaning and repairs;
- ✓ Security;
- ✓ IT systems (e.g. administration and management of office hard- and software);
- ✓ Communication (e.g. telephone, fax, internet, postal services, business cards);
- ✓ Bank charges for opening and administering the account or accounts where the implementation of an operation requires a separate account to be opened;
- ✓ Charges for transnational financial transactions.

In situations where an external expert is contracted to carry out specific content related tasks concerning the development, modifications or updates of a specific project IT system or a website, such costs will be accepted under the budget line External expertise and services. The cost of IT software/hardware is eligible under the budget line equipment.

### **Audit Trail**

The calculations based on the flat rate for office and administrative costs will be done automatically in every progress report taking into account the amount of staff costs. The expenditure covered under this budget line will not require any documentation from the project partners (i.e. invoices, payment proofs).

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<sup>2</sup> Article 68 (1) (b) of Regulation (EU) No 1303/2013).

<sup>3</sup> Article 4 of Regulation (EU) No 481/2014.

### **4.2.3 Travel and accommodation**

#### **Definition**

Only the travel and accommodation costs of project staff may be included under this budget line. As a general rule, travel must be related with project activities and the delivery of project outputs.

#### **Principles**

According to Commission Delegated Regulation <sup>4</sup> expenditure on travel and accommodation costs is limited to the following items:

- ✓ Travel costs (e.g. tickets, travel and car insurance, fuel, car mileage, toll and parking fees);
- ✓ Costs of meals (other than catering);
- ✓ Accommodation costs;
- ✓ Visa costs;
- ✓ Daily allowances.

Any expenditure item defined as travel costs, accommodation, meals or visa already covered by a daily allowance is not eligible in addition to the daily allowance.

When travel costs are directly paid by a project partner employee, the expenditure will have to be supported by proof of reimbursement of the employee.

#### **Audit trail**

The following main documents must be available for control purposes:

- ✓ Agenda or similar document (e.g. report) of the meeting/seminar/conference, participants list and sign in sheets or registration to the conference/event, if applicable;
- ✓ Travel documents proving that the journey actually took place (for example, boarding passes or rail tickets, etc.);

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<sup>4</sup> Article 5 of Regulation (EU) No 481/2014.

- ✓ Paid invoices (e.g. hotel bills, travel tickets) and, if applicable, the employee's expense report with a proof of authorisation and reimbursement by the employer to the employee;
- ✓ Daily allowance claims (if applicable), including proof of reimbursement by the employer to the employee;
- ✓ Proof of approved travel rates and thresholds applicable to the organisation.

**Please note:**

- ✓ Travel and accommodation expenses related to individuals other than staff directly employed by the beneficiaries of the project (such as consultants, experts, observers, guests, service providers, speakers and chairpersons), have to be included under the 'external expertise and service' budget line.
- ✓ Travel costs outside the Union part of the programme area are eligible according to Delegated Regulation<sup>5</sup>. Costs of travel and accommodation related to activities outside the programme area are only eligible, if they have been included in the approved application form or approved by the programme following a request for travel. In all cases, benefits of such activities to the programme area must be demonstrated.
- ✓ Maximum daily rates for hotel and subsistence should be respected, in accordance with the national legislation. When national legislation doesn't exist, internal policy of the partner organisation applies. In that situations it shall be evidenced the existent documents describing internal rules, in which such expenditure is based on.
- ✓ The most economic transport means should be used.

**4.2.4 External expertise and services**

**Definition**

External expertise and service costs include expenditure paid on the basis of contracts or written agreements and against accounting valid invoices or requests for reimbursement to external service providers, who are subcontracted to carry out certain tasks/activities linked to project delivery (e.g. studies and surveys, translation, website development, coordination, financial management, first level control).

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<sup>5</sup> Article 5 of Regulation (EU) No 481/2014.

