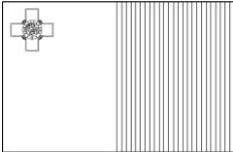


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|  | <p>Maritime and Fisheries Operational Programme 2014-2020 Part-financed by the European Union European Maritime and Fisheries Fund</p> <p><i>Investing in sustainable fisheries and aquaculture</i></p> |  |
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ELIGIBILITY RULES

VERSION 2: FEBRUARY 2018

Eligibility Rules laid down by Malta and applicable to the European Maritime and Fisheries Fund (2014 – 2020).

APPLICABLE REGULATIONS OF THE EUROPEAN UNION

The following Regulations¹ are used as the basis for rules on eligibility of expenditure for the implementation of operations under the Maritime Fisheries Operational Programme for Malta funded through the European Maritime & Fisheries Fund (EMFF):

- Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006.
- Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC.
- Commission Delegated Regulation (EU) No 480/2014 of 3 March 2014 supplementing Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund.

¹ This list is not exhaustive. Other EU regulations may apply which may be specific for EMFF calls issued. The MA, beneficiaries and stakeholders should keep updated with the latest developments of both National & EU legislation in this regard.

- Regulation (EU) 2015/812 of the European Parliament and of the Council of 20 May 2015 amending Council Regulations (EC) No 850/98, (EC) No 2187/2005, (EC) No 1967/2006, (EC) No 1098/2007, (EC) No 254/2002, (EC) No 2347/2002 and (EC) No 1224/2009, and Regulations (EU) No 1379/2013 and (EU) No 1380/2013 of the European Parliament and of the Council, as regards the landing obligation, and repealing Council Regulation (EC) No 1434/98.
- Regulation (EU) no 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council.
- Commission Implementing Regulation (EU) No 763/2014 of 11 July 2014 laying down rules for applying Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund as regards the technical characteristics of information and publicity measures and instructions for creating the Union emblem.
- Commission Delegated Regulation (EU) 2015/531 of 24 November 2014 supplementing Regulation (EU) No 508/2014 of the European Parliament and of the Council by identifying the costs eligible for support from the European Maritime and Fisheries Fund in order to improve hygiene, health, safety and working conditions of fishermen, protect and restore marine biodiversity and ecosystems, mitigate climate change and increase the energy efficiency of fishing vessels

INTRODUCTION

In general for expenditure to be eligible it has to be in line with the afore-mentioned Regulations. National eligibility rules have been laid down by the Managing Authority (MA) in accordance with Articles 65-71 Title VII Financial Support from ESI Funds Chapter III Eligibility of expenditure and durability of Regulation (EU) no 1303/2013 of the European Parliament and of the Council of 17 December 2013.

Beneficiaries should ensure that proposals are formulated on the basis of these Eligibility Rules.

Stakeholders should also note that the MA may issue revisions to these rules from time to time.

The European Maritime & Fisheries Fund is the financial instrument supporting the Common Fisheries Policy. The Common Fisheries Policy aims to ensure that fishing and aquaculture are environmentally, economically and socially sustainable and that they provide a source of healthy food for EU citizens. Its goal is to foster a dynamic fishing industry and ensure a fair standard of living for fishing communities.

The EMFF aims to assist Member States to co-finance operational programmes and projects, to reach the objectives of the reformed Common Fisheries Policy. It also aims to help fishermen adapt to sustainable fishing, create jobs for the sector and diversify economies in coastal communities.

Apart from being the financial instrument to help deliver the objectives of the reformed Common Fisheries Policy (CFP), the EMFF also supports the implementation of the EU Integrated Maritime Policy (IMP).

In this regards, the EMFF focuses on the long-term strategic objectives of the two policies: for the Common Fisheries Policy, contributing to sustainable and competitive fisheries and aquaculture; for the Integrated Maritime Policy, ensuring a consistent policy framework for the policy and contributing to a balanced and inclusive territorial development of fisheries areas.

The broad objectives of EMFF are structured around the following six priorities:

1. Environmentally sustainable, resource efficient, competitive fisheries which are more selective, produce less discards, and do less damage to marine ecosystems. Support under this priority will focus on innovation and added value that can make the fisheries sector economically viable and resilient to external shocks and to competition from third countries.
2. Environmentally sustainable, resource efficient, competitive aquaculture to make this industry green, economically viable and competitive, while providing EU consumers with healthy and highly nutritional products.
3. Fostering the implementation of the Common Fisheries Policy (CFP) through the collection and management of data to improve scientific knowledge and through support to monitoring, control and enforcement of fisheries legislations.
4. Increasing employment and territorial cohesion through the promotion of economic growth and social inclusion in coastal and inland communities depending on fishing.
5. Fostering marketing and processing through improved market organisation for fishery and aquaculture products and through improved processing and marketing sectors in particular in Outermost Regions.
6. Fostering the implementation of the Integrated Maritime Policy.

