



EUROPEAN COMMISSION
DIRECTORATE-GENERAL JUSTICE, FREEDOM AND SECURITY

Directorate B
Unit B/4: Financial support, immigration and asylum
Directorate C
Unit C/4: Financial support, Migration and borders

SOLID/2009/36

Committee
General programme
Solidarity and Management of Migration Flows
Meeting 16 November 2009

Subject: Presentation of the answers to the main questions received from Member States regarding the rules on the eligibility of expenditure following the transmission of the revised Manual (SOLID/2009/24)

Summary:

During the conference held on 22-23 September 2009, Member States were invited to submit to the Commission any questions concerning eligibility of expenditure by 15 October 2009. This document presents a number of questions received together with replies. These are divided by themes reflecting the sections of the manual. This document must be considered taking into account the following:

1/ Answers are provided as guidance and not as definite answers on the eligibility of costs because when replying to these questions the Commission services may not necessarily have had all necessary elements of the background situation and context; and more importantly, because the final decision on the eligibility of expenses will only be taken when examining the final report and in the framework of possible ex-post audits.

2/ Shared management implies that the Member States are eventually responsible for the certification of expenditure.

3/ Not all questions and answers have been included in this document. Several questions received were highly specific to situations in particular Member States. Therefore only those questions likely to be of general interest to most Member States are presented here. Other questions will be answered bilaterally by the Commission through the responsible desk officers. Some questions were submitted too late and due to the necessary internal consultations it was not possible to take them into account. Furthermore, some comments submitted by the Member States concerned errors in the text of the manual. The feedback of the Member States in this regard has been much appreciated and where mistakes have been identified corrections will be made accordingly.

Action to be taken:

Information to the Committee.

D. ELIGIBILITY PERIOD

QUESTION

Manual of the Eligibility Rules of costs for SOLID, fiche D. Eligibility period, page 21.

Item Payments, Second sentence reads: *Therefore, expenses incurred during the eligibility period do not have to be paid before 1/1/N to be considered eligible.* Probably the date should be 1/06/N+2. Otherwise the sentence suggests that expenses (in majority) may be incurred before 1/1/N which is contrary to the legal basis.

ANSWER

The sentence will be clarified with "must not" instead of "do not have to" but in any case, an expense incurred during the eligibility period must not be paid before 1/1/N.

QUESTION

Manual of the Eligibility Rules of costs for SOLID, fiche D. Eligibility period, page 23.

Point 4, last item *Accounting Services*. Does it relate to all kind of accounting services employed/contracted for financial reporting (like accountant, financial assistant)?

ANSWER

Only accounting services relating to final financial reports and audit certificates (as mentioned in the manual).

QUESTION

Purchase at the end of the project:

"If equipment purchased at the end of the project is not directly related to the project, this cost could be rejected even if it was included in the budget estimate."

What does "end of the project" mean? Is there a deadline for purchasing before which the costs will be accepted in any case?

ANSWER

This best practice refers to art. I.1 of annex 11 of the IR where it is mentioned that "purchase must be "needed to carry out the project". The RA should pay attention, in cases where the Final beneficiary would like to purchase equipment at the very end of the project (only to consume appropriations) that does not have any link with the project or a real usefulness for the achievement of the project. In this case, the cost could be rejected following an ex-post audit.

QUESTION

DEADLINE FOR THE TRANSMISSION OF THE FINAL REPORT

Regarding the deadline for the transmission of the final report we would like to ask you to tell the MS if the term is established taking into account the eligibility period for the actions or the eligibility period for the technical assistance?

LEGAL BASIS

Art. 40. (1) of Decision N° 2007/575/EC establishing the European Return Fund

ANSWER

According to the basic act, the MS shall submit no later than nine months after the end of the eligibility period a final report on the execution of the programme, together with the audit authority report and the certified declaration of expenditure.

The deadline for eligibility for actions will be 30 June year N+2 for a programme submitted in year N. Within nine months from the above mentioned date the final report for a programme for year N will be submitted (i.e. at the latest on 31 March 2011 for AP 2008). The eligibility period for technical assistance expenditure shall last until the submission of the final report on the implementation of the annual programme (i.e. at the latest 31 March 2011 for AP 2008).

QUESTION

The General Principles and Guidance note under Section D. Eligibility period, allow for 'Payments to be processed after the end date of the eligibility period'. (1) Subsection 4 (Best Practices, Recommendations and Preferred options) allows for the eligibility of accounting costs such as final financial reports and audit certificates incurred after the end date of eligibility. However it stipulates that '...this derogation cannot be extended to other types of expenses, such as staff costs, dissemination costs, etc.'

Can we take it that Pay Related Social Insurance (PRSI) and other staff personnel taxes relating specifically to staff costs incurred during the eligibility period of the project but processed after the end date of eligibility (i.e. paid over to the Revenue Commissioners the following year) are eligible?

On a similar issue, where evaluation of the project is a stipulation in a grant agreement, are costs relating to such evaluations incurred after the end date of eligibility, eligible?

ANSWER

Regarding the PRSI – the costs are incurred during the eligibility period and the payment is made after. This is in line with the rules therefore it is acceptable.

As regards the evaluation – No there is no exception for evaluation at project level. Where an evaluation is foreseen it needs to be taken into account in the timetable of the project to ensure that the related expenses are incurred within the eligibility period.

⁽¹⁾ Draft manual on eligibility - Version 2 dated 19/06/2009, Section D. Eligibility period, 2. General Principles and Guidance, Payments

E. RECORD OF EXPENDITURE AND AUDIT TRAIL

QUESTION

Is electronic archiving of the documents accepted as justification of the expenditure?

ANSWER

Quote from the Manual: "Electronic archiving of the supporting documents may be accepted provided that, for control purposes, all information disclosed on the originals is also disclosed on the electronic version of the supporting documents."

QUESTION

In relation to an appropriate audit trail, the rules of eligibility state that 'As a rule, expenditure shall be justified by official invoices. Where this cannot be done, expenditure shall be supported by accounting documents or supporting documents of equivalent evidential value. (2) Would the following scenario meet with the Commission's approval in relation to bus fares and child care costs of course participants?

To encourage and enable participation in a course, a project takes the decision to pay an allowance to course participants amounting to EUR 3 per day to cover a standard bus fare and EUR 7 per day to cover childcare without the necessity of the participant having to produce receipts in either case. These are not handed out in advance but at the end of the course i.e. end of a day course or week course. As well at the project recording the attendance of the participant, the participant themselves must sign a form acknowledging receipt of the allowances. Would this meet Commission requirements?

ANSWER

The expenditure must be verifiable and controllable. Based on the information provided, it seems to be the case.