Expenditures for this category are limited to the following items<sup>6</sup>:

- ✓ Studies or surveys (e.g. evaluations, strategies, concept notes, design plans, handbooks);
- ✓ Training;
- ✓ Translations;
- ✓ IT systems and website development, modifications and updates;
- ✓ Promotion, communication, publicity or information linked to a project or to a cooperation programme as such;
- ✓ Financial management;
- ✓ Services related to the organisation and implementation of events or meetings (including rent, catering or interpretation);
- ✓ Participation in events (e.g. registration fees);
- ✓ Legal consultancy and notarial services, technical and financial expertise, other consultancy and accountancy services;
- ✓ Intellectual Property Rights (see chapter 6);
- ✓ Verifications under Article 125(4)(a) of Regulation (EU) No 1303/2013 and Article 23(4) of Regulation (EU) No 1299/2013 (i.e. control of expenditures);
- ✓ The provision of guarantees by a bank or other financial institution where required by Union or national law or in a programming document adopted by the PMC;
- ✓ Travel and accommodation for external experts, speakers, chairpersons of meetings, observers, guests and service providers;
- ✓ Other specific expertise and services needed for operations.

### Principles

- ✓ The work carried out by external experts and service providers must be essential to the project;
- ✓ No sub-contracting between project partners is allowed;
- ✓ Each partner organisation (including private partners) is responsible for ensuring that EU, national and internal established public procurement and other rules are respected and that all contracts comply with the principles of transparency, non-

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<sup>6</sup> Article 6 of Regulation (EU) No 481/2014

discrimination and equal treatment as defined in the EC Treaty and the Commission Interpretative Communication on the Community law applicable to contract awards below the EU thresholds<sup>7</sup>;

- ✓ All costs of external expertise and services that are linked to an investment in infrastructure must be included under this budget line, e.g. feasibility studies, legal fees;
- ✓ All additional costs related to external experts (e.g. travel and accommodation expenses for external experts) must be foreseen in the service contract and recorded under this budget line.

### **Audit trail**

The following main documents must be available for control purposes:

- ✓ When applicable, evidence of the selection process, in line with EU, national and internal procurement rules or the EU public procurement rules depending on the amount contracted;
- ✓ A contract or a written agreement laying down the services to be provided with a clear reference to the project. For experts paid on the basis of a daily fee, the daily rate together with the number of days contracted and the total amount of the contract must be provided. Any changes to the contract must comply with the public procurement rules and must be documented;
- ✓ An invoice or a request for reimbursement providing all relevant information and supporting evidence in line with the contract/agreement and applicable accountancy rules;
- ✓ Outputs of the work of external experts or service deliverables;
- ✓ Proof of payment.

### **Please note:**

- ✓ External expertise and services purchased for the purpose of the project control, first level control and audit, and communication must be included under this budget line;
- ✓ Project partners cannot enter into contracts with one another in relation to activities required as part of the same project. If a project partner cannot

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<sup>7</sup>[http://ec.europa.eu/internal\\_market/publicprocurement/docs/keydocs/communication\\_en.pdf](http://ec.europa.eu/internal_market/publicprocurement/docs/keydocs/communication_en.pdf)

implement a certain task, the task may be reallocated to another partner or procured to an external service provider;

- ✓ Subcontracting in-house or to other affiliated companies must be done on a real costs basis and reported. Where a service is provided by an internal service inside a different legal entity, this service must be included in the external expertise and services budget line. In this case, the award of contract must be in compliance with applicable procurement rules. In case of an internal audit department carrying out first level control, time spent on checking the claims must be reported as staff costs, provided that the rules applicable to staff costs are fulfilled;
- ✓ The costs of services contracted by project partners for arranging the travel and accommodation of their own staff members (e.g. travel agencies, etc.) must be claimed under the budget line 'travel and accommodation';
- ✓ Renting costs for equipment do not fall under this budget line, but in 'equipment costs' line.

#### **4.2.5 Equipment**

##### **Definition**

Expenditure for the financing of equipment purchased, rented or leased by a partner, and necessary to achieve the objectives of the project, in condition they were approved within the application form or in subsequent amendments. This includes costs of equipment already owned by the partner organisation and used to carry out project activities.

According to the Commission Delegated Regulation<sup>8</sup> equipment expenditure is limited to the following items:

- ✓ Office equipment;
- ✓ IT hardware and software;
- ✓ Furniture and fittings;
- ✓ Laboratory equipment;
- ✓ Machines and instruments;
- ✓ Tools or devices;
- ✓ Vehicles;

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<sup>8</sup>Article 7 of Regulation (EU) No 481/2014.

- ✓ Other specific equipment needed for operations.