ELIGIBILITY CRITERIA

The eligibility of expenditure will be assessed against six main criteria:

1. Approved Project – the expenditure was incurred as part of an approved operation for which a Grant Agreement has subsequently been issued²;
2. Eligibility Period – activity takes place within the eligibility period taking into consideration the durability of the operation;
3. Location – expenditure incurred must be related to a project implemented within/for the direct benefit of the eligible territory, the Republic of Malta;
4. Proof of expenditure – presentation of invoices and supporting documents;
5. Implementation – expenditure incurred must be in relation to projects that have been implemented in line with sound financial management and good governance;
6. Type of expenditure – items of expenditure incurred in the delivery of project activities.

1. Approved Project/Operation

For expenditure to be eligible it must be in line with the priorities of the European Maritime Fisheries Fund Operational Programme for Malta, and must be incurred as part of an approved operation³ approved by the MA. Following the approval letter, a Grant Agreement is subsequently issued. Expenditure can only be considered eligible for those cost items that have been agreed upon with the Managing Authority.

2. Eligibility period

For expenditure to be eligible it must be incurred between **1 January 2014** and **31 December 2023**. Operations must not have been implemented before the starting date for eligibility. Nonetheless, the Grant Agreement will define the eligibility period of each operation which is generally stricter than 1 January 2014 and 31 December 2023⁴.

In accordance with Article 65(6) of Regulation (EU) No 1303/2013, operations shall not be selected for support if they have been physically completed or fully implemented before the application for funding under the programme is submitted by the beneficiary to the

² As a clarification, an operation is considered approved at the point that the MA issues an approval letter following the PSC process. This approval letter is followed up by a formal Grant Agreement (GA).

³ In line with Article 2 (9) of Regulation (EU) No 1303/2013, 'operation' means a project, contract, action or group of projects selected by the managing authorities of the programmes concerned, or under their responsibility, that contributes to the objectives of a priority or priorities; in the context of financial instruments, an operation is constituted by the financial contributions from a programme to financial instruments and the subsequent financial support provided by those financial instruments.

⁴ Expenditure incurred before the approval letter, but after 01/01/2014, is to be considered eligible unless otherwise stipulated in the approval letter and/or Grant Agreement.

managing authority, irrespective of whether all related payments have been made by the beneficiary.

Article 71 of Reg. (EU) No 1303/2013 Durability of Operation should also be taken into account as this will also affect the eligibility of operations in line with the conditions set out in the said article.

3. Eligibility of operations depending on the location

As a general rule, operations co-financed by the European Maritime and Fisheries Fund shall be implemented within/for the direct benefit of the eligible territory. The eligible territory for the Fisheries Operational Programme for Malta is the whole territory of the Republic of Malta.

4. Proof of expenditure

In accordance with Article 65(2) of Regulation (EU) N^o. 1303/2013, expenditure included in the drawdown requests submitted to the EC must be real.

Article 131(2) of Regulation (EU) N^o. 1303/2013 states that eligible expenditure included in a payment application needs to be supported by receipted invoices or accounting documents of equivalent probative value, except for forms of support under Article 68 (flat rate financing for indirect costs and staff costs).

An *invoice* is a *request for payment* indicating the amount due from a customer to pay for delivered goods, services or works. The invoice must include all the information as requested by the applicable national legislation [Value Added Tax Act (Chapter 406)⁵].

A *receipt* is a *confirmation of payment*, acknowledging that payment for a particular good, service or works has been received. Invoices and receipts must reflect the goods/services/works procured (as per contract) and delivered to the Beneficiary's satisfaction. The relevant provisions of the Value Added Tax Act (Chapter 406) in respect of the issuance of fiscal receipts shall apply. In the case of payments related to contracts of employment, payslips or equivalent supporting documentation shall be provided.