⁽²⁾ Section 1.5.2 on Record of expenditure of Commission Decision of 19 December 2007

(2008/22/EC)

F. TERRITORIAL SCOPE

QUESTION

Can an NGO registered in a third country be involved in a project as subcontractor of the final beneficiary and have its cost considered as eligible? Does not this contradict the definitions of partner and subcontractor and for the RF the costs in the third countries listed in the exceptions?

ANSWER

An NGO registered in a third country can be involved in a project as partner on a non-cost basis or as subcontractor /"supplier" of services related to the project against payment. The costs in this case are nevertheless incurred by the final beneficiary registered in a member state participating into the concerned Fund.

QUESTION

Can a RA select a project of a final beneficiary registered in another MS?

ANSWER

Yes, this is possible.

QUESTION

If a final beneficiary (NGO) is registered in any MS, can the beneficiary collaborate with an NGO registered in a third county as subcontractor and are its costs eligible?

ANSWER

Yes, this NGO is then considered as a subcontractor of the final beneficiary which is registered in a Member State.

G. INCOME, NON-PROFIT PRINCIPLE AND CALCULATION OF THE FINAL EC CONTRIBUTION

QUESTION

Can sales of consumables be eligible as income for the project?

ANSWER

Sales of goods can be considered as income for the project only if they are generated by the project (i.e. leaflets produced in the framework of a project). Consumables purchased at the start of the project and sold at the end of the project do not correspond to that definition.

QUESTION

Why is a **guaranteed minimum income benefit** not eligible for ERF? A recognized beneficiary is entitled by law to claim the guaranteed minimum income benefit being a fixed amount paid by the Public social assistance centre. The Public social assistance centre can recuperate 65% of this amount via the Federal State (Federal programmed public Service of the Ministry of Social integration). Which criterion prevents it from being eligible? The legal right, the fixed sum, the regular character or the difficulty to detect the revenues linked to the person? An official decision of the Public social assistance centre Board is needed anyway to award the allowance to the person and the income is a fixed amount (65% of the fixed sum). (Page 30/82, income, punt 2, "fees collected for services provided to third parties")

ANSWER

A guaranteed minimum income benefit is not eligible for funding under ERF because there is no link between what the persons are entitled to receive from the social assistance (guaranteed minimum income) and what they are receiving from the project (and provided for by the final beneficiary). To be more precise, and referring to the eligibility rules regarding "specific expenses in relation to target groups - For the purpose of assistance, purchases made by the final beneficiary for the target groups and reimbursements by the final beneficiary of costs incurred by the target groups are eligible under.....". What is eligible are purchases made for the target groups and reimbursements of costs incurred by the target groups. A guaranteed minimum income benefit is neither a purchase made by the beneficiary nor a reimbursement of costs incurred by the target groups and therefore not eligible.

QUESTION

Is an expenditure of the 1st ERF beneficiary (i.e. interpretation costs) paid to a **different 2nd ERF beneficiary** not automatically eligible? What happens if the revenue produced by means of an invoice is deducted of the ultimate settlement of the 2nd ERF beneficiary service provider? In that case it cannot be said that **that this is a double allowance**. (page 30/82, non profit principle)

ANSWER

For project 1 the payment is registered as expenditure, like any other expenditure, and for project 2 it is registered as an "income generated by the project", just like any other such

income. The fact that project 1, on the one hand , and Project 2, on the other hand , each possibly receives an ERF grant does not intervene in this context.

QUESTION

What happens if the organization closes its annual accounts with a **positive result** while still collecting an ERF allowance? Is this seen as a **profit**? If so how must we verify this? What happens if the revenues are not analytically booked (that is only the expenditures): does the non-profit rule exceed the project scope and therefore cover the whole organization?

ANSWER

The non-profit rule applies to the budget linked to the funded project and not to the budget of the whole organization (beneficiary). The case when revenue is not linked to the activities of the funded project and as such not analytically booked for that project does not therefore represent a breach to the non-profit rule. Expenditure and income must be identified on an analytical basis.

01. STAFF COSTS

QUESTION

Are staff costs for sickness leave or maternity leave eligible?

ANSWER

These costs are eligible if they are statutory and actually borne by the Final Beneficiary and in compliance with the social regulation of the country (The Manual will be revised slightly to reflect this). It must be noted that the number of days where the person is absent should be deducted from the total of the productive days when calculating the cost/productive day of the employee. All statutory costs borne by the employer can be taken into account in this calculation.

QUESTION

Are provisions for holidays entitlements eligible?

ANSWER

This cost can be accepted as it is a statutory cost and is not a provision for future liabilities since it is certain and must be paid by the Final Beneficiary. Nevertheless, only the portion of holiday bonus linked to the duration of the project and incurred during the eligibility period can be eligible (i.e. if an employee works on a project full time from 1/6/N to 1/8/N only the holiday bonus linked to these two months will be charged to the project).

QUESTION

Are staff costs eligible when an employee has incidentally worked more hours than the total legal working time and did not receive overtime remuneration?

Explanation:

The worked hours do not match with the hours as mentioned in the employment contract (e.g. incidental 40 worked hours in stead of 36 worked hours).

ANSWER

These costs are not eligible. The staff costs charged to the project must be "incurred" therefore if the employee has not been paid for the 4 additional hours, these hours cannot be charged to the project.

QUESTION

Is it required that an employee signs his own time sheet or is signing by the project manager sufficient?

ANSWER

Each timesheet should be signed by the employee and the project manager and dated (within a limited period of time after the work is performed). Otherwise it has no value.

QUESTION

Is it possible to make an exception on the replace rule?

Explanation:

In many cases a permanent officer does not fulltime work on the project, but a few hours per week or part-time. In practice it is therefore not possible to replace this permanent officer for this few hours, because there is nobody who wants to work for, in example, four hours per week. Is it possible to make an exception on the replace-rule? The category of expenses Costs covered by assigned income is not an option, because the limit of 50% has been reached very quickly."

ANSWER

No. permanent officials seconded to a project whose cost is charged as direct cost to the project under staff cost must be replaced by a newly recruited person.

QUESTION

We plan to co-finance with the EBF deployment of border guards liaison officers in EU Member States. This action would have been included under Priority 1. Unfortunately, according to the current interpretation of the eligibility rules, this is not possible. The reason is the stringent requirement that staff costs are eligible only for staff replaced for their usual tasks by a person newly recruited by the organisation (II.1.1. 2.2 i.i.). This provision is impossible to implement in practice. Therefore I would be grateful if this issue could be approached again so that, possibly, a more favourable interpretation is provided.