## Principles

- ✓ Costs of equipment are eligible if they have been approved by the programme;
- ✓ Costs of equipment are eligible if no other EU funds have contributed towards financing of the same expenditure item, i.e. no double funding is permissible<sup>9</sup>;
- ✓ All purchases are subject to applicable public procurement rules and each partner organisation is responsible for ensuring that these rules are respected;
- ✓ Full purchase cost of equipment is eligible, if it is used solely for the purpose of the project or the target group in line with objectives of the project and incurred and paid within the eligible period;
- ✓ For equipment purchased before the project approval or equipment purchased during the project lifetime but used partially for the project, only a pro rata cost related to the project (duration, degree of use) is eligible. This share has to be calculated according to a justified and equitable method in line with the legislation or general accounting policy of the partner organisation;
- ✓ The purchase should be made in principle during the first 12 months of the projects;
- ✓ The purchase of vehicles must respond to specific project requirements linked to the innovative, testing, demonstration and transnational character; it will be authorised on a case-by-case basis;
- ✓ Depreciation applies if the economic life-time of equipment exceeds the duration of the project<sup>10</sup>. The cost has to be calculated in accordance with the legislation and general accounting policy of the partner organisation that has bought the equipment and is claiming for depreciation;
- ✓ Full purchase cost of equipment that is not depreciable (e.g. low-value asset according to the rules of the partner's MS), if used 100% for the project, is eligible;
- ✓ Purchase cost of second-hand equipment is eligible, provided the equipment complies with project's needs, applicable norms and standards, its price does not exceed the generally accepted price on the market and has not previously received EU funding;

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<sup>9</sup> Article 65 11 CPR (EU) No 1303/2013.

<sup>10</sup> Article 69.2 CPR (EU) No 1303/2013.



- ✓ In the case of fixed investments in equipment and when equipment forms part of an investment in infrastructure, full cost of equipment as approved by the programme in the application form is eligible, i.e. no depreciation is eligible;
- ✓ Equipment cannot be purchased, rented or leased from another partner;
- ✓ Provision of equipment as in kind contribution is eligible<sup>11</sup> provided that the value of the contribution does not exceed the generally accepted price on the market and it can be independently assessed and verified.

### **Audit trail**

When applicable, the following main documents must be available for control purposes:

- ✓ Evidence of the procurement process (announcement, selection, award) in line with the national procurement rules or the EU procurement rules depending on the amount of the contract;
- ✓ Invoice (or a supporting document having equivalent probative value to invoices, in case of depreciation) providing all relevant information in line with the applicable accountancy rules;
- ✓ Methodology for calculation of depreciation;
- ✓ Proof of payment;
- ✓ A reliable basis for valuation of second hand equipment;
- ✓ Sellers' declaration that second hand equipment has not previously been EU funded.

### **Please note:**

Rented equipment: any equipment necessary for the implementation of project activities needs to be budgeted and reported in this budget line. Renting costs for equipment do not fall under the budget line 'external expertise and services costs'.

Second hand equipment: costs of second-hand equipment may be eligible under the following conditions:

- A. no other assistance has been received for it from the ESI Funds;*
- B. its price does not exceed the generally accepted price on the market in question;*

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<sup>11</sup> Article 69.1 CPR (EU) No 1303/2013.

*C. it has the technical characteristics necessary for the project and complies with applicable norms and standards.*

#### **4.2.6 Small infrastructures and construction works**

##### **Definition**

Expenditure for the financing of infrastructure and construction works. “Infrastructure and works” covers costs related to investments in infrastructure that do not fall into the scope of other budget lines.

- ✓ Purchase/provision of land (limited to maximum 10% of the project budget and 15% for brownfield industrial sites);
- ✓ Purchase/provision of real estate;
- ✓ Site preparation;
- ✓ Delivery;
- ✓ Handling;
- ✓ Installation construction;
- ✓ Renovation;
- ✓ Other costs necessary to the implementation of construction works.

##### **Principles**

In order to be eligible, small infrastructure and construction works must be the result of transnational cooperation activities specifically directed at improving the development of the programme area. The transnational dimension and added value must be evident.

Infrastructure and construction works will be financed only if they are crucial for the achievement of the project's outputs and results, and if they are described in one or more investment work packages described in the application form.

Full costs of infrastructure and construction works forming part of the project are eligible, i.e. no depreciation is eligible.

Expenditure under this category is eligible if no other EU funds have contributed towards financing of the same expenditure item, i.e. no double funding is permissible. All expenditure is subject to applicable public procurement rules and each partner organisation is responsible for ensuring that these rules have been respected.