Without prejudice to the rules governing State aid, documents regarding expenditure need to be kept available for the Commission, the Court of Auditors and the Audit Authority, in accordance with Article 140 (1) of Regulation (EU) N^o. 1303/2013:

⁵ <http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8872>

- a) in cases where the total eligible expenditure is less than EUR 1,000,000 all supporting documents are to be made available to the Commission and the European Court of Auditors upon request for a period of three years from 31 December following the submission of the accounts in which the expenditure of the operation is included;
- b) in case of operations other than those referred to in point (a) above, all supporting documents shall be made available for a two year period from 31 December following the submission of the accounts in which the final expenditure of the completed operation is included.

According to Article 10(2) of the National Archives Act (Chapter 477) all documents of a public nature need to be preserved. Documents of a public nature which are to be preserved in the National Archives include administrative and departmental documents of the Government of Malta, including all documents of Ministries, Government Commissions, Authorities or Boards. All the documents must be kept in the relevant Ministry (or Government Entity) and after 30 years can be transferred to the National Archives and must be available for public inspection.

In this regard, public entities should follow the National Archives Act whereas private beneficiaries should follow Article 140 (1) of Regulation (EU) N^o. 1303/2013

5. Implementation

For expenditure to be eligible it must be incurred as part of an approved cost item in the Grant Agreement (or Addendum to the GA, Approval Letter or official correspondence issued by the MA) and implemented in line with the principles of sound financial management. The principles of non-discrimination, equality of treatment, transparency, mutual recognition, proportionality and good governance shall apply in all procurement (public and non-public) and recruitment and selection procedures.

Expenditure that is not included in the Grant Agreement must be approved ex-ante by the MA in order to be eligible for co-financing.

6. Type of expenditure

The European Maritime and Fisheries Fund aims to contribute towards the achievement of targets as indicated in both the Operational Programme as well as the achievement of the priorities established by the European Union.

The rules in the next section outline categories of expenditure eligible for contribution from the EMFF provided that they:

- a. have been approved and included in the Grant Agreement;
- b. are actually incurred during the operation;
- c. are directly linked to the operation and unavoidable;
- d. are determined according to accounting and management principles/rules and used only to achieve the objectives of the operation;
- e. are adequately recorded;
- f. are incurred in accordance with national rules and under the specific conditions provided for below.

PROJECT COSTS

In order to avoid the risk of double funding the following definitions in relation to the categories of Project Costs apply:

1. Direct Costs

These can be defined as all costs which are essential for the delivery of the project. This includes (please note that this list is not exhaustive):

- Real estate/ premises costs and associated running costs, exclusively used for the project –costs which are not shared or apportioned.
- Equipment used only for project purposes
- Other costs such as marketing, publicity and evaluation if these can be directly attributable and invoiced to the project.
- Procured goods/services/works (used exclusively for the project) essential for the delivery of project activity
- Travel and subsistence allowance

2. Direct Staff Costs

This includes **salaries and costs of staff directly involved in the delivery of project activity**. Staff could work 100% of their time on project activity, or part of their time with all hours, including the time spent working on the project, recorded on suitable timesheets and attendance sheets. ⁶

Staff costs are considered direct or not depending on the role of the individual concerned. Staff costs are the costs deriving from an agreement between employer and employee (internal staff).

Exclusions:

- All staff who do not have a direct role in the delivery of the project activity, i.e. all those in a back office/supporting role. This could include payroll, HR, senior managers who do not have a direct delivery role, IT etc. ⁷
- Travel and subsistence Costs (this would be a direct cost, not a direct staff cost)
- Procured services. E.g. Consultants/those secured as contractors through a procurement exercise would be a direct cost (as a fee) not a direct staff cost.

⁶ Officials claiming part-time staff-costs under Technical Assistance will not have to provide time sheets if the apportionment is clearly delineated in letter of assignment

⁷ Such expenditure could be claimed under the Indirect Costs,

Eligible costs and documentation for full time staff

Staff costs = Gross employer costs

The gross salary is the amount on the payslip and any other costs, which must be paid by the employer. Staff working full time on the project does not need to keep timesheets.

Eligible costs and documentation for staff working part-time on the project with a flexible number of hours

Staff costs = Hours worked x Hourly rate

The hours worked must be documented in a time registration system (timesheets or equivalent) covering 100% of the employee's working time (i.e. also covering all hours worked on tasks not related to the project). The system used must make it possible to clearly distinguish the time spent on the project. The calculation of the hourly rate is explained in the section describing simplified costs.

3. Indirect Costs

Any costs which do not fall within the direct staff costs category or the direct costs category are de facto indirect costs and will be claimed using a flat rate.

