Northern Ireland Rules on the Eligibility of Expenditure for the 2007-2013 Structural Funds Programmes – REVISED (June 2012)

CONTENTS

1. INTRODUCTION

1.1 National Rules.

Council Regulation (EC) No 1083/2006 Article 56 paragraph 4 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 United Kingdom, as Member State, has determined that the National Rules on the eligibility of expenditure will be drawn up at the level of England, Scotland, Wales and Northern Ireland.

The Department of Finance and Personnel has responsibility for the co-ordination of Structural Funds in Northern Ireland and has therefore developed the following National Rules (the Rules).

The Rules take into account the EC legislative Rules on Programme and project eligibility and are based on the key principles of sound financial management.

The Rules cover expenditure on projects funded by the Structural Funds, i.e. European Regional Development Fund (ERDF) **and** the European Social Fund (ESF), except where it is explicit that they apply to one fund only.

The Rules apply to all projects approved under the following 2007-2013 Operational Programmes (the Programmes) and apply to all expenditure declared as eligible in any payment claim:

European Sustainable Competitiveness Programme ERDF 2007-13

European Social Fund Programme ESF 2007-2013

PEACE III Operational Programme ERDF 2007-2013

Cross Border Territorial Co-Operation Programme INTERREG IVA ERDF 2007-2013

Northern Ireland rules will apply to expenditure by Northern Ireland participants in territorial co-operation elements of Competitiveness or Employment projects.

These rules also apply to the INTERREG IVB Transnational programmes for which Northern Ireland is eligible (Atlantic Area, Northern Periphery and North West Europe) as well as the INTERREG IVC Interregional programme (ANNEX 2). However, applicants should also consult the guidance issued by the relevant programme authority and where there is any difference, the strictest rule will normally apply.

All projects (resource or capital) funded under the PEACE III and INTERREG IVA Programmes which have Northern Ireland Central Government expenditure greater than £2m will require DFP Supply approval in addition to the accountable department's Ministerial approval.

These Rules have been issued for the 2007-2013 Programmes.

Version 3.0 Revision June 2011. DFP attention has been drawn to text (paragraph 4.4.1) which is in contradiction to established practice and to the contents of the ESF Promoters Manual and likely to cause confusion. Accordingly the text is rectified in this version and the revision should apply to all relevant expenditure for the 2007-2013 programmes, including expenditure incurred in advance of the revision.

1.2 Legislative Background

The following Regulations set out the key European legislative rules on the eligibility of expenditure:

Council Regulation (EC) No 1083/2006 of 11 July 2006 – laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 (‘The

General Regulation'). Subsequently amended by EC 1341/2008 and EC 284/2009.

Regulation (EC) No 1080/2006 of 5 July 2006 on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999 ('The ERDF Regulation'). Subsequently amended by EC 397/2009.

Regulation (EC) No 1081/2006 of 5 July 2006 on the European Social Fund and repealing Regulation (EC) No 1784/1999 ('The ESF Regulation') Subsequently amended by EC 396/2009.

Regulation (EC) No 1082/2006 of 5 July 2006 on a European grouping of territorial cooperation (EGTC) ('The EGTC Regulation')

Commission Regulation (EC) No 1828/2006 of 8 December 2006 – setting out Rules for the implementation of Council Regulation (EC) 1083/2006 and of Regulation (EC) No 1080/2006 ('The Implementing Regulation').

Details and texts of the regulations can be found on the European Commission's Regional Policy website at:

http://ec.europa.eu/regional_policy/sources/docoffic/official/regulation/newregl0713_en.htm

All EU expenditure must also comply with:

- The requirements of Managing Public Money NI (MPMNI),
- relevant guidance issued by Audit and Accountability Services Division, DFP which may impose stricter national rules, and/or additional rules to the EU Regulations requirements.
- stricter or additional rules applied by a Managing Authority for a particular operational programme. Where these exceed MPMNI requirements they should first be agreed with European Division, DFP.

1.3 Fund Eligibility

The ERDF Regulation sets out in Article 5 the priorities and areas of assistance eligible for ERDF funding under the Regional Competitiveness and Employment Objective. Article 6 of the ERDF Regulation sets out the priorities and areas for assistance eligible for ERDF funding under the European Territorial Cooperation Objective.

Additionally, for the PEACE Programme, paragraph 22 of Annex II of the General Regulation provides that this Programme will include actions to prioritise actions to promote cohesion between communities.

The ESF Regulation sets out in Article 3 the priorities and areas for assistance eligible for ESF funding under the Regional Competitiveness and Employment Objective. Any support offered under Northern Ireland's Programmes must be consistent with these regulations

SECTION 2 – GENERAL PRINCIPLES

Article 2(3) of the General Regulation defines an operation as *' a project or group of projects selected by the managing authority of the operational programme concerned or under its responsibility according to criteria laid down by the monitoring committee and implemented by one or more beneficiaries allowing achievement of the goals of the priority axis to which it relates.*

All proposed operations should be consistent with the principles of sound financial management. In particular the delivery, reporting, monitoring and control of an operation should be carried out effectively with a clear audit trail in accordance with Article 15 of Commission Regulation 1828/2006.

2.1 Eligible period

The General Regulation sets out in Article 56.1 that *'Expenditure, ………, shall be eligible for a contribution from the Funds if it has actually been paid between the date of submission of the operational programmes to the Commission or from 1 January 2007, whichever is the earlier, and 31 December 2015. Operations must not have been completed before the starting date for eligibility'*.

As none of the Northern Ireland operational programmes were submitted to the Commission before 1 January 2007, the effective date of eligibility of expenditure for all NI Structural Funds Programmes for 2007- 2013 period is from 1 January 2007.