All investments in infrastructure must comply with the applicable EU and programme information and publicity rules.

- ✓ Documents specifying the ownership of land and/or buildings where the works will be carried out must be provided;
- ✓ All compulsory requirements set by the EU and national legislation related to the respective investment in infrastructure must be fulfilled (e.g. feasibility studies, environmental impact assessments, building permission, etc.).

Purchase of land cannot exceed 10% of the total eligible expenditure of the project. In the case of derelict sites and sites formerly in industrial use which comprise buildings, the purchase price cannot exceed 15% of the total eligible expenditure.

In exceptional and duly justified cases, a higher percentage may be permitted for projects concerning environmental conservation, provided it has been approved by the programme (ref: Article 69.3(b) Regulation (EU) No 1303/2013). In kind contribution is also eligible under this budget line, insofar as the requirements of Article 69 of Regulation No 1303/2013 are fulfilled (for further information see below “Focus on In kind contribution”) and approved by the programme.

All investments with costs claimed under this budget line have to comply with criteria set out by the EU Regulation<sup>12</sup>. This means that up to 5 years after the final payment to the beneficiary, the investment:

- ✓ Must be still in operation;
- ✓ Must not have been outside the programme area;
- ✓ Must not have had substantial changes (e.g. different use than indicated in the application form);
- ✓ Must not have changed ownership giving an undue advantage to a firm or a public organization.

There will be no exceptions to this rule for different kind of partners. Should the investment fail to comply with any of those criteria; any unduly paid sums will be recovered in proportion to the period of non-fulfilment.

### **Audit trail**

The following main documents must be available for control purposes:

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<sup>12</sup> Article 71 CPR (EU) No 1303/2013.

- ✓ Evidence of the procurement process (announcement, selection, award) in line with the national procurement rules or the EU procurement rules depending on the amount of the contract;
- ✓ Documents pertaining to the work may be required such as feasibility studies, environmental impact assessment and planning permission;
- ✓ Contract laying down the works/infrastructure to be provided, with clear reference to the project and the programme. For contracts based on a daily fee, such fee together with the number of days contracted and the total amount of the contract must be provided;
- ✓ Invoice providing all relevant information in line with the contract/agreement and applicable accountancy rules;
- ✓ Proof of payment and delivery;
- ✓ Proof of ownership of the property.

**Please note:**

- ✓ In the case of land and real estate purchase (or provision in the form of in kind contribution), a certificate from an independent qualified evaluator or duly authorised official body confirming that the cost is in line with the market value;
- ✓ In the case of land and real estate provided in the form of in kind contribution, evidence of compliance with the applicable rules in the field of in kind contribution;
- ✓ Proof of commitment to establish and maintain an inventory of all fixed assets acquired, built or improved under the ERDF grant.

### **4.3. Costs outside the eligible area**

In the framework of transnational cooperation Article 4 of Regulation (EU) No 1299/2013, expenditure incurred outside the programme area is authorised up to a maximum of 20% of the ERDF programme budget.

As a general principle, project activities co-financed by the ERDF must be implemented within the programme area. However, in the case of transnational programmes, the scope of a project might require cooperation and joint actions with organisations from countries on the EU territory but outside the programme area as well as in third countries.

As a consequence, the PMC may accept that a part of an operation is implemented outside the programme area, provided that all the following conditions are satisfied:

- ✓ The activity and/or event are for the benefit of the programme area;
- ✓ The activity and/or event are essential for the project implementation;
- ✓ The implementation and/or the relevance of the activity or the event have been approved within the application form or subsequent amendments;
- ✓ The total amount allocated under the cooperation programme to operations located outside the Union part of the programme area does not exceed 20% of the support from the ERDF at programme level<sup>13</sup>.

### **Determining whether an activity falls in or outside the programme area**

The location of the activity is the decisive factor when determining whether the implementation of an activity is outside the Union part of the programme area.

Establishing the location of an activity is relatively simple. For example, for investments or infrastructure the determining factor is the location of the infrastructure. Whereas for accommodation and catering the determining factor is whether the accommodation is located/the catering is delivered inside or outside the Union part of the programme area. For other activities, which are of non-material nature, the determining factor is the location of the project partner that incurred the costs.

### **Financial threshold and monitoring**

No more than 20% of the ERDF allocated to the programme can be spent on activities and events outside the Union part of the programme area. This threshold also includes the ERDF funds allocated to project partners located outside the programme area. Activities having a promotional and/or capacity building character will not be calculated into this threshold.