These costs do not have to be individually identified/ listed within an application.

Indirect costs, also referred to as 'overheads' are costs linked to an individual activity that supports the delivery of a project but cannot be easily attributed to the project in terms of the actual specific cost and cannot be supported by project specific invoices or other transaction. These include:

- Support staff, not engaged directly in project delivery but having a supporting role (e.g. HR, IT, finance, front of house staff etc....).
- Other costs that are not solely associated with the delivery of the project for instance shared premises costs such as rent, utilities, insurance, cleaning, IT maintenance or insurance.

Simplified costs under Articles 67 and 68 CPR are applicable only in the case of grants and repayable assistance. In accordance with Article 67(4) CPR, **simplified costs cannot be used where an operation or a project forming part of an operation is outsourced and implemented exclusively through the public procurement of works, goods or services.**

Operations 'subject to public procurement contracts' are considered by the Commission as being operations implemented through the award of public contracts in accordance with Directive 2004/18 (including its annexes) or public contracts below the thresholds of the same Directive.⁹

Simplified costs should not be misused (e.g. the flat rate calculated according to Article 67(5a) of the CPR should not systematically lead to inflation of the costs of operations and operations should not be split in order to permit the systematic use of lump sums).

1. Determining the use of the simplified cost options particularly in the case of public procurement

If the beneficiary outsources the entire implementation of all or some of the projects via public procurement contracts, the simplified cost options cannot be applied to those projects which are subject to public procurement contracts.

If the beneficiary itself implements a project (meaning keeping full control of the management and implementation of the project), the simplified cost options are applicable, even if some of the categories of costs within the project are procured (e.g. some of the project implementation costs like cleaning services, external expertise, purchase of furniture, etc.).

2. Simplified Costs in relation to the measures identified in the European Maritime and Fisheries Fund - Operational Programme for Malta (2014MT14MFOP001)

The EMFF OP notes that since the use of simplified costs is not permitted for operations implemented exclusively through public procurement as per Article 67(4) of the CPR regulation mentioned above, the use of this method does not apply to the majority of measures & operations supported under the said operational programme.

⁸ Subject to approval by the MA

⁹ http://ec.europa.eu/growth/single-market/public-procurement/rules-implementation/index_en.htm

3. Applicability of Flat rate financing for indirect costs and staff costs¹⁰

Where the implementation of an operation gives rise to indirect costs, these may be calculated at a flat-rate as outlined and determined in Article 68.1 of the CPR. The main method for calculation of indirect costs to be used by the beneficiaries and related stakeholders for EMFF programming period shall be based either on Article 68.1.b of Reg. 1303/2013 whereby a flat rate of up to 15% of eligible direct staff cost can be applied or on Article 68.1.c whereby a flat-rate is applied to eligible direct costs based on existing methods and corresponding rates, applicable in Union policies for a similar type of operation and beneficiary as described below.

In this regard, with reference to the application of indirect costs under Article 68.1.c, articles 20 & 21 of Commission Delegated Regulation (EU) 480/2014 as amended by Commission Delegated Regulation (EU) 2015/616 define the operations on which flat rate financing for indirect costs as described in Article 68.1.c can be applied.

For ease of reference the measures, on which indirect costs can be applied, reproduced hereunder relate to measures programmed under the EMFF OP:

| Article 20: Flat rate financing for indirect costs based on Article 29.1 of Regulation (EU) No 1290/2013 | Article 21: Flat rate financing for indirect costs based on Article 124(4) of Regulation (EU, Euratom) No 966/2012 |
|--|--|
| <p>Article 39 of Regulation (EU) No 508/2014: Innovation linked to the conservation of marine biological resources</p> <p>Indirect eligible costs shall be determined by applying a flat rate of 25 % of the total direct eligible costs, excluding direct eligible costs for subcontracting and the costs of resources made available by third parties which are not used on the premises of the beneficiary, as well as financial support to third parties</p> | <p>Article 41(1) of Regulation (EU) No 508/2014; Energy efficiency and mitigation of climate change</p> <p>Article 48(1)(e), (i), (j) of Regulation (EU) No 508/2014; Productive Investments in aquaculture</p> <p>The grant decision or agreement may authorise or impose, in the form of flat-rates, funding of the beneficiary's indirect costs up to a maximum of 7 % of total eligible direct costs for the action, except where the beneficiary is in receipt of an operating grant financed from the budget</p> |

Costs applicable to the respective measures mentioned above will be defined ex-ante and included in the call for proposals or at the latest in the document setting out the

¹⁰ Presentation on Simplified Costs (using training as an example)

http://www.eipa.eu/files/topics/DGRegio/Sem2_Day%202-4_Simplified%20cost%20options.pdf

conditions for support. All inclusions and claims for indirect costs are subject to the approval of the Managing Authority.