ANSWER

It is not possible to interpret differently this rule which only concerns officials seconded to a project as direct costs. These costs can be eligible under costs covered by assigned income if the conditions are fulfilled (staff must be permanent officials and the contribution can be up to a maximum of 50% of the contribution of the final beneficiary and partners).

QUESTION

Interpretation of the eligibility rules under the European Integration Fund and the European Return Fund

A beneficiary is invoking the internal accountancy (established according to the UN budgetary rules) which generates in its SAP software the so-called "terminal emoluments" and "overheads", which are staff and administrative expenditure not related to the implementation of the project.

Terminal emoluments are described as 8% of the local staff costs used for the payment of unpredicted costs at central level (e.g. the annulment of the contract before its deadline, payment of unused holidays time, medical insurance of the retired personnel).

Overheads are described as 5% and 12% of the project-based expenditure, allocated for the administrative costs at central level (e.g. minimum security standards of the premises and surveillance tasks at central level), which cannot be distributed according to the different projects granted to the local units of the beneficiary.

According to the beneficiary, these costs should be considered eligible as indirect costs.

ANSWER

Regarding **overheads**, whatever they may be, they should be included in the authorized percentage for each Fund as described in the implementing rules in Article II.2. All overheads charged to the project that would exceed this percentage would be ineligible.

Terminal emoluments could be eligible provided they are fully justified by the statutory or contractual status of the employee and that the organization which hires him/her has the obligation to pay for these costs. They must also be reasonable, meaning that for each contract the calculation of the costs charged to the project under this category can be demonstrated.

QUESTION

Since Manual of the Eligibility rules does not provide guidance regarding following categories of staff costs, want to consult with You to find out Your opinion regarding eligibility of the following staff costs categories under Solidarity Funds:

1. monthly payment to pension savings scheme (employee's and employer's contribution);
2. monthly payment to Medical service plan (health insurance) - employee's and employer's contribution;
3. terminal emoluments (monthly payment) - this charge is made to cover the eventual costs of severance for staff members (t.i., payment for unused accrued annual leave, severance pay or termination indemnity)...

These contributions are stipulated in job contracts of the employees acting as project manager and project coordinator (direct costs) and project accountant (indirect costs).

ANSWER

The principle is that staff costs consist of what is considered to be part of the usual remuneration and related contributions from an accounting and tax perspective borne by the employer and really incurred by the final beneficiary. See the list on page 42 of the revised manual (version 2 19/06/2009, transmitted to the SOLID Committee for its meeting of 7 July 2009).

In this context therefore in principle

- 1) OK for monthly payment to pension savings scheme;
- 2) OK for the monthly payment to the medical service plan
- 3) OK for the payment of unused accrued annual leaves.

Terminal emoluments could be eligible provided they are fully justified by the statutory or contractual status of the employee and that the organization which hires him/her has the obligation to pay for these costs. They must also be reasonable, meaning that for each contract the calculation of the costs charged to the project under this category can be demonstrated.

QUESTION

We still have a few questions on **specific staff costs** which are part of the employee's fixed remuneration and which are borne by the employer. What must be done in the following cases?

- Subscription to a supplementary civil liability insurance for a delegated manager
- Gift Voucher
- Internet connexion
- Daily allowance for small costs made for missions
- Meal voucher

- Transport costs (subsidized transport pass for a year provided by the employer)

The following items are very often **collective** invoices. Can we consider these as direct staff costs in case a rate/agreed price per employee is fixed? Or should these be considered as indirect costs?

Should these be indirect costs: are we to take only the scale of apportionment for the employees on the ERF project or the invoice for the whole organization?

- Hospital insurance
- Employer's liability insurance
- Fixed sum for treating the file for each employee hired by the social secretary
- Group life insurance
- Costs for a company doctor
- Medical examination

Costs covered by assigned income / contribution of the final beneficiary

ANSWER

If any of the above-listed costs are part of the statutory costs then they could be eligible. On the other hand, depending on the situation, several of these costs could be costs referred to as 'advantages in kind' – see page 42 of the Eligibility Manual point 2b item 16, and are therefore ineligible.

Regarding the distinction direct/indirect costs, the reference that must be considered is the staff costs, i.e. If the staff cost is booked to direct costs then these costs, if eligible, should be booked to indirect costs.

QUESTION

Regarding Staff costs - Under Priority 5 are training costs eligible for 50% co-financing. Under which conditions are these training costs of staff eligible as direct project's costs? These trainings serve principally for the efficient and effective implementation of the Schengen Borders Code. The staff participated further to a decision of the organisation and they are replaced for the time of the training by other employees of that organisation. If staff costs and travelling costs are considered not eligible, only small costs could be accrued for trainings of this type. The Federal Police Academy charges a training fee covering training material, accommodation etc. (also from external participants who do not belong to the Federal Police). Are these costs, if broken down in more detail, eligible?

ANSWER

The rules have not been drafted to support that type of cost in the framework of a training project since the staff is already paid for this task by the national authorities for his/her normal working hours. Therefore staff cost of staff participating to the training should not be charged to the project. Travel cost could be eligible under the "travel and subsistence costs" category using the exception c) "other persons outside the final beneficiary who participate in the activities of the project, in this case attendance list should be kept".

If a company is contracted to provide the training the cost could be booked to "subcontracting" category. The fee of the federal police as training provider could be booked to this category.

02. TRAVEL AND SUBSISTENCE COSTS

QUESTION

Item 3. Exceptions. Travel costs of persons providing supporting role. The possibility is limited to *cases which occur outside staff routine activities*. This limitation is not based on the legal basis which sees that cases must be duly exceptional and justified, but not outside routine activities. Example: a usual task (routine activity) of an NGO receptionist is to support projects during training/workshops. When they take place outside the location of the NGO the receptionist needs to travel.

ANSWER

This can be accepted. The text will be modified: "cases which *normally* occur"

QUESTION

How can the mileage be supported with documents when a private car is used? Is a print-out from a route planner which can be found on internet sufficient?

ANSWER

This can be accepted with in addition an attestation signed by the driver.

QUESTION

Is car hire eligible when it is hired in a third country where is no appropriate public transport?

ANSWER

Yes but supporting documentation will have to be provided (invoices, etc...). A note should also explain why it was not possible to use public transport.

QUESTION

Annex 11, article II.1.2. of Commission Decision N° 796/2008 for the implementation of Decision N° 575/2007/EC states that the boarding cards must be kept. How can this rule be applied when the boarding cards cannot be kept, especially for return projects (in cases where the returns are performed without escorts)?

LEGAL BASIS

There are two rules which relate to travel expenses. Article II.1.2.of Commission Decision N° 2008/458/EC (notified under document N° C(2008)796) which you refer to, relates mainly to travel costs and other persons complementing the project. But, Article II.1.9. of the same Commission Decision, relating to "Specific expenses in relation to the target groups", would be more relevant for returnees' travel costs.