In order to be able to monitor the threshold, the MA/JS will follow up the generation of expenditure outside the Union part of the programme area at project level in progress reports. In this respect, a section will be dedicated to the relevant data to be introduced by project partners.

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<sup>13</sup> Article 4 Regulation (EU) No 1299/2013.

### Application phase

Before submission of the application, organisations located in third countries or in MS outside the Union part of the programme are requested to present a partner declaration and a State aid self-declaration confirming the legal status, ERDF co-financing and the own contribution to the partner budget as well as the project partner responsibilities.

Once a project is approved, organisations located in third countries or in MS outside the Union part of the programme area must contact their responsible national authorities and obtain the official confirmation of the eligibility of their legal status. This must be done immediately as the document has to be presented before the final approval of the PMC of the respective call, and just before the contract signature. This procedure will be carried out by the potential project partner with the support of the MA/JS.

If the eligibility confirmation by the responsible country is not provided to the MA/JS by the fixed deadline, the partner concerned will be excluded from the project and the Subsidy Contract will be signed without its participation

### Implementation phase

After receipt of the confirmation of the technical eligibility and the approval of the project by the PMC, the MA/JS will contact the country where the project partner is located to receive a signed agreement on the management, control and audit responsibilities. This agreement will be similar to the one signed by all the other participating countries in the programme. It will outline the first level control system, national supervision body responsibilities as well as the liability in case of any irregularities.

The signed agreement has to be obtained, at the latest, by the submission deadline of the first progress report.

**Condition:** In case the responsible national institution does not provide the signed agreement and requested information by the set deadline, the partner organisation concerned will automatically be excluded from the project. Should such a situation occur, the Lead Partner has to initiate a change procedure for the exclusion of the said partner organisation. MA/JS will offer assistance throughout the whole process.

## 4.4. Public procurement

During the implementation of a project, the majority of projects partners buy goods and services externally. For example, external auditors are hired to carry out the first level

control; a project, finance and communication manager are hired to assist the Lead Partner with the organisational and administrative aspects of project implementation; catering and technical equipment for conferences and meetings is ordered, etc. Whenever purchases are made and contracts are awarded to external suppliers, the public tendering principles must be observed so that project partners demonstrate efficient use of public funds.

The public procurement rules define tendering procedures applicable to different threshold values. Each contract should be awarded on the basis of objective criteria that ensure compliance with the principles of transparency, non-discrimination and equal treatment and which guarantee that tenders are assessed under the conditions of effective competition.

Public authorities and other institutions falling under the scope of application of the procurement rules<sup>14</sup> must comply with the applicable rules on public procurement.

Organisations (namely under private law) not falling under the scope of application of the public procurement laws (e.g. private companies for most procurement activities as defined under the EU Regulation) are exempt from the application of public procurement laws. Nevertheless, given the involvement of public resources, they shall observe the national public procurement rules, in view of ensuring the best value for money. Such organisations shall check national and EU rules and guidelines in this respect.

### **How to comply with public procurement rules?**

When dealing with public procurement rules, three levels have to be taken into consideration:

- ✓ The EU public procurement directives<sup>15</sup>;
- ✓ National rules<sup>16</sup>;
- ✓ Internal rules of the partner organisation.

As a matter of principle, the stricter rules must always be applied. In the case national rules set stricter requirements (such as for publicity, free competition, lower thresholds) than those established by the European directives, the former must be applied. The same principle goes for internal rules.

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<sup>14</sup> “Contracting authorities” in the meaning of Directive 2014/24/UE.

<sup>15</sup> More information on EU rules on public procurement can be found at the following link: [http://ec.europa.eu/internal\\_market/publicprocurement/index\\_en.htm](http://ec.europa.eu/internal_market/publicprocurement/index_en.htm)

<sup>16</sup> National rules include laws on public procurement, related delegated or implementing acts or any other generally applicable legally binding rules and decisions.