2.2 Location of operations.

Article 35 of the General Regulation stipulates the requirements for programmes to be drawn up by reference to specific region(s) as defined by NUTS (Nomenclature des Unites Territoriales Statistiques) boundaries. As a general rule operations co-financed from the Structural Funds must be located in the region to which the assistance relates. Activity outside the region may be eligible if it is a requirement for the successful delivery of the programme objectives.

All areas of Northern Ireland shall be eligible for the Competitiveness and Employment Programmes. For PEACE III all of Northern Ireland and the Border Region of Ireland are eligible. For Cross Border Co-operation the NUTS III areas namely the North, the East and West and South are fully eligible as are for the first time regions in Western Scotland. Belfast and outer Belfast are eligible only as part of the 20% adjacent area provision which is set out in Article 21(1) of the ERDF Regulation. The Managing Authority for the two cross-border programmes has decided to identify this expenditure by reference to the location of the partner delivering the operation.

In order to secure support the following criteria will be applied to determine the eligibility and amount of expenditure:-

- the operation must be located in a region immediately adjacent to the region to which the assistance relates;
- the maximum eligible expenditure is determined pro-rata to the proportion of benefits from the operation which will accrue to the Programme area. The benefits will be assessed taking into account the specific targets of the assistance and its expected impact.

In the case of transnational programmes, article 21(2) of the ERDF Regulation allows expenditure by partners located outside the participating area to be eligible provided that the expenditure delivers clear benefit to the eligible area.

2.3 Match funding

The rates at which the structural funds will co-finance eligible activities are laid down at priority level by the European Commission Decisions approving operational programmes and major projects. The balance of eligible expenditure (Match funding) represents the domestic or national contribution to the operation.

For any 2007-13 programme in Northern Ireland where EU co-financing rates are to be calculated by reference to total public eligible expenditure, match funding must be provided by public or similar organisations. Under these circumstances, any private sector contribution to an operation should be recorded as additional expenditure and reduces the amount of funding required.

However this restriction does not apply to programmes where private funding has been accepted as eligible expenditure in calculating EU co-financing rates. For these programmes, match funding may be provided by private sector organisations.

Evidence of available match funding must be obtained before the issue of a letter of offer to an operation. The eligibility of match funding for an operation will normally be determined during the appraisal process.

Match funding is subject in all respects to these Rules.

Specific guidance on the requirements to be met for public match funding in the Northern Ireland ESF programme are given In Section 3 of the ***ESF Promoters Operating Manual: Part 1 ESF requirements.***

2.4 Eligibility of applicants and participants.

In Northern Ireland the traditional term for applicants making a direct application for funds is ‘project sponsor’. This will continue to be the case for the 2007-2013 Programmes. For administrative reasons project sponsors fall into three categories:

- public sector organisations
- private sector organisations
- ‘third sector’/community and voluntary organisations.

Private individuals are not eligible to apply for funding under the European Programmes.

All project sponsors must be able to evidence their legal constitution.

Rules on eligibility to be a participant in an operation financed by the NI ESF Programme are set out in section 6.3 of the ***ESF Promoters Operating Manual: Part 1 ESF requirements.***

See Guidance Note:

- **ESF Promoters Operating Manual: Part 1 ESF requirements**

SECTION 3 – ELIGIBILITY OF ACTIVITIES

3.1 Eligible Activities.

Eligible activities are those which contribute to the delivery of the relevant Programme objectives. These are set out in the Priorities and Themes attributable to the relevant Operational Programme.

In any situation where there is uncertainty, DFP is responsible for a final decision on whether the activity is eligible for support.

3.2 Ineligible types of activity.

For the 2007-2013 Programmes, the following types of activity are considered ineligible (even if the activity would fall under 3.1 above):

- direct expenditure on building and renovation of **housing** (including affordable housing) <u>is ineligible</u> – however Article 7(2)(c) of 1080/2006 and Article 47 of 1828/2006 and Regulation (EC) 397/09 amending the ERDF Regulation allows for expenditure on energy efficiency improvements and on the use of renewable energy in existing housing. The amount of expenditure allowed for this purpose is capped at 4% of the Member State ERDF allocation, ie at UK level. An amount of up to €12.5m (ERDF) has been made available for the replacement of inefficient home heating boilers. This represents 4% of the total available ERDF allocation. This will be open to owner occupiers who earn less than £40,000 and who have an inefficient boiler at least 15 years old. The grant of up to £1,000 (dependent on total gross income), is available to assist in replacing an inefficient boiler for a more energy efficient condensing oil or gas boiler; switching from oil to gas; or switching to a wood pellet boiler.
  Other categories of eligible housing may also be introduced and, if appropriate, this Guidance Note will be further updated.

- activities in support of the production or primary processing of agricultural, fisheries or forestry products are <u>not eligible</u> for support from the Structural Funds. In this context agricultural products means the products of the soil, of stock farming and of fisheries and products of first stage processing directly related to these products

- Provision of local social welfare facilities e.g. hospitals, nursing homes, fire stations, day nurseries, child-minding facilities, sports facilities, parks, public libraries where these are not directly linked to activities of an economic nature specifically related to the objectives of the Operational Programme. Establishments providing generalised (school age) education. However, specialised activities involving technical education or vocational training, even at university level, may be eligible.

  Note that in cross-border programmes, measures to further cross-border collaboration, capacity and joint use of infrastructures in these areas may be eligible.