4. Use of simplified costs in operations generating net revenue

Operations generating net revenue after completion

Paragraphs 1 to 6 of Article 61 CPR apply.

Operations generating net revenue during implementation and to which Article 61 (1-6) of the CPR does not apply

Where flat rate financing is chosen, any net revenue not taken into account at the time of approval of the operation and directly generated during the implementation of the operation has to be deducted from the eligible expenditure (having applied the flat rate) not later than at the final payment claim submitted by the beneficiary.

ELIGIBLE APPLICANTS

Overall, eligible applicants under the EMFF OP are: public authorities, private stakeholders, NGOs, Local Councils, civil society, farming and fishing communities.

However, one must note that eligibility of applicants may differ in accordance to measure being targeted and thus the call of proposal issued. For this reason, one should refer to the section titled: "Eligible applicants" of the respective call for proposals for details on eligible applicants.

These are the guiding principles associated with each eligible cost covered by these Rules.

It is important to note that the list is comprehensive but not exhaustive of the types of expenditure for EMFF purposes. Clarification on any item not listed should be sought from the MA. Amendments to these rules may be issued from time-to-time.

ELIGIBILITY RULES¹¹

Rule No. 1: Project Management

- 1.1 It is important to note that although functions in relation to project management can be contracted out, nonetheless the legal and financial responsibility of the project rests solely with the Beneficiary. The Beneficiary should undertake regular checks itself on contracted management/supervision.
- 1.2 Project management costs are eligible for a contribution from EMFF under the following conditions:
 - a. The project is sufficiently complex to warrant the services of project management;
 - b. Beneficiaries either contract out project management through:
 - i. A service tender taking into consideration public procurement procedures¹²;
or
 - ii. A specific employment contract on a definite full/part-time basis.
- 1.3 When a Beneficiary opts to recruit persons to perform project management on an employment basis – full-time or part-time – the recruitment and selection procedure

¹¹ These Eligibility Rules may not be applicable to all EMFF Calls issued under the EMFF OP especially since EU rules may take precedence. In this regard, beneficiaries should ensure that eligibility rules applicable as reflected in the Call for Proposals/Application Form and grant agreement are followed.

¹² Reference should be made to the relevant regulation including but not limited to the Public Procurement Regulations applicable at that time.

should follow the official channel of recruitment of the organisation, in line with national legislation, good governance and transparency¹³.

- a. Employment procedures need to be competitive and transparent¹⁴;
- b. Unless otherwise approved by the MA, internal calls restricted only to Beneficiary organisation's own permanent staff are not eligible under EMFF funds.
- c. Social Security Contributions and related costs linked to the employee can be considered eligible expenditure where these are genuinely and definitely borne by the Beneficiary¹⁵. The employer's social security contributions are also considered eligible as long as proof of payment can be provided¹⁶.
- d. Overtime related to staff working on the project may be considered eligible if the following conditions are met:
 - i. For employees engaged by stakeholders within the Public Service – the overtime work performed is approved in accordance with and follows all applicable criteria set in Section 3.2 of the Public Service Management Code¹⁷.
 - ii. For employees engaged by other stakeholders within the Public Sector – the overtime work performed may be eligible if appropriately approved and if it follows the criteria set by or for the organisation concerned.
- e. Bonuses or allowances that are not taxable, payments for unfair dismissal, redundancy payments, insurances (e.g. health), golden handshakes, exceptional/extraordinary provisions for pension rights (inc. private pension schemes) are not eligible.
- f. In principle, employment contracts should be restricted to the specific task and duration of the project¹⁸. However, in case employment contracts do not specify clearly the duties to be performed or in case the contract relates to employees

¹³ It is advisable that, prior to publication, the Beneficiary consults with the Department of Contracts and the Department of Industrial and Employment Relations to identify the appropriate procedure to apply in the particular case.

¹⁴ Public Sector entities shall follow the procedures outlined in Employment and Training Services Act before issuing an open call.

¹⁵ Pay slip and payroll (as applicable) need to be made available as proof of payment.