## Audit trail

Central to ensuring adherence to the public tender rules is the tender documentation, which usually consists of the following:

- ✓ Terms of reference (sufficiently specified, including clear information to candidates on award and weighting criteria);
- ✓ Request for offers or procurement publication/notice;
- ✓ Offers/quotes received;
- ✓ Report on assessment bids (evaluation/selection report) including:
  - Justification for the procedure chosen in the light of the identified needs;
  - Evaluation of the offers in the light of the previously announced award and weighting criteria;
  - Letters of acceptance and rejection;
- ✓ Contract, including any amendments and/or renewals (with evidence that these did not modify the economy on the market and that there was no modification of the object of the initial contract);
- ✓ Evidence that the payments made match the contract (invoices and proof of payment);
- ✓ Proof of delivery of goods or services.

Where there are doubts about the specific rules applying to the specific case, the JS recommends that projects refer to the following sources:

- ✓ The internal market website:  
[http://ec.europa.eu/internal\\_market/publicprocurement/index\\_en.htm](http://ec.europa.eu/internal_market/publicprocurement/index_en.htm);
- ✓ National approbation body;
- ✓ The National public procurement authority;
- ✓ The legal department of the relevant project partner organisation.

## Please Note

- ✓ Public procurement rules and principles are applicable to all public authorities and bodies governed by public law and, therefore, also apply in the context of their participation in an Interreg Atlantic Area project;



- ✓ Private bodies participating in an Interreg Atlantic Area project, and receiving ERDF and/or other national/regional/local funding, have to follow public procurement procedures, according to the European, national and internal rules;
- ✓ Evidence has to be available that the choice made regarding publicity requirements (sufficient degree of advertising) is in compliance with the EU Directives and the national applicable legislation (depending on the thresholds). Project partners must keep a record of every step of the public procurement procedure for first level control and audit purposes.

#### 4.5. State aid

State aid refers to public financial support that can distort competition and the internal market. For State aid rules to be applicable the recipient of project funding must be an undertaking, i.e. any entity carrying an activity having an economic nature and offering goods and services on the market, regardless of its legal form and the way it is financed. Even if an organisation is not profit-oriented, State aid rules will apply as long as it competes with profit-oriented companies. Therefore, not only private companies are subject to State aid rules but also public organisations, if they carry out an economic activity on the market.

**State aid relevance** depends on the following criteria being met:

- ✓ Existence of public aid: this rule applies to all partners involved in projects financed by the programme;
- ✓ Selection of beneficiaries: it is the general rule adopted by the programme to finance projects;
- ✓ Economic advantage: the project support is an economic advantage that the undertaking would not have received in the normal course of business;
- ✓ Effect on competition and trade: the project support constitutes a potential and significant advantage for the competitive capacity of the involved beneficiaries on the internal market.

State aid is in principle forbidden because it may distort competition by favouring certain undertakings or the production of certain goods (which is incompatible with the internal market). However, there are several exceptions that allow for aid in certain areas, up to a certain amount (*de minimis*) or for certain undertakings that are crucial for the European economy as they perform certain activities, such as those activities specified in the General Block Exemption Regulation (GBER). These exception measures allowed

organisations to be exempt from prior notification to the European Commission. In other situations the general rule of notification to the European Commission shall be the rule in order to seek the *ex-ante* authorisation of State aid.

### ***De minimis* rule**

The '*de minimis*' rule allows State aid relevant activities, but only those having a minimal financial importance, up to a set threshold. The amounts of *de minimis* aid granted to a single undertaking within the last 3 financial years cannot exceed EUR 200 000 (Regulation (EU) No 1407/2013), including the ERDF support. The organisation awarding the *de minimis* aid bears all responsibility for monitoring the limits.

### **General Block Exemption Regulation**

Another possibility is to use one of the exemptions offered by the General Block Exemption Regulation. This can happen for example if the *de minimis* quota has already been exhausted or the beneficiary is applying for an ERDF amount above EUR 200 000. However, GBER may also be used directly without considering the application of *de minimis*. Under GBER different exemption rules are foreseen covering, for example, SMEs participating in ETC projects, aid for research and development, aid for innovation clusters, and other. Restrictions shall be taken in consideration, especially on the maximum grant rate, maximum ERDF ceiling or scope of activities to be co-financed.

### **Notification to the European Commission**

In all other cases, where neither *de minimis* nor GBER can be applied, the notification to the European Commission shall be the rule. Project partners must, however, take into account that it is a burdensome and lengthy administrative process. The project activities will be allowed to be implemented only once the European Commission approves the State aid scheme. If exemptions rules are not applicable, the *ex-ante* notification to the European Commission is required. Any State aid relevant public support approved without European Commission *ex-ante* authorisation is automatically considered illegal.