- activities which add nothing to regional development but **displace similar** existing activities <u>are ineligible</u>

- activities covered by EC sectoral restrictions <u>are ineligible</u> for support (see State Aid guidance)

3.3 Special Provision for ESF Activities

- any statutory training, for example training that employers must provide under Health and Safety legislation, <u>is ineligible</u> (**except** where the training becomes a mandatory requirement **after** the staff member is appointed and could be considered eligible under paragraph 4 of section 4.4.1 - this must be agreed with the Managing Authority.)

- training to support low skilled public sector workers to gain basic skills and level 2 qualifications <u>can be eligible</u>. This will be considered by the Managing Authority on a case by case basis

- training of public sector workers at level 3 and above is only eligible in the following cases:
    - training of trainers in the public sector to deliver basic skills and other provision to support ESF priority groups
    - training for public sector workers where there is evidence of demand and a demonstrable link into economic development actions.

SECTION 4 – ELIGIBLE EXPENDITURE

4.1 Eligible expenditure.

Expenditure on approved projects is eligible for grant reimbursement if it has **actually been incurred and paid** (see also 2.1) before its inclusion in the payment request to the Commission. Exceptions to this are:

- payments into financial engineering instruments
- payments made, supported by receipted invoices, in accordance with contractual obligations following a public procurement exercise
- advances paid in accordance with Article 78(2) of the General Regulation with regard to State Aid schemes

Expenditure will normally be in the form of **cash** supported by receipted invoices or accounting documents of equivalent probative value e.g. salaries must be supported by payroll records, BACS lists and bank statements or equivalent evidence of payment through a banking system.

Non cash payments (incurred expenditure which can be classed as paid out) are limited to:

- in-kind contributions – see 4.1.1

- depreciation – see 4.4.7
- overheads – see 4.4.8

4.1.1 In-kind contributions

In-kind contributions are eligible expenditure provided that:

- they consist in the provision of **land or real estate, equipment or materials**; **research or professional activity.** In Northern Ireland **unpaid voluntary work** (including unpaid professional services) is not eligible expenditure;
- their value can be **independently assessed and audited**;
- in the case of the provision of land or real estate, the **value is certified** by an independent qualified valuer or duly authorised official body;

Discounted sales of equipment and the discounted provision of services or advice (e.g. solicitor, accountants or SME staff time) are **ineligible**.

In-kind contributions must always be supported by a complete audit trail.

In-kind contributions will always constitute match funding (with a corresponding project cost) and must relate to eligible project expenditure. The Structural Fund contribution to a project will not exceed the total eligible expenditure, excluding the contributions in-kind, at the end of the project.

Article 51 of the Implementing Regulation lists the specific conditions for in-kind contributions applicable to operational programmes for the European Territorial Cooperation Objective. Article 52(2) allows for in kind contributions as a general rule for such contributions as expenditure paid by beneficiaries in implementing operations. In Northern Ireland the in-kind contribution facility is eligible (as set out under Article 51 and 52(2) of the Implementing Regulation) for all 2007 to 2013 NI programmes, with the exception of unpaid voluntary work because this can cause financial control and/or audit difficulties. This approach is allowable on the basis of the application of stricter national rules in Northern Ireland. In addition an eligibility of expenditure rule for in-kind contributions is included in Article 56(2) of the General Regulation.

For ESF projects the cost associated with participants time is eligible as match funding providing that there is a real cost identified, recorded, evidenced and supported by a clear audit trail. It follows that there must be an equivalent value as a cost in the project budget. Further details may be found in section 3.1.5 of the ESF Promoters Operating Manual.

4.1.2 Value Added Tax

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

4.1.3 Public administrations' expenditure

Expenditure incurred by public administrations, including the civil service, in implementing projects is eligible providing that the activity represents an additional obligation to the organisation. Eligible expenditure includes:

- costs of professional services given by a public service in the implementation of a project. The costs must be invoiced to the beneficiary, or certified on the basis of documents of equivalent probative value which identify the real costs paid by the public service concerned in relation to the project

- costs of the implementation of the project, including the costs related to the provision of services, borne by the public authority that is itself the beneficiary and which is implementing the project on its own account without recourse to engineers and other firms. The expenditure must be certified on the basis of documents which permit the identification of real costs paid by the public administration concerned in relation to the project. On-costs/charge out rates are not eligible

- where staff are engaged part-time on a co-financed project, only the proportion of staff costs directly attributable to the project can be declared as eligible expenditure. Costs must be supported by timesheets and payroll details which identify the real cost paid by the public administration concerned in relation to the project

4.2 Capital and Revenue expenditure

For administrative reasons project finance is divided into capital and revenue expenditure. Full guidance is given at the application stage and the categories are set out in the offer of grant letter.

The following sections identify types of project costs which can be included as eligible expenditure. **The list is not prescriptive or exhaustive and will be supplemented by guidance.**

4.3 Eligible expenditure on Capital projects – ERDF specific

It should be noted that, by their nature, the INTERREG IVB transnational programmes and the INTERREG IVC Interregional programme will not normally fund significant capital expenditure, particularly land and property and those items from which the major impact will be on only one location or partner.

4.3.1 Preliminary expenditure

Preliminary expenditure for capital projects may include expenditure such as the costs of site investigation works, site surveys, environmental appraisals, cost benefit analysis, feasibility studies, project design, preparation of tender documents and procurement. The costs will be incurred in the Programme period i.e. 1 January 2007 – 31 December 2015 and agreed with the Programme Managing Authority prior to the offer of grant.

4.3.2 Professional Fees

Professional fees, including project management and supervision costs, are an eligible expense.