ANSWER

Given that the situation involved by your question concerns specific expenses in relation to the target groups and not travel costs, according to the regulatory framework, evidence should be kept with regard to the eligibility and evidence of the persons within the target

group, so as to be able to certify that these persons have actually received the assistance. Therefore, in order to allow you to certify that such missions have been actually performed when the boarding passes can not be recuperated, you could use the following documents as evidence:

- ⇒ The decision for the return travel to be performed with the name of the returnee clearly mentioned;
- ⇒ The ticket for the flight (even if electronic booking) for the returnee;
- ⇒ A signed declaration/certification from the person responsible/authority accompanying the returnee to the plane attesting that this task was accomplished (when possible).

QUESTION

What are the documents needed for the justification of Travel costs?

LEGAL BASIS

- ⇒ Art II.1.2.2 of Annex 11 to the Commission Decision 456/EC/2008, for the implementation of Decision 574/2007/EC establishing the External Borders Fund
- ⇒ Art II.1.2.2 of Annex 11 to the Commission Decision 458/EC/2008, for the implementation of Decision 575/2007/EC establishing the Return Fund

ANSWER

These costs need to be justified through mission orders, declarations of expenditure, tickets and boarding passes (as much as possible). All expenses incurred in relation to travelling performed by your staff need to be traceable in your accounting system. These documents should be added to the certification you provide as attachment to your letter. Traceability can be ensured through a number on the invoice of the supplier which can be associated to a specific travel cost for a specific official (e.g. number of the mission order).

QUESTION

What are the documents needed for the justification of daily allowances?

LEGAL BASIS

- ⇒ Art II.1.2.3 of Annex 11 to the Commission Decision 456/EC/2008, for the implementation of Decision 574/2007/EC establishing the External Borders Fund
- ⇒ Art II.1.2.3 of Annex 11 to the Commission Decision 458/EC/2008, for the implementation of Decision 575/2007/EC establishing the Return Fund

ANSWER

Regarding daily allowances, we understand that your organization uses a "per diem" system which is a lump-sum granted to the person travelling to cover his/her accommodation and subsistence during the mission. The declaration provided in annex to your letter would therefore be sufficient. Nevertheless, in case of an audit, the corresponding mission orders justifying the daily allowances for the respective duration of the missions should be made available, as well as the proofs of payment on the accounts of the staff concerned. Any additional proof that the mission has been carried out (mission report, etc) would also be useful.

According to the legal provisions, the responsible authority needs to ensure that all supporting documents regarding the expenditure flow for any activity, as well as any documents resulting from audits on the actions/programmes concerned, are kept available for the Commission and the Court of Auditors for a period of five years following the closure of the programme.

QUESTION

Under point 5, FAQ, question 3 the participation in seminars is presented as direct eligible cost. This way, the participation in seminars organised by the Federal Police Academy should be considered eligible (for actions category 5) as staff costs. Is this correct?

ANSWER

No. Seminar fees can be booked to the travel and subsistence category if the travel is eligible for the concerned person (mostly related to the eligibility of staff cost). This should not be booked as staff costs.

03. EQUIPMENT

QUESTION

We have received the Draft of the Manual of the Eligibility Rules. We would like to thank you for the manual however we would need clarification regarding to the purchase of Equipment that will be used on the projects of the IF.

In case of the EBF there is a rule, that the full purchase value may be eligible provided that the equipment is used for the same purpose for a certain period after the end of the project. In case of IF we are establishing the integration centres and the aim is that once the centre is established, it will be run for the whole period of the multi-annual period.

For the IF there is a rule that says that the full value of the equipment is eligible, provided it was purchased during the first 3 months of the project. In the manual is also stated, that the equipment is eligible on the basis of depreciation costs calculated according to **national rules**. As per the national rules all the equipment of the value up to 1.500 EUR depreciates lump-sum. This is the reason we are not able to calculate any depreciation of the equipment in case that it was not purchased during the first 3 months of the project. We need your clarification that in this case the lump-sum depreciation would be eligible as per our national rules. In case this is not possible we request you to set a rule that would apply in such a case.

We would kindly request you to clarify this issue as soon as possible as the beneficiaries need this information to carry forward with their projects.

ANSWER

It is not possible to apply a specific rule for each specific case.

The rule is that depreciation must always be used except for items below 1000 € purchased during the 3 first months of the project for which the full cost can be eligible.

The Commission services will examine the possibility of modifying this rule in order to allow more flexibility.

QUESTION

Part 3: Equipment (on the example of a helicopter squadron).

Purchase of equipment is eligible for co-financing.

The concrete question comes from the Federal Police Flying-Team who budgeted exclusively purchase of the necessary equipment. The purchase took place by means of a conversion / new incorporation by a company from Oslo.

The following question arises: is a conversion / modernisation of equipment or replacement of an outdated technique, carried out by an external company, considered "equipment" or "subcontracting"?

If it is considered "subcontracting", should the budgeted costs be split? Or can this cost be later replaced by the budgetary position "subcontracting"?

Could costs of fuel used to transport the equipment to the place of its modernisation / mounting / installation be budgeted under "equipment" or "subcontracting"?

In my opinion these costs should be budgeted under the category "maintenance". If so, could this costs fall under indirect eligible costs?

ANSWER

It is difficult to determine on the basis of the information provided whether this is an activity related to routine maintenance or if it is an upgrading of the equipment for a specific purpose

resulting in an increase in value. The distinction which can be made is that if the related contract is a service contract it would rather be maintenance and if it is a supply contract it would rather be equipment. If it relates to maintenance then it can be included under indirect eligible costs. If it is an upgrade then it can be charged as a direct cost under equipment either for the full cost or depreciation, depending on the case.

Cost of transport (fuel) should be booked to the category “consumables, supplies and general services). It could be eligible as direct cost since directly linked to the achievement of the project.

QUESTION

Are there any best practices/recommendations on how the final beneficiaries could prove that the equipment is used for three/five/ten years after the end of the project? Is i.e. a guarantee paper from the final beneficiary sufficient for the abovementioned purpose?

ANSWER

The above example of providing a guarantee or declaration could be one method however there could also be other suitable ways of providing evidence depending also on the type of equipment in question.

04. REAL ESTATE

QUESTION

Could we also use **different scales of apportionment** for the quantity of used m² in the existing offices (for example introduced as direct costs for the 2 new members of staff working on the project). Can we use the scales of apportionment reserved for the ERF employees working on the project/total employees of the organization? The exact number of m² and m² used is rarely known, on the contrary the number of employees is known.
(Page 55/82, real estate, point 4.3)

ANSWER

In principle, square meters is usually used because it is the simplest and the most accurate method. If another method had to be used, it should reflect the use of the building.