### **Atlantic Area procedures to assess State aid compliance**

Each MS is responsible to check State aid rules. If a MS concluded that a project application is State aid relevant, the approval and contracting of such projects are subject, as appropriate, to compliance to exemption rules or to the *ex-ante* authorisation of the European Commission. In any case, MS shall define and implement

the procedures to be followed by beneficiaries located on their national territory. When *de minimis* or GBER rules apply, it is also up to each MS to check that the *de minimis* limits are not exceeded and the GBER compliance.

Partners involved in **project proposals** shall check the State aid implications. In the work package and budget plan descriptions, for each partner, the origin and amounts potentially subject to State aid rules and which rules apply shall be identified. If State aid relevant activities are identified, project partners should take into account that some restrictions may be applied (e.g. there will be a maximum ERDF contribution or the grant rate will be lowered). It is the responsibility of the project partners to provide such information. A State aid assessment will be performed by the JS in collaboration with MS. The conclusions and implications will be reported in the project assessment reports.

All **projects approved** for programme support will be asked to provide a self-declaration (according to a template provided by the JS) describing the State Aid relevancy of each project partner and details (namely EC *ex-ante* authorisations, listings of all *de minimis* aids received within the last three fiscal years, GBER conditionalities, etc.). Before the signature of the Subsidy Contracts, the JS will verify, in collaboration with MS, the conformity of such declarations and the compliance with programme, EU and national rules (maximum ERDF grant rate, nature of expenditures etc.), and propose potential adjustments, namely in terms of the contract or in the approved application specifications.

During project **implementation**, beneficiaries are responsible to check that the programme support is granted in compliance with State aid procedures and rules, and propose any required amendments to project specifications to comply with such rules. FLCs and national control supervision shall check the compliance of project partner's expenditures and activities with State aid rules and provide the relevant certification. The JS shall ensure that all State aid rules verifications established at national level were duly performed.

#### **Please note**

- ✓ All entities engaged in an economic activity fall under the State aid rules, regardless of their legal status and regardless of whether they aim to make a profit: both public and private partners are affected by State aid if they perform economic activities and such activities are State aid relevant;
- ✓ The participation of an SME in a project does not necessarily mean that its activities will be State aid relevant;
- ✓ State aid granted by a project partner downstreaming it to other organisations is not allowed;

- ✓ If the project self-assessment shows a possibility of State aid, the project should consult the JS at the earliest stage possible<sup>17</sup>.

#### **Audit trail**

- ✓ State aid related information provided within project applications and projects amendments of operations approved and contracted;
- ✓ JS and MS assessment reports in State aid rules applied to projects partners;
- ✓ State aid self-declarations provided by partners of approved projects;
- ✓ Control reports and declarations of FLC, national control supervisors and JS concerning payments and reporting State aid verifications.

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<sup>17</sup> Refer to Regulation (EU) 651/2014:

Art. 4 (1)(f) - Threshold of EUR 2m per ETC –funded undertaking for notification;

Art. 9 (1) (c) - Obligation to publish aid granted to ETC projects on a MS website;

Art. 11 - Transmission of information to the EU Commission on ETC aid measures exempted under the regulation by the MS in which the MA is located;

Art. 12 - Maintenance of records on ETC aid granted by the MS in which the MA is located;

Art. 20 - Aid intensity for SMEs participating in ETC projects is subject to a limit of 50.

## Abbreviations used in the Programme Manual

AA	Audit Authority
AD&C	Agência para o Desenvolvimento e Coesão
CA	Certifying Authority
CCDR-N	Comissão de Coordenação e Desenvolvimento Regional do Norte
CPR	Common Provisions Regulation
DCLG	Department for Communities and Local Government
EOI	Expression of Interest
ERDF	European Regional Development Fund
ESI	European Structural and Investment Funds
ETC	European Territorial Cooperation
EU	European Union
FLC	First Level Controller
GBER	General Block Exemption Regulation
GoA	Group of Auditors
IGF	Inspeção Geral de Finanças
IPR	Intellectual Property Rights
JS	Joint Secretariat
MA	Managing Authority
MS	Member State
NC	National Correspondents
NCP	National Contact Points
PAF	Project Approved Form
PMC	Programme Monitoring Committee
SIGI	Integrated management information system
SME	Small and Medium Enterprises
WP	Work Package