4.3.3 Purchase of land and buildings

The purchase of land and buildings is eligible, (Article 7(1) (b) of the ERDF Regulation and Article 11 of the ESF Regulation) refer provided the following requirements are met:

- there is a direct link with the objectives of the project;
- the land purchase (freehold or leasehold) does not represent more than 10% of the total eligible expenditure of the project; in “exceptional and duly justified cases” a higher percentage may be permitted for environmental conservation projects – see 4.3.4. This rule will also apply to any in-kind donations of land to a project;
- only expenditure incurred and defrayed within the eligible programme period can be taken into account in this calculation, i.e. from 1 January 2007;
- the date the land is acquired is clearly indicated and evidence of this provided as an enclosure to the application form;
- a certificate from an independent qualified valuer or duly authorised official body confirms that the purchase price does not exceed the market value;
- buildings purchased should not have received, within the previous 5 years, a national or EU grant which would result in a duplication of grant aid

4.3.4 Moveable Infrastructure – Fixtures and Fittings

Fixtures and fittings are only eligible if they are purchased for and used specifically for the project. The eligibility of such items will be appraised on an individual basis, e.g.

- for vocational training and R&D facilities essential items of equipment for the sole purpose of project delivery such as IT 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.

4.3.5 Environmental conservation projects

For environmental conservation projects the land costs are not limited to 10% of the total eligible expenditure. However the following conditions apply:

- there is a direct link between the land purchase and the objectives of the project;
- where land costs exceed 10% of the total eligible expenditure, this cost will need to be agreed with the Programme Managing Authority;
- the land is devoted to the intended use for a time determined by the Programme Managing Authority;
- a certificate from an independent qualified valuer or duly authorised official body confirms that the purchase price does not exceed the market value;
- the land is not for the purpose of agriculture, forestry or fisheries;
- the purchase is made by or on behalf of a public sponsor.

4.3.6 Site Preparation

Eligible expenditure includes site investigation, site clearance and site servicing including preliminaries as detailed in the Bill of Quantities. Site decontamination can be funded where it forms an essential part of a wider project delivering an eligible economic benefit e.g. SME business park.

4.3.7 Contract Works

Eligible expenditure can include execution of the building contract, external/structural refurbishment of existing premises, external/internal decoration as part of a larger project, internal services, environmental works, specialist treatments, security provision and signage including acknowledgement of the Structural Funds contribution to the project.

4.3.8 Purchase of Equipment

The purchase of equipment is eligible providing that there is a clear link with the delivery of the project. In the case of moveable equipment there must be an assurance that the equipment is for the sole use of the project and the benefit is maintained in the Programme area. **All equipment must be properly procured.**

In cases where items of equipment have been purchased, an inventory must be retained for audit purposes. Equipment with an asset life of less than one year can be regarded as a revenue cost.

Discounts given on the purchase of items of equipment cannot be included as match funding

4.3.9 Purchase of Second-Hand Equipment

The purchase cost of second-hand equipment is eligible provided that:

- it has not previously been purchased with the aid of national or European grants;
- the price of the equipment does not exceed its market value and is less than the cost of similar new equipment; and
- the equipment is technically appropriate and complies with any relevant legislation (e.g. health and safety)

The calculation of the eligible expenditure relating to the purchase of second-hand equipment should be based on its current value.

4.3.10 Unforeseen costs

Unforeseen costs can be eligible for support from the Structural Funds where they are genuine and agreed by the Programme Managing Authority

4.3.11 Retentions

Retentions, held in accordance with a procured/tendered contract, can be considered eligible if paid within the eligible expenditure period of the Programme, and defrayed no later than final claim stage.

4.4 Revenue costs – ERDF and ESF

4.4.1 Staffing

Staffing costs are eligible for personnel directly engaged in a project, whether full or part time. Specific supporting documents required to evidence staffing costs include job descriptions, staff contracts, timesheets for part-time staff, BACS/Payroll reports and bank statements. Staff costs are calculated on the basis of actual payroll costs which include gross salary, national insurance contributions and may include employers' pension costs where there is an established pension scheme which applies to all staff. There should be a clear audit trail created for staff costs from timesheet to payroll record.

Staff costs can include reasonable costs arising from the contract of employment including expected increases in grade or pay scales for the staff involved. .

Sick or maternity pay can be claimed if it is in line with the organisation's staff policy or contained within the individual's contract of employment and is not recoverable by the employer from the state.

Staff training costs can only be claimed if an individual has specific needs for training that relate to the acquisition of specialist knowledge to enable them to effectively deliver the project. Staff recruitment costs can be eligible.

Relocation expenditure can be considered eligible expenditure where they are evidenced and reasonable in the opinion of the Programme Managing Authority.

As a general rule redundancy and pension costs are ineligible, with the exception for operations with specific approval by the managing authority in writing. In addition to the managing authority's written approval, the following condition must be adhered to for redundancy costs:

- The eligible amount of the redundancy payment is restricted to the non-refundable statutory element only and proportionally to the amount of time the person being made redundant was working on operation activity.

4.4.2 Professional/Consultancy Fees and Sub-Contractors Charges

Expenditure for work carried out by a consultant or sub-contractor is eligible if the work is essential to the project and the costs are in the Programme Managing Authority's opinion reasonable. All consultancy fees and sub-contractors costs must be properly procured in accordance with good practice and relevant procurement rules and regulations.

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.

Consultancy fees can include legal, technical, accountancy and audit services which are required for the delivery of the project. The proposed costs will be agreed during the appraisal process. Expenditure associated with the payment of consultants who provide support in completion of application / claim forms and with management fees are **not eligible**.