QUESTION

Are **rent guarantees** eligible? Or the deficits made on rent guarantees? Because these are losses for the organization and can be justified.
(Page 75/82, ineligible expenditure, point 2.2)

ANSWER

These costs are ineligible because they could be recovered at the end of the rent contract and therefore they are not a definite expense.

05. CONSUMABLES, SUPPLIES AND GENERAL SERVICES

QUESTION:

We have encountered a very unique and special problem. The statement of the draft is the following:

Chapter 05. Consumables, Supplies and General Services

“5. FAQs

Q: Are water and power supplies related to a real estate eligible (under consumables or under indirect costs?)

A: As a general principle, water and power supplies are not eligible under direct costs as they can be considered included in indirect costs (e.g. costs related to the border guards office building even if the building was funded by under EC program). However, in some duly justified circumstances, these costs may be eligible under direct costs (e. g. Water and power supplies in relation to a building used specifically for the accommodation of refugees):“

We would like to examine closely the meaning of “some duly justified circumstances”.

The situation is evident if operation of an organisation is not supported by operating grant.

1. The question is if

- an organisation is supported by operational subsidy, so it is not allowed to account for indirect costs on the base of EC rules
- the implementation of the project is additional and not a compulsory task of the state,
- the water and power supplies costs can be measured only with proportion because separate measuring instrument is not available (the building is detached but in the territory there are some other buildings)

In this case are the overhead costs eligible as direct costs?

2. The question is if

- an organisation is supported by operational subsidy, so it is not allowed to account for indirect costs on the base of EC rules
- the implementation of the project is additional and not a compulsory task of the state,
(for example operation of the confectionery in a reception centre)

In this case is the maintenance service of special machines in the confectionery eligible as direct cost? However, Reception Centre is supported by the state but these machines are exclusively connected to the EC project.

3. Thinking it further in general context another problem is emerging.

The question is if

- an organisation is supported by operational subsidy, so it is not allowed to account for indirect costs on the base of EC rules
- the implementation of the project is additional and not a compulsory task of the state,
that is: the project is to make tenders for secondary schools and to post tenders which is a relevant part of the project along with high postal costs.

In these cases is postal cost eligible as direct cost?

We would greatly appreciate if you could give us some advice on solving the above problem. These questions are not theoretical questions, but they are real problems of some beneficiaries.

ANSWER

The fact of not being able to charge expenditure under indirect costs should not be understood as a possibility to charge this expenditure under direct costs.

Nevertheless, in very specific cases, when the costs of general services are identifiable and it can be proven that they are directly necessary for the implementation of the project, they can be considered as eligible under direct costs. (Art II.1.5. of Annex 11 to the Implementing Rules)

Direct costs are any cost generated by the operational performance of a project and, consequently, they can be charged to a particular project. The actual amount (not estimated) of the expenditure must be auditable (there must be documentation of what the expense was, and clear evidence that the expense was needed for the performance of the project).

Indirect costs represent the expenses of an institution/NGO/private entity carrying on its normal activities that are not readily identified with a particular grant, contract or activity, but are necessary for the general operation of the organization and the conduct of activities it performs. In theory, costs like heat, light, accounting, which generally - in the absence of a specific grant - would qualify as indirect costs etc, might be considered as direct costs if they could be measured, if there is proof that they have been incurred during the duration of the project and if they are directly linked to the project and essential for its achievement. As long as costs like water and power supplies are directly necessary for the implementation of the project and not included in the general operational costs of the institution, they could be treated as direct costs.

Having regard to the fact that the organisation is already supported by an operational subsidy it is not possible to charge costs like water and power supply, maintenance services as indirect costs.

In conclusion, these costs could be considered as direct cost only if the conditions presented above are strictly respected, namely:

- directly linked to the project, essential for its achievement
- exclusive allocation to the project;
- rigorously measurable;
- auditable.

06. SUBCONTRACTING

QUESTION:

Are there exceptions on the bid offering procedure?

Explanation:

An ICT department is especially working for all the police corps. Due to security reasons the government has obliged the police corps to make use of this ICT department. The working people in this ICT department are not on the payroll of the police corps. On their request this ICT department hires out people to the various police corps. For the services provided the ICT department charges a commercial rate to the police corps.

In this case it is not possible to ask for price offers. Is it sufficient that the beneficiary takes a document in the project administration with the reasons why the bid offering procedure has not been followed?

ANSWER

If this project is implemented under the executing method for security/legal reasons, it must be demonstrated that for security/safety reasons the concerned tasks can only be carried out by the ICT department of the final beneficiary which is apparently the responsible authority in association with the police.

QUESTION:

Must be looked per subcontractor or per subcontracted task to define if it is required to ask for 3 price offers?

Explanation:

The same subcontractor can provide several services such as making a film and support discussion groups which both are necessary for the project. The price for each service is below € 5.000 (then it is not required to ask for 3 price offers). The price for both services together is more than € 5.000 (then it is required to ask for 3 price offers).

ANSWER

National rules on public procurement must apply. This could be checked by the Final Beneficiary with the Responsible Authority.

QUESTION:

In the case of an action having as its main activity the development of an awareness raising campaign, the involvement of some categories of experts, such as communication experts, media-planners, coordinators and qualitative research assistants, image-photography experts, data analysts, etc may be necessary.

In which category should the expenditure borne be included: "expert fees" or "subcontracting"? If so, can they be borne by the final beneficiary during the project and included in the category "staff costs?"

LEGAL BASIS

- ⇒ Article II.1.6 of Annex 11 of Commission Decision N° 2008/458/EC (notified under document N° C(2008)796) for the implementation of Decision N° 2007/575/EC establishing the European Return Fund
- ⇒ Article II.1.8 of Annex 11 to of Commission Decision N° 2008/458/EC (notified under document N° C(2008)796) for the implementation of Decision N° 2007/575/EC establishing the European Return Fund
- ⇒ Article II.1.1 of Annex 11 of Commission Decision N° 2008/458/EC (notified under document N° C(2008)796) for the implementation of Decision N° 2007/575/EC establishing the European Return Fund

ANSWER

If experts are not part of the staff of the final beneficiary, thus the final beneficiary will need to subcontract the necessary expertise for the implementation of the project. Subcontracting should not exceed 40% of the total costs of the project, unless duly justified and approved by the responsible authority.