¹⁶ FS5 (or equivalent) for the relevant month/s, receipt from inland revenue covering the same period/s (or equivalent) and declaration from the financial controller of the Beneficiary that for the employer's share for the NI for the persons claimed is included in the FS5. Other proofs of payment may also be considered as long as they provide sufficient evidence.

¹⁷ PSMC Eleventh Edition, published on 7th March 2011 and eventual updates as per link below.
<https://opm.gov.mt/en/PAHRO/ERM/Pages/PSMC/PSMC.aspx>

¹⁸ Advice should be sought from the Public Administration HR Office (PAHRO) within the Office of the Prime Minister. Entities in the Public Service shall be guided by the conditions provided for in Section 1.1.9.3 of the Public Service Management Code and L.N. 51 of 2007 (and any additions/changes) when preparing employment contracts. The Beneficiary must also ensure compliance with relevant legislation.

performing a wide-range of tasks, Assignment Letters will also be accepted for assigned persons working on particular/allocated tasks.

- g. Unless approved by the MA, costs directly related to the project management of the Project Leader on the approved project are not eligible.
- h. Allowances are per Collective Agreement may be considered eligible subject to the approval of the Managing Authority.

Rule No. 2: Supervision Costs

2.1 In the case of construction and infrastructural projects, apart from the project management staff, the Beneficiary may engage a (technical) supervisor/supervisory team. The engagement of a supervisor/supervisory team is eligible subject to the relevant procurement/employment procedures having been used. Charging staff costs for supervision is not eligible.

Rule No. 3: Staff Costs

- 3.1 Project management may be obtained internally from existing staff within the beneficiary organisation as approved by the Managing Authority¹⁹.
- 3.2 Staff costs are only eligible for persons employed with the relative organisation that have a key role in the project or assigned to do a particular task.

Staff costs are to be apportioned using the formula identified below

| | |
|-------------------------------|--|
| Eligible staff costs = | hourly rate * number of hours worked on the project |
| Where, <i>hourly rate</i> = | $\frac{\text{Latest documented annual gross employment costs}^{20}}{1720 \text{ hours}}$ |

- a. Bonuses or allowances that are not taxable, payments for unfair dismissal, redundancy payments, insurances (e.g. health), golden handshakes, exceptional/extraordinary provisions for pension rights (inc. private pension schemes) are not eligible.
- b. Social Security Contributions and related costs linked to the employee can be considered eligible expenditure where these are genuinely borne by the Beneficiary²¹.

¹⁹ Approved staff costs need to be verified through supporting documents, such as signed attendance sheets which must be countersigned by the Project Leader.

²⁰ Annual Salary includes the gross wage (before tax) plus the employer's national insurance and statutory bonuses

²¹ Pay slip and payroll (as applicable) need to be made available as proof of payment.

- c. Unless part of the collective agreement of the employee, income supplements to existing staff already employed by the Beneficiary shall not be considered eligible.

3.3 A claim for staff costs should be supported by a copy of the payslip in connection to the period claimed, as well as a copy of the letter of assignment or a copy of the contract of employment, stating the role of the staff in relation to the project. Proof of payment²² to the employee of their salary needs to be retained as part of the accounting records of the beneficiary and should be made available to the MA/AA as part of their controls and verifications. The letter of assignment may include:

- i. details of tasks to be delegated
- ii. gross salary/rate of remuneration
- iii. hours of work
- iv. conditions of employment
- v. period of time over which tasks have to be carried out

3.4 For claims related to part-time staff costs, timesheets indicating the number of hours worked on the project should be provided as well as the final calculation of the hourly rate as per Simplified cost option formula shown in Section 3.2. The timesheets are to be signed by the person carrying out the work and endorsed by the Project Leader. If the Project Leader is claiming the cost of own salary, the documentation should be signed by a Superior²³.

²² A copy of the relevant documentation showing the transfer of funds from the Treasury in case of public entities and bank statements in case of non-public organizations or a declaration from the persons issuing the salary.

²³ With reference to part-time staff costs claimed under TA, timesheets do not need to be compiled should the letter of assignment clearly state the apportionment of FTE equivalent and the tasks undertaken.