4.4.3 Accommodation expenditure

Eligible expenditure can include:

- rental or short term leasing of property
- rates
- services including electricity, water, heating, telephones, broadband and other ICT
- maintenance, cleaning and security - providing that the costs relate exclusively to the project
- if only part of the premises is used for the project then the amount charged should be apportioned accordingly based on, for example, floor space occupied. Calculations should show the actual rental cost to the applicant, period of project usage, proportion of the used for 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.

Refurbishment costs of premises are considered a capital expenditure involving the execution of a building contract – see 4.3.7

4.4.4 Consumables

Expenditure on consumables is eligible subject to the expenditure being agreed at the appraisal stage. However, costs should not exceed 20% of the total approved eligible cost. Items may include teaching materials, telephone, postage, stationery, etc which the applicant can demonstrate are essential to the successful delivery of the project and where an itemised audit trail can be provided.

4.4.5 Small items of equipment – ESF specific

The ESF Regulation precludes “purchase of furniture, equipment, vehicles, infrastructure, real estate and land”. It is recognised that for ESF projects there might be a need to purchase small items of equipment **in the form of non capital items** and the purchase of these items is eligible subject to a maximum value of £1,000 per item (inclusive of VAT). There is no set limit for the number of items of equipment under £1,000 which can be included in a project but the total expenditure on small items of equipment will be considered and agreed by the Programme Managing Authority as part of the appraisal process.

4.4.6 Information and Communication Technology

Expenditure on ICT (including hardware, software, website costs, licences, support, and consumables) is eligible where it has been demonstrated that its use is required for the effective delivery of the project.

4.4.7 Depreciation

The depreciation costs of tangible assets, including furniture, equipment, vehicles, infrastructure, real estate and land, allocated exclusively for the duration of a project are eligible costs. No depreciation can be claimed in respect of property / goods which have benefited from national or European grants at the time of their purchase i.e. there must be no double funding.

Depreciation is calculated in line with a project sponsor’s accounting policy or in line with common UK practices, such as straight line and reducing balance methods. Claims for depreciation should be based on the actual costs of the owned equipment. 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.

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

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.

4.4.8 Indirect Costs

Indirect costs are considered eligible expenditure provided that they are based on real costs which relate to the implementation of the project. Wherever possible the direct costs of a project should be identified.

For information on the use of indirect costs, flat-rate costs and lump sum payments, see Annex 2 of this guidance note.

4.4.9 Insurance

Insurance of buildings, contents and for public indemnity are eligible provided it can be clearly demonstrated that these are directly related to the delivery of the project or are a requirement of the offer of funding .

4.4.10 Marketing and Promotion

Eligible expenditure can include costs related to appropriate and proportionate aspects of marketing specific to a project on, for example, design and production of marketing materials, facilitation of appropriate conferences and seminars, and targeted advertising campaigns.

4.4.11 Project Evaluation Fees

See Guidance Note:

DFP Guidance Note 3: Economic Appraisals

4.4.12 Leasing

Expenditure incurred and defrayed in relation to leasing operations is eligible for co-financing under the Structural Funds providing the following criteria are met:

1. The use of the equipment or premises relates directly to and is necessary for the delivery of the operation,

2. the lease arrangement represents best value for money to the satisfaction of the programme authority,

3. The maximum amount eligible shall not exceed the market value of the asset leased,

4. Expenditure must be supported by a receipted invoice showing actual cost, VAT and timeframe or an accounting document of equal probative value,

5. Where the leasing contract exceeds the timeframe of the operation, only the proportion of the lease relating to that timeframe is eligible,

6. Supplementary costs connected with the leasing contract are not eligible expenditure,

7. Where the leasing expenditure does not relate exclusively to the operation, project sponsors must propose a fair and equitable basis for apportionment.

4.4.13 Repairs and Maintenance

Costs must relate to equipment specifically included as eligible items of expenditure within the approve application and within the lifetime of the project (i.e. start and finish date).

4.4.14 Preliminary expenditure

Preliminary expenditure means costs which, subject to the Programme Managing Authority's approval may be considered as eligible costs, the project sponsor has incurred and defrayed prior to the start date which enable the project sponsor to obtain a realistic estimate of project expenditure. Preliminary expenditure is distinct from retrospective expenditure.

4.4.15 Hospitality expenditure

Expenditure on hospitality, in particular with regard to projects supported by the European Territorial Cooperation objective and territorial cooperation aspects of projects, is eligible subject to agreement of the reasonableness of the costs, by the relevant Programme Managing Authority, as part of the project appraisal process.

4.4.16 Publicity and Information

Expenditure undertaken to meet EU, DFP and Managing Authority requirements to effectively publicise and provide information on projects and Programmes is eligible.

4.5 Eligible participant costs and allowances – ESF specific

4.5.1 Participant costs

For **employed** participants, wages and allowances paid by their employer for the time they spend on the ESF funded activity are eligible expenditure. This can include employers' national insurance and superannuation contributions. Alternatively, the cost of employing replacement staff to cover for staff absence on ESF funded activity may be claimed **but not both**. All costs must have supporting evidence of actual salary costs and timesheets.

4.5.2 Wages for wage subsidy schemes

- wages and allowances may include employers' national insurance and superannuation costs
- ESF can contribute towards a wage subsidy
- the employer may pay beneficiaries a higher sum but the difference should be entered under ineligible costs in the delivery profile
- where intermediate labour market projects also provide training allowances, allowances should be equivalent to the minimum wage

- 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 see 2.1. 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

4.5.3 Participant allowances

Participant allowances can be used as financial incentives or to purchase specialist items (such as - purchase of a suit to attend an interview or tools), specifically related to delivery of the project, but not for general capital costs. Programme Managing Authorities will decide if allowances conform to levels within the region and if the allowance represents value for money.