- ⇒ As the manual of eligibility states, expert fees should relate to non-recurrent and specific tasks incurred for legal, mandatory or high value-added expertise. All other types of fees should be reported under "Subcontracting" or "General services".
- ⇒ In no case can the costs incurred for subcontracting or for expert fees be reported under staff costs, as these refer, as the legal basis states and as the manual of eligibility further develops, only to staff employed by the beneficiary organisation.

QUESTION:

Please explain the **difference** between "subcontracting", "expert fees", "costs deriving from the requirements of EU financing (financial evaluation)" and "other direct costs (general services)" for the financial services. Could you give us some examples?
(Page 57, 59, 62, 63)

ANSWER

As explained in the manual on eligibility, costs reported under 'Expert fees' should relate to non-recurrent and specific tasks incurred for legal, mandatory or high value-added expertise (e.g. issuance of certificates). This is usually for a highly specific task. All other types of fees should be reported under 'Subcontracting' or 'General services'.

Examples of expert fees:

- legal consultancy fees (e.g. fees linked to advisory services regarding the contractual terms of agreements with partners, no litigation costs can be charged under this category);
- notary fees (e.g. notary fees linked to the purchase of real estate eligible for EC support);
- technical expert fees (e.g. fees of a real estate expert firm appointed to conduct a valuation of real estate to be purchased for the project);
- financial expert fees (e.g. fees of a consultancy firm appointed to draw up the funding plan for the purchase of equipment).

Examples of subcontracting include:

- Translation and interpretation services
- printing of handbooks
- organisation of training courses
- catering for events like seminars or conferences.

Question:

In relation to subcontracting, the draft manual on eligibility states *'where the amount spent on subcontracting exceeds 40% of eligible direct costs, the fixed percentage of indirect costs in relation to the total amount of direct eligible costs may not exceed 10% for projects supported under the ERF, IF and RF.'* ⁽³⁾

Our question is if there was any flexibility around this rule? For example if a beneficiary budgeted for Indirect costs at 20% and subcontracting costs at 38%, and if at the end of the project the beneficiary had a slight increase in their subcontracting costs that they did not foresee and the percentage went up to 41%, would this be allowable, and if so can the indirect cost percentage remain at 20% or does it have to be 10% (the chances of this happening are quite low).

ANSWER

The rules do not only apply to the planned budget but also to the **final budget**. Therefore there is no flexibility. If the 40% threshold is exceeded then the indirect costs % must be reduced to 10%.

⁽³⁾ Draft manual on eligibility - Version 2 dated 19/06/2009, Section 10. Indirect eligible costs, Part 3
Exceptions, third indent

07. COSTS DERIVING DIRECTLY FROM REQUIREMENTS LINKED TO EU CO-FINANCING

QUESTION:

Please describe in which cases "**bank guarantees**" can be used as eligible costs under the heading "costs deriving directly from the requirements linked to EU co-financing"? (Page 62/82, costs deriving directly from the requirements linked to EU co-financing, point 2.3)

ANSWER

Costs for bank guarantees can be eligible in cases where these are considered necessary by the Responsible Authority. For example if following a call for proposals a project is selected for funding however the selection board considers (following an assessment of the applicant organisation's financial viability) that the EC grant should be safeguarded by means of a bank guarantee then the Responsible Authority can request a bank guarantee as a condition for signing the grant. In that case the costs for the bank guarantee could be included in the budget for the project.

QUESTION:

"Manual of the eligibility rules of costs – 07. Costs deriving directly from requirements linked to EU cofinancing:

Technical and financial evaluation All costs incurred to comply with the final beneficiaries's obligation regarding the technical and financial evaluation of the project will be considered as direct costs. These costs may include consultancy fees ... audit certificate fees and **financial audit fees.**"

Could you confirm that the external audit of projects procured by the final beneficiary is a direct cost of the project and will be considered as eligible costs.

ANSWER

According to the information provided and the relevant rule it seems eligible.

09. SPECIFIC EXPENSES IN RELATION TO TARGET GROUPS

QUESTION:

Within the European Return Fund, an NGO is implementing a project: *Return and reintegration assistance to unsuccessful asylum seekers and irregular migrants from country X to countries of origin.*

The NGO puts particular emphasis on reintegration after return in the interest of target groups (up to 2000 EUR reintegration assistance is provided for a business plan). Some returnees would like to have a „repair room“ built/renovated (for the repair of motorcycles, cars...etc). Although purchase, construction and renovation of real estate is eligible within RF, it is quite questionable if the particular real estate will be used solely for the stated purpose for a period of at least five years and if depreciation rules can be applied. The returnees might become bankrupt after a short period of time or they might find out that they cannot compete with others. Business revenues and success are hard to predict. For this reason, I find rent as the only solution, if strict RF rules are to be applied.

I would like to know, if there are any exceptions from the RF rules possible within *Specific expenses in relation to the target groups*, so that the returnees who cooperate with this NGO and would like to set up a business could have repair rooms/craft rooms built/renovated. I believe this would be one of the best ways to ensure the sustainability of their return in the country of origin.

ANSWER

The reintegration assistance given to the returnees is an eligible cost in itself - it is one of the specific costs for the target group - also mentioned in the decision in article 5 (9): 'start-up support for economic activities'. Therefore this assistance does not need to be considered as a 'mini-grant', i.e. the eligibility rules do not really apply to the content of this lump-sum or what exactly it is being spent on. For us this cost is simply eligible as 'start-up support'. We obviously welcome however that the project leader gives this type of support on the basis of a business plan, and the amount of this lump-sum should be reasonable - i.e. taking into account the cost of living in the country of return, etc.

Therefore they can build or renovate the repair room using this money and there is no condition concerning duration of use.

10. INDIRECT ELIGIBLE COSTS

QUESTION:

Both fiches - point 2, item *Indirect costs for partners*: Second sentence reads: *Partners may report indirect costs eligible for EC support although the main beneficiary may not (i.e. the main beneficiary received an operating grant covering 100% of its operating costs for the period of the project).*

The above sentence may be understood that if organization receives an operating grant covering less than 100% of its operating costs the indirect costs are eligible. That approach is supported by us, since otherwise this would lead to situations that e.g. a big charity receives a small operating grant in an area not connected with SOLID issues in any way, but in consequence may not report indirect costs in a couple of SOLID projects.

However the answer for the last question (point 5 FAQs) in fiche 10. Indirect eligible costs reads: *Whenever an organization receives an operating grant, whatever its amount, no indirect cost can be charged to the project.*

ANSWER

If the organization receives an operating grant, no indirect cost can be charged to the project (annex 11, II.2.1.d)

QUESTION

How can indirect costs be proved?

ANSWER

Please refer to the Manual p. 74 first point of best practices:

"Calculation of indirect cost percentage: The organisation must keep adequate documentation supporting the calculation of indirect cost percentages. In particular, where the organisation systematically reports the maximum permissible percentage of indirect costs, it must provide clear evidence that the actual indirect costs exceed the percentage reported."