Rule No. 4: Real Estate

- 4.1 The cost of purchase, construction or renovation of real estate and renting of land/real estate is eligible as approved by the Managing Authority in exceptional, well-defined and justified cases, and is subject to the following conditions:
- a. It is approved by the MA.
 - b. There shall be a direct link between the purchase/renting of land/real estate and the objectives of the operation to be funded by the EMFF;
 - c. The land purchase shall, as a general rule, not represent more than 10% of the total eligible expenditure of the operation;
 - d. A certificate is obtained from an independent, qualified value or duly authorised official body²⁴, confirming that the purchase/rent price does not exceed the market value; either attesting that the real estate is in conformity with national regulations or specifying the points which are not in conformity that the final beneficiary plans to rectify as part of the project; and
 - e. The real estate has not been purchased through a Community grant at any time prior to the implementation of the project;
- 4.2 The renovation and construction of real estate is eligible for funding under the EMFF when this is essential for the implementation of the project and is clearly linked with its objectives. Such investment shall have the technical properties needed for the project and comply with the applicable norms and standards.
- 4.3 A copy of the bill of quantities/measured works should be submitted with every claim for payment unless it is a claim for advance payment.
- 4.4 Furniture and additional equipment attached to the real estate should only be considered eligible as equipment (see section on equipment). Only equipment which cannot be 'physically' removed from the building (e.g. elevators or air conditioning systems) must be considered as part of the real estate cost.
- 4.5 In case of real estate being used for multiple purposes making it not possible to charge the full cost of the real estate to the project, a percentage of use must be calculated and applied to the cost of the real estate so as to determine the cost to charge to the project. The beneficiary should ensure that the determination of the ratio to be charged is calculated on objective criteria backed up by appropriate statistics. This process should be documented accordingly.

²⁴ MA may require a re-assessment from the Lands Department.

Rule No. 5: Travel and Subsistence Allowance

- 5.1 Costs related to travel and subsistence allowance (inc. utilised contingencies) are considered eligible as direct costs for staff or in cases where projects involve activities which need to be held abroad or whose travel is necessary for the implementation of the project.
- 5.2 Travel costs shall be eligible on the basis of the actual costs incurred.
- 5.3 Unless otherwise approved by the Managing Authority, travel (economy)²⁵ and subsistence allowance (incl. utilised contingencies) shall be considered eligible in line with the provisions provided in the Overseas Travel MFIN Circular No. 1/2008 (as amended by MFEI Circular No. 12/2010, MFEI Circular No. 5/2012²⁶ and any subsequent amendments) or the relevant policy of the organisation and supported by the relevant documentation.
- 5.4 In the case of experts coming to Malta, the subsistence allowance established by the European Commission within the Europe Aid Framework²⁷ is the maximum that can be claimed from the Funds. Fees may also be payable to the expert over and above the subsistence allowance, provided that these are justified and reasonable.
- 5.5 The documentation requested for the verification of per diem costs should consist of:
- Subsistence statement of expenditure;
 - Copy of Funds Transfer Report and copy of Debit Advice from CBM or other bank accounts (representing the amount credited to the payee's account);
 - A signed declaration by the person who received the per diem stating that the money has been received;
 - All other receipts (certified true copies) such as Taxi/Bus receipts in connection with contingency expenses;
- 5.6 Boarding passes or equivalent and any other evidence of travel such as e-ticket should be retained and presented with the claim for payment. Quotations gathered in connection with the air tickets should be presented together with the invoice issued by the travel agent or other equivalent document portraying the cost of the ticket purchased.
- 5.7 In cases where the travel relates to the attendance of a seminar, training or conference, an invitation from the hosting agency should be submitted together, with the agenda/programme of visit of the event/activity/training. In case of conference fees, a copy of the invoice together with original proof of payment or receipt should be submitted.

²⁵ In the case where tickets are not economy class, the Beneficiary may only claim the equivalent of the costs of an economy ticket from the EMFF unless proof is provided that the economy class tickets were not available or more expensive, or unless the national rules allow for travel in business class in particular situations.

²⁶ <https://eufunds.gov.mt/en/Operational%20Programmes/Useful%20Links%20and%20Downloads/Documents/MFIN%202005%202012%20Circular%20letter.pdf>

²⁷ http://ec.europa.eu/europeaid/work/procedures/implementation/per_diems/index_en.htm

- 5.8 Government departments should present together with the claim for travel a copy of the GA 27 form signed by their Director Corporate Services and Permanent Secretary or according to the national rules.
- 5.9 Claims for travel should also be supported with a travel report.