4.5.4 Participant Travel Expenses

Participant travel costs must be directly related to, and essential for, the effective delivery of the project. Certified travel claims must be retained and must show the actual cost for each participant for each day. Only actual costs, up to a maximum of mileage at the public sector rate per mile or economy class travel on public transport may be claimed.

Travel outside of the EU would need additional justification.

4.5.5 Participant Subsistence

For external courses, only the actual costs of travel, board and lodgings may be claimed. Claims should be submitted on the basis of actual expenditure and supported by receipts.

4.5.6 Participant costs for caring for children or other dependents

The real costs must be evidenced for them to be considered eligible. Evidence can be in the form of signed receipts from childcare/care providers receiving payment for caring for a beneficiary's children/dependants while the beneficiary is involved in the project.

SECTION 5 - INELIGIBLE EXPENDITURE

The following costs are agreed as being **ineligible** for support:

- interest on debt (other than expenditure on interest subsidies to reduce the cost of borrowing for businesses under an approved State Aid scheme)
- bank charges on accounts (**except** where it is necessary to set up a separate account(s) for the project where the cost for opening and administering the account(s) is eligible)
- costs of guarantees provided by a bank or other financial institution
- charges for financial transactions, foreign exchange commissions and losses, and other purely financial expenses (**but** see Annex 1 for European Territorial Cooperation projects)
- loan charges
- Recoverable VAT
- interest or 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 arising from loans to employees, proprietors, partners, directors, guarantors or shareholders
- fines, financial penalties and expenses of litigation
- staff costs that are not directly attributable to project delivery
- training that is mandatory under statutory provision. This wording is to be narrowly interpreted, ie where a specific piece of legislation

(cited) requires an employer to provide specific training to their staff, the costs are ineligible. (**except** where the training becomes a mandatory requirement **after** the staff member is appointed and could be considered eligible under paragraph 4 of section 4.4.1 - this must be agreed with the Managing Authority.)

- payment for gifts and donations
- entertainment costs (excluding Hospitality expenditure see 4.4.15)
- repairs and maintenance unless directly related to project delivery
- stand alone civic sculpture
- stand alone car parks
- stand alone costs of works being carried out as a statutory requirement
- notional costs
- payments in relation to any political activity
- dividends for shareholders
- costs incurred by individuals in setting up and contributing towards private pension schemes, or the setting up of such schemes by organisations in receipt of structural funds
- payments for unfunded pensions
- discounts (see 4.1.1)
- legal fees for advice, notary fees and the costs of technical or financial expertise

This list is not exhaustive and will be refined from time to time.

6. OTHER REQUIREMENTS.

6.1 Compliance with national and EU law and policies.

All operations must comply with Community and National law regarding procurement.

All operations must comply with the prevailing State Aid Rules.

Additional rules over and above those identified within this guidance may apply where the funding is deemed to be state aid. These additional rules take priority over any generic eligibility criteria set out in this document and maximum intervention rates identified within the Programmes.

See DFP Guidance Note:

- Guidance Note No.7 State Aid

6.2 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.

All expenditure must be incurred and defrayed before it is included in any claim.

6.3 Preliminary and retrospective payments.

When claims include expenditure that has taken place prior to the date of the Letter of Offer from the Programme, particular attention should be paid to ensuring that all normal MPMNI rules have been complied with prior to the expenditure being incurred and all EU regulatory requirements are met, paying particular attention to those on procurement and publicity.

As a general rule, all expenditure incurred before the acceptance of an offer of grant is considered ineligible. However there are two exceptions to the rule:

- Preliminary expenditure which was incurred in the Programme period and agreed prior to the offer of a grant. This will normally be necessary expenditure such as feasibility studies/economic appraisals, procurement costs, project design costs. Such expenditure should be identified by the time the letter of offer is drawn up and should be described therein. Additional costs related to presenting the application which are incurred voluntarily, for example employing a consultant to complete the application form, are not eligible as preliminary expenditure.

- Retrospective expenditure where an operation has commenced before submission of an application and/or approval of the application. There may be valid reasons for considering that inclusion of an existing operation within a funding programme will help to achieve the programme objectives, but programme authorities must be aware of the risk inherent in retrospective approval. Particular rigour must be exercised in such cases to ensure that all the regulatory requirements have been met from the outset of the operation:

    - The operation is subject to the agreed selection and scoring criteria;

    - The activities undertaken must have appeared in the Operational Programme at the time that they were undertaken and remain as eligible activities for the life of the operation;

    - The operation must have complied with all regulatory requirements throughout its life, including:

        - Procurement and state aid rules;

    - EU environment regulations;

    - The requirements of the Implementing Regulation on information and publicity;

    - The EU and national rules on eligibility of expenditure;

    - Other relevant conditions dependant upon the nature of the project.

- The operation must meet the eligibility criteria for added value and cost effectiveness and demonstrate that it could not run and achieve its stated objectives without structural fund grant support. Attention should be paid to this point, as there must be an initial presumption that an operation launched in advance of approval for EU funding does not have a fundamental requirement for such funding.

6.4 Durability of operations.

In order to ensure the durability of projects co-financed by the Structural Funds there is an obligation to maintain the investment in accordance with Article 57 of the General Regulation.

Project sponsors are required to inform their respective Managing Authority of any substantial modification to their project within **5 years of its completion or 3 years from the completion of a project for the maintenance of an investment or jobs created by SMEs** which:-

- affects its nature or its implementation conditions or gives to a firm or public body an undue advantage: and

- results either from a change in the nature of ownership of an item of infrastructure or the cessation of a productive activity.

The failure to maintain the investment will result in recovery of the structural funds contribution.