QUESTION

What happens if the staff is calculated in the indirect costs in addition to other costs? Do we also have to take into account the staff's **pay slips** in the **indirect** costs verify the time sheets? (Page 71/82, indirect eligible expenditure)

ANSWER

All indirect costs must be necessary to carry out the activities of the project and therefore must be justified by supporting evidence (invoices, etc...). This principle applies to indirect staff costs whose portion is charged to the project.

QUESTION

What is the difference between an operating grant and a grant given for a specific project?

ANSWER

There is a distinction between the concept of receiving a 'grant' and receiving an 'operating grant'.

The aim of a 'grant' for an action is to co-finance this action over a given period and with a specific budget irrespective of the body's other activities – as in the case of grants received through the Structural Funds or ERF Community actions by way of example.

An 'operating grant' is broader based. Its purpose is to provide financial support for the existence and functioning of the body (i.e. its overall running and execution of tasks) over a period that is equivalent to its accounting period.

QUESTION

Fixed percentage under indirect costs: We are proposing the need for indirect costs to remain a fixed percentage/proportion of direct costs should be waived when groups are at the final reporting stage. This being specific in cases where savings were made on the direct costs and where the indirect costs have remained unchanged as per agreed figures in the original budget.

This proposal is on the basis so as not to penalise those groups who have made genuine and substantial savings in relation to their direct costs. These savings being due to the overall reductions in costs in the current economic climate and/or the group have been in a position to avail of in-kind resources (room hire, printing etc.)

It is worth noting that:

- a. All publicly funded NGO's and Partnerships as part of the application process in Ireland are requested to seek value for money over the course of their projects. "Value for Money" is one of the critical criteria of assessment. Groups must be sure to follow public procurement guidelines – as this is the same for EU funding it seems unfair to penalise groups who are working hard to demonstrate cost savings in their work at the present time.

also

- b. Due to a significant under spend at Call for Proposal stage under EIF 2008, Ireland sought and received permission from the European Commission to extend the current projects in line with advice received from the Commission.⁽⁴⁾ However in the current economic climate it appears contradictory to offer all funded groups the opportunity to extend projects using under spend monies while at the same time engaging in decommitting funding on their current activities.

ANSWER

Based on the current rules the indirect costs are eligible as a fixed percentage of the total amount of direct eligible costs and therefore the total amount may decrease in accordance with the amount of direct costs incurred on the project. The proposal would not be feasible for the following reasons:

⁽⁴⁾ Email dated 28/09/2009 14:07 from Patrick Lefevre to John Hurley , Responsible Authority, Ireland

- The indirect costs cannot be seen as a reward for value for money on direct costs, Member states are reminded that 'value for money' is one of the basic principles for the Funds to be respected **in any case** – see eligibility rules point I.I.1d.
- Furthermore, when drawing up a budget for a project this should be as realistic as possible based on a proper assessment of market prices and already taking into account all the basic principles concerning expenditure – value for money, reasonable, cost-effective, etc (eligibility rules point I.I.1d).
- If careful budgeting has taken place (in accordance with the previous point) then it is likely that a serious under-spend on a project is due to activities not having taken place, in which case it could never be justified to keep the same amount of indirect costs.
- Finally, the proposal made could give rise to abuse by beneficiaries who can simply inflate the budget unnecessarily creating a complex situation for the Responsible Authority having to assess the real need for the indirect costs requested.

QUESTION

The provisions on eligibility of expenditure of the beneficiary apply mutatis mutandis also to expenditure of project partners(s).

Section H – Partnership in the manual provides that:

„Indirect costs for partners: partners can have eligible indirect costs, even if the beneficiary doesn't. Project partners' indirect costs are however limited to the limits set for partners in the project budget. Indirect costs may not exceed 20 % of the direct eligible costs.“

Does this mean : Indirect costs of a partner may exceed 20 % of its own direct eligible costs if the beneficiary's indirect costs are correspondingly lower; in total indirect costs may not exceed 20 % of the project's direct costs.

ANSWER

No, this interpretation is incorrect. The 20% limit applies to the beneficiary and likewise to the partners.

QUESTION

Are there on the Commission's side reflections to introduce the following simplification measures (similar to the ESF and the ERDF) in the area of the Solidarity funds in relation to subsidies provided by the funds:

- (i) indirect costs based on a flat rate percentage, up to 20 % of the direct costs of a project;
- (ii) Costs calculated as flat rate amounts, based on standard unit costs, laid down by the Member State;
- (iii) Flat rate amounts to cover all or part of the costs of a project

b) If so, what is the development stage of these reflections?

c) Is it expected that these will be introduced during the current programming period, until 2013?

ANSWER

The experience on the Structural Funds has already been a point of reference on the basis of which the rules for the solidarity Funds were originally drafted. On the other hand it must be kept in mind that the authorities in the Member States responsible for the Structural Funds have accumulated several years of experience, which is not yet the case for the Solidarity Funds and in some cases certain rules needed to be adapted. One important example is the fact that under the Structural Funds the eligibility rules are established at national level for each Member State. This is not the case for the Solidarity Funds.

Nevertheless, the Commission is fully in favour of simplification of the rules and consequently when the Funds will be revised in the future the principle of simplification will be a key factor to be kept in mind, together with the experience gained during this programming period.

11. COSTS COVERED BY ASSIGNED INCOME

QUESTION

Is it allowed that staff costs of permanent officers can be claimed at this category of expenses when they are not replaced due to reorganisation or setting of tasks?

Explanation:

For permanent officers who are implementing the project it is required that this person is replaced for his tasks by a person who is recruited by the organisation. In some cases it is not allowed to replace this permanent officer by another due to reorganization or setting of tasks. In other cases the function of a permanent officer does not longer exist, because there would be created a new function during the project.

The staff costs of permanent officers are only eligible at the category of expenses 'Staff costs' if they have a key role in the project, a documented decision is available, the project activities are not the same as the normally daily activities and a person is recruited.

In the Manual, page 40, is stated:

"All other cases, the staff costs may be eligible under the category 'Costs covered by assigned income'. As a general rule, only additional costs borne by the organisation can be eligible. In case of reorganization of tasks with the same staff number, no additional staff cost can be eligible."

Our experience with EBF is that there are many staff costs of permanent officers which project activities are part of their normally activities. These permanent officers are not replaced. Therefore the costs are claimed at the category of expenses 'Costs covered by assigned income', because at this category of expenses it is not required that a person is replaced. Furthermore it is allowed that the project activities are part of the normal daily activities. Is it allowed that staff costs of permanent officers can be claimed at this category of expenses when they are not replaced due to reorganisation or setting of tasks?