6.5 Information and publicity.

Expenditure is eligible on information and publicity activities as set out in the DFP's Communication Plan and section 1, Articles 2-10 of the Implementing Regulation.

6.6 Retention of documents.

In accordance with Article 93 of the General Regulation documents must be retained in a suitable format for a period of 3 years following payment of the final balance of the Structural Funds by the European Commission to Northern Ireland. This means at least until 2020 but since it is unclear when Northern Ireland will receive final payment from the European Commission the project sponsor must retain all documents until their respective Managing Authority advises that it is safe to destroy them.

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 Managing Authority.

6.7 Major projects.

Articles 39 to 41 of the General Regulation set out the rules for an operation whose total cost exceeds 25 million euro in the case of the environment and 50 million euro in other fields. Such operations are required to be properly notified to the Commission and are subject to approval by a formal Commission Decision setting out the object, the eligible costs to be co-financed and the financial plan.

The European Commission has issued further guidance on the thresholds for Major Projects and the content of Commission Decisions on Major Projects as Committee for the Co-ordination of the Funds (COCOF) paper 08-0006-02 (final).

This paper has been circulated to Managing Authorities and is included as Annex 3 to this guidance note.

6.8 Financial Engineering Instruments

The general rules regarding Structural Funds financing expenditure in respect of an operation comprising contributions to support financial engineering instruments for enterprises is set out in Article 44 of the General Regulation. General implementing provisions applicable to all financial engineering instruments are set out in Article 43 of the Implementing Regulation. This includes rules on repayable investments, guarantees for repayable investments and holding funds. Article 44 sets out additional provisions applicable to holding funds, with Article 45 and 46 giving additional provisions to certain financial engineering instruments and urban development funds respectively.

The European Commission has issued further guidance on the treatment of Financial Engineering in the programming period 2007-13 as Committee for the Co-ordination of the Funds (COCOF) paper 08-0002-02 (final). This paper has been circulated to Managing Authorities and is included as Annex 4 to this guidance note. Financial Engineering Instruments are also subject to state aid rules.

6.9 Revenue generation

General provisions and eligibility of expenditure rules for revenue-generating projects are set out in Article 55 of the General Regulation. Every effort must be made at appraisal stage to accurately identify all potential revenue in both ERDF and ESF projects.

ESF is not expected to generate significant levels of revenue but there may be occasions where small amounts of revenue are generated. Where revenue is received documentation to support it must be retained and amounts received declared in claims for payment. The amount of any revenue declared will be deducted from declared expenditure when calculating the ESF payment due.

ERDF revenue generating projects, with a total cost in excess of €1,000,000, must determine the eligible expenditure in accordance with the provisions of Article 55 of Regulation 1083/2006 (as amended by EC 1341/2008). Article 55 does not apply to projects which are subject to State Aid rules.

If during or up to five years from the completion of the project any additional revenue is generated it must be deducted by the Certifying Authority from expenditure declared to the Commission.

6.10 Fund flexibility

In accordance with Article 34 of the General Regulation, ERDF and ESF can finance, in a complementary manner and subject to a limit of 10% of Community funding for each Priority of an Operational Programme, actions falling within the scope of assistance from the other Structural Fund providing they are necessary for the satisfactory implementation of the project and are directly linked to it.

SECTION 7 – TECHNICAL ASSISTANCE

In accordance with Article 46(1) of the General Regulation:

'At the initiative 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 within the limit of 4% of the total amount allocated under the Convergence and Regional Competitiveness and Employment objectives'.

7.1 Staffing costs

Where an existing public body is specified by the Member State (NI) authorities as a managing, certifying or audit authority for a Structural Funds programme, only additional expenditure arising from this role shall be funded by technical assistance. Technical Assistance shall not be used to subsidise the existing running costs even though these may relate to the delivery of European programmes.

Subject to the above paragraph, staffing costs are eligible for personnel directly engaged in a technical assistance project whether part time or full time (see 4.4.1).

Eligible expenditure under technical assistance includes salary and other costs of civil servants and other public officials carrying out the preparatory, management, monitoring, evaluation, information and control activities of the Operational Programmes together with activities to reinforce the administrative capacity for implementing the funds. Staff costs will be supported by payroll details which identify the real cost paid by the public service concerned in relation to the technical assistance activity.

7.2 Information and Publicity

Technical assistance funds will support the information and publicity activities set out in the EU Communication Plan.

7.3 Purchase of equipment – ESF specific

For the ESF Operational Programmes the ESF Regulation explicitly excludes the purchase of furniture, equipment, vehicles, infrastructure, real estate and land as eligible expenditure. Technical assistance activities giving rise to such costs will be financed indirectly via depreciation provisions of Article 11(3)(c) of the ESF Regulation or directly in the context of the 10% flexibility facility.

7.4 Closure of Programmes

Eligible expenditure under technical assistance also includes costs relating to the closure of the 2000-2006 Programmes in the following conditions:-

- they are incurred after the final date for the eligibility of expenditure under an intervention of the 2000-2006 Programming period

- there is a consistency between the new Operational Programmes and those of the 2000-2006 period as follows:

    - NI Competitiveness (ERDF) Programme technical assistance can support the closure of the Building Sustainable Prosperity Programme and URBAN II Programme;

    - NI ESF Programme technical assistance can support the closure of the EQUAL programme;

    - PEACE III technical assistance can support the closure of the PEACE II programme;

- INTERREG IVA technical assistance can support the closure of the INTERREG IIIA programme.

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Annex 1

European Territorial Cooperation Objective

EC Regulations state that common rules on the eligibility of expenditure should be laid down which are applicable to Operational Programmes under the European Territorial Cooperation objective, in order to ensure consistency between the rules applicable to projects implemented in different Members States.