ANSWER

It is not necessary to replace permanent officials whose staff cost is charged to the project under costs covered by assigned income.

QUESTION

Why should the "costs covered by assigned income" not exceed **50%** of the final beneficiary total contribution? What is to be done if the financing of the project is 75% (i.e. priority governance)? The 50% do they change with the **financing percentage (75%)**? (Page 73/82, costs covered by assigned income, point 1.)

ANSWER

The percentage for costs for assigned income is fixed at 50% in accordance with the Implementing Rules and therefore will not change with the financing percentage of the project.

QUESTION

Public officials can be charged via “costs covered by assigned income” “**in duly justified cases**”.

What is the meaning of this saying? Whatever the situation there must be an official decision of the General management or the President for the project assignment. We would like to know whether it is sufficient that people work for the project or must it be proved by some **special** means?

(Page 73/82, costs covered by assigned income).

ANSWER

A document/decision attesting the secondment with the justification is sufficient.

QUESTION

Do public officials hired under a temporary contract also resort under the rule “costs covered by assigned income”? In the Member State some public officials are also partly hired via the 'employment planning' in order to privilege youngsters, ethnic minorities or unemployed. **Are temporary public officials** also seen as permanent public officials? Their grants linked to their statute could be calculated in the co-financing.

(Page 74/82, costs covered by assigned income, point 5.1)

ANSWER

No, the possibility to charge staff cost under cost covered by assigned income only applies to permanent officials

QUESTION

Under expenditure we find costs such as “costs covered by assigned income” under a separate heading, shouldn't it also be **explicitly done for the incomes column**? Presently this is registered as part of the contribution from the final beneficiary. Different types of final beneficiary's contributions exist; therefore it is better **to spread them over different accounts**. The amount of the “costs covered by assigned income” should be found directly in the incomes column. (page 73/82, costs covered by assigned income)

ANSWER

This is not required by the rule. Cost covered by assigned income must only appear in the expenditure part, it must represent maximum 50% of the contribution of the final beneficiary and of the partners.

QUESTION

Problem – Civil servants / public officials

What is understood under "statutory responsibilities" of a public authority? How should this be interpreted?

E.g. participation in training of the Federal Police Academy. Are staff costs of the participants (as well as their travel and subsistence costs) eligible as costs covered by assigned income?

ANSWER

Yes, staff cost and travel costs of permanent officials can be eligible under “costs covered by assigned income” but only up to the maximum limit in accordance with the rules on costs covered by assigned income (i.e. maximum 50% of the contribution of the final beneficiary and of the partners). Travel costs can also be eligible without condition using the exception c) mentioned at point 3 of fiche on travel and question in the FAQ on travel costs incurred by staff members of a public body.

QUESTION

Are the travel costs of permanent officials working in the project always to be calculated as part of costs covered by assigned income?

ANSWER

If the staff costs are being charged to costs covered by assigned income then the travel costs should also be included in this heading. Travel costs can also be eligible without condition using the exception c) mentioned in point 3 of the fiche on travel and the question in the FAQ on travel costs incurred by staff members of a public body (but in this case staff cost cannot be charged to the project).

12. INELIGIBLE EXPENDITURE

QUESTION

item 3. **Exceptions**(page 77):

We would propose a modification of the requirement concerning the obligation of presenting by the beneficiaries/partners an official tax certificate to prove the eligibility of VAT costs. Such certificates **are not issued by the national tax authorities** due to both legal and technical reasons.

Additionally the eligibility of VAT (no possibility to recover VAT) may take place in different situations:

- the entity is not accountable for recovering VAT;
- for the entities eligible for recovering VAT, there are some costs from which VAT cost cannot be recovered, so it can be eligible. In such situation the beneficiary would report to RA some of the expenditures including VAT (VAT eligible) and some without (VAT not eligible).

We propose that the following system is allowed:

- a declaration by the beneficiary that he is unable to recover VAT for all/listed expenditures
- on-the-spot financial monitoring in order to verify the declaration (100% projects in question).

ANSWER

This question is being discussed within the Commission services. Until further notice, the interpretation of the Manual prevails

QUESTION

80/87 2. General Principles and Guidance, Reasonableness of expenses, Unnecessary expenses:

“Unnecessary expenses: [...] more generally, all expenses without which the project could not be completed without major obstacles.”

„unnecessary expenses“ is not logical in this context. Suggestion : „more generally, all expenses without which the project could not be completed without major obstacles are necessary.“

ANSWER

This will be corrected in version 3

QUESTION

What are the VAT rules applicable in cases when the VAT is not mentioned on the invoice afferent to the accommodation costs for escorts and medical personnel in third countries?

LEGAL BASIS

Annex 11, article III (a) of Commission Decision N° 2008/458/EC (notified under document N° C(2008)796) for the implementation of Decision N° 2007/575/EC establishing the European Return Fund

ANSWER

With regard to your question, **if** the VAT paid in another country is not recovered directly or indirectly by the Member State's authorities (which would seem to be obviously the case in the situation described in your letter), I draw your attention to Chapter III, point (a) of Annex XI of the Implementing Rules:

"The following costs are not eligible:

VAT, except where the final beneficiary can show that it is unable to recover it."

The draft manual on the Eligibility of Expenditure which you received in the summer of 2008, mentions under exception (ii) to Rule 12(1)(a) that:

"VAT may be considered eligible under direct costs: When the disbursed VAT is due to the tax authorities in another Member State where the supplier is established and when the paid amount or part of it is recovered neither directly nor indirectly, by the tax authorities of the beneficiary Member State."

Under these circumstances the VAT on the above mentioned expenditure could be considered as eligible and does not need to be differentiated from the total sum.

13. TECHNICAL ASSISTANCE

QUESTION:

Are the salary costs eligible of a permanent officer who does not work, because he/she is very long ill (various months)?

And are the salary costs eligible of a permanent officer who does not work, because she is pregnant?

Explanation:

The permanent officers are especially employed at the delegated body to perform the tasks as described in the eligibility rules.

ANSWER

The principle of booking a salary cost of permanent officer who is on long sickness leave or maternity leave is not in line with the rules since no tasks or work that could be eligible under the technical assistance are carried out by these people.

OTHER – GENERAL

QUESTION:

Clarification on whether the Commission proposes to make amendments to the implementation rules and if so what safeguards will be in place to ensure Member States are not penalised for making decisions on eligibility in good faith prior to any proposed changes.

ANSWER

If any amendments are made to the implementing rules, any expenses carried out prior to the amendment which were in line with the 'old' rules will be accepted as being eligible too.