By their nature, these programmes may apply different definitions so it is important to check the specific guidance for the relevant programme. Please note that, where the individual Programme eligibility guidance does not address specific expenditure issues for Northern Ireland organisations, the National Rules as set out in this document shall apply. Where there may be differences between individual programme guidance and the national rules, the strictest interpretation will apply.

In accordance with Article 16 of the ERDF Regulation, the Special EU Programmes Body has been designated as the controller, responsible for verifying the legality and regularity of all expenditure declared in accordance with the Community rules and the national rules of Northern Ireland and of Ireland, for the PEACE III and INTERREG IVA programmes and for all NI partners funded in projects under the INTERREG IVB and C transnational and interregional programmes. Should any queries arise concerning these programmes, the advice of the controller should be sought. For queries concerning the Northern Ireland national rules, the advice of European Division, DFP should be sought.

The European Territorial Cooperation 2007-2013 Operational Programmes in which Northern Ireland organisations can participate, are:

- EU Programme for Peace and Reconciliation 2007-13, Northern Ireland and the Border Region of Ireland (PEACE III) – Managing Authority based in the Special EU Programmes Body (SEUPB), Belfast. Programme Website: www.seupb.eu

- Cross-border Programme for Territorial Co-operation 2007-13 Northern Ireland, Border Region of Ireland and Western Scotland (INTERREG IVA) – (Managing Authority based in the Special EU Programmes Body (SEUPB), Belfast. Programme web-site: www.seupb.eu

- INTERREG IV B Trans-national Atlantic Area Programme – [Managing Authority based in The North Regional Coordination and Development Commission (CCDR-N), Porto, Portugal]. Programme web-site: www.atlanticarea.inescporto.pt

- INTERREG IVB Trans-national North-West Europe Programme – (Managing Authority based in The Conseil Regional Nord-Pas de Calais, Lille, France). Programme web-site: www.nweurope.eu

- INTERREG IVB Transnational Northern Periphery Programme – Managing Authority based in Copenhagen. Programme website: www.northernperiphery.eu

- INTERREG IVC Interregional Programme – Managing Authority based in Lille. Programme website: www.interreg4c.net

All areas of Northern Ireland are eligible for the INTERREG IVB and IVC programmes with the exception of the Northern Periphery Programme under which Belfast and Outer Belfast are eligible only as part of the 20% adjacent area provision as set out in Article 21 (2) of the ERDF Regulation.

Specific eligibility guidance that has been agreed for each Programme can be subject for review and should be checked periodically.

Annex 2

Indirect Costs

Indirect costs are considered eligible expenditure provided they are based on real costs which relate to the implementation of the project. Historically, costs were calculated on a flat rate basis. Following the amendments to the ERDF and ESF regulations in May 2009, there are now four accepted methods for declaring eligible expenditure:

1. All costs real, supported by receipts or equivalent. This may include the apportionment of indirect (vouched) costs. Previously, this was the only acceptable method for ERDF.

2. Real direct costs and indirect costs computed at a flat rate percentage of vouched real costs, set out in the letter of offer. This method is subject to a ceiling of 20% of the direct costs of an operation.

3. Flat-rate costs, calculated by standard scales of unit cost, paid on the basis of project outputs.

4. Lump sum payments, paid on the basis of agreed project achievement. The lump sum is restricted to a maximum payment of €50,000 to an operation.

Real cost is the method described throughout this Guidance Note and includes both actual and in-kind costs, but in either case the costs must have been incurred and vouched by an audit trail of documents.

Use of the three new (simplified) methods is optional. The amendments are retroactive to 1 August 2006, thus covering the lifetime of all the Northern Ireland programmes. However, where a project is already running, the new methods can only be applied by amending the Letter of Offer and applying new methods to expenditure incurred following the issue of the amended letter of offer.

European Commission conditions for use of the new methods is set out in working document COCOF 09/0025/00, paragraph IV.2. The computations of rates must be:

1. Established in advance. The rules have to be set out in the published national eligibility rules and the rate for an approved project must be set out in the letter of offer at latest and cannot be changed during the implementation of the project.

2. Fair. Rates should be based on reality, adapted to specific conditions or needs. The availability of new methods should not inflate total expenditure, nor should operations be split artificially to permit use of lump sums.

3. Equitable. The calculation method must not favour particular categories of beneficiary or operation.

4. Verifiable. The method and data used to establish the rates or the lump sums proposed must be clear and open to examination. Commission guidance suggests four possibilities:

    a. Historical data – e.g. the actual proportion of real indirect costs in the 2000-2006 round, or data showing actual costs required to deliver particular outcomes in the previous programmes;

    b. Analysis of current real costs structures, where they apply to similar cases.

    c. A draft budget from the applicants.

    d. The basis for calculating lump sums published with the call for proposals.

Since production of this guidance, DFP has endorsed simplified costs methodologies for use within the Northern Ireland sustainable competitiveness Programme (Invest NI Schemes only), the PEACE III Programme and the INTERREG IVA Programme. Details of these methodologies are available on DFP's website at:

http://www.dfpni.gov.uk/simplified_costs_methodology_for_the_invest_ni_schemes_forming_part_of_the_northern_ireland_sustainable_competitiveness_programme..pdf

http://www.dfpni.gov.uk/simplified_costs_methodology_for_peace_iii___interreg_iv.pdf

ANNEX 3

European Commission working paper on the threshold and content of Commission Decisions on Major Project Applications

COCOF 08-0006-02

ANNEX 4

European Commission working paper on Financial Engineering

COCOF 08-0002-02