Rule No. 6: Indirect Costs (Overheads)

- 6.1 Indirect costs are costs which are not or cannot be connected directly to an individual activity of the entity in question. Such costs would include administrative expenses, for which it is difficult to determine precisely the amount attributable to a specific activity (including but not limited to administrative/staff expenditure, telephone, mobile and internet connection charges, water or electricity expenses).
- 6.2 The Managing Authority shall be responsible for determining the level of indirect eligible costs – this will be inserted in the Grant Agreement.

Please refer to point 3 of the Simplified Costs Section of this Document for the calculation and applicability of indirect costs to EMFF OP planned operations.

Rule No. 7: Research/Studies

- 7.1 Research/studies conducted in areas identified within EMFF are eligible as long as the research/study contributes towards the objectives of the Priority Axis under which the operation has been submitted.

Rule No. 8: Publicity Costs

- 8.1 Publicity costs (such as advertising of project activities) will considered as direct costs, are eligible for funding under EMFF provided that any publicity measures undertaken are operation-specific and are in line with the respective regulations including Regulation (EU) No 508/2014 of the European Parliament and of the Council Commission Implementing Regulations (EU) No 763/2014.
- 8.2 Publicity costs must also be justified and in proportion to the operation. The measures applied should take into consideration the specific content and characteristics of the project and the target group.
- 8.3 Information and publicity measures shall include requirements as indicated in the Manual of Procedures, Visual Identity Guidelines and/or latest guidance communicated

or issued by the MA on its website²⁸

8.4 Special conditions may apply for small objects.

8.5 These costs may include media coverage, affixing of EU logos, plaques, stickers. Publication, translation and distribution costs resulting from published and audio-visual material required for the implementation of the operation are also eligible.

8.6 The MA will retain full rights over publicity measures/actions and published/audio-visual material, however any responsibility for the material produced/published shall rest solely with the body issuing that material. The afore-mentioned can be used by the MA for further EMFF publicity at no costs.

Rule No. 9: Consumables

9.1 Consumables²⁹ are defined as tangible items that may be depleted or worn out by use, that have a life expectancy that is shorter than the duration of the project and are not deemed to be fixed assets in accordance with generally accepted accounting principles and rules.

9.2 Consumables required for the implementation of the project/Programme³⁰ are eligible for co-financing by the EMFF, subject to the following conditions:

- a. It must be procured specifically and used solely for the project. In this case such costs can be considered as direct costs;
- b. It must not be apportioned between those items that are used by the Beneficiary in carrying out its normal business (not eligible) and those that are related to the project (implementation of EMFF);
- c. These do not constitute part of the operational costs of the project³¹.

9.3 Eligible consumables³² include amongst others:

- a. printing of documents necessary for the implementation of the operation;

²⁸

<https://eufunds.gov.mt/en/EU%20Funds%20Programmes/Agricultural%20Fisheries%20Fund/Documents/EMFF%202014-2020/Technical%20characteristics%20of%20information%20and%20publicity%20measures.pdf>

²⁹ Where consumables include the need for technical installation/expertise, these costs are also considered as eligible

³⁰ This also applies to Technical Assistance actions.

³¹ This statement excludes consumables for technical assistance (which is operational by nature). It is also clear that a limited number of consumables is necessary for commissioning of equipment procured by the Funds, and this is eligible.

³² This also applies to Technical Assistance actions.

- b. stationery necessary for the implementation of the operation;
- c. postage and mail (supported by appropriate documentation e.g. logbook).

Rule No. 10: Furniture and Equipment

- 10.1 The purchase of furniture and equipment, and the adaptation of premises are considered eligible only if they are essential to the implementation of the project.
- 10.2 Equipment is defined as a movable or fixed unit of furniture or furnishings, an instrument, a machine, an apparatus, or a set of articles that meets all of the following conditions:
- a. Under normal conditions of use, including reasonable care and maintenance, has an anticipated useful life of more than three (3) years;
 - b. It retains its original shape and appearance with use;
 - c. If the article is damaged or some of its parts are lost or worn out, it may be more feasible to repair it than to replace it with an entirely new item; and
 - d. It does not lose its identity through incorporation into a different or more complex unit.
- 10.3 With reference to **excluded costs** in accordance with Article 2 of the Commission Delegated Regulation (EU) 2015/531:
- a. Scheduled or preventive maintenance costs of any part of equipment which keep a device in working order shall not be eligible for support under the EMFF on the basis of this Regulation.
 - b. Only those costs necessary for and directly related to the installation of items as provided for under this Regulation shall be eligible for support under the EMFF.
- 10.4 Commission Delegated Regulation (EU) 2015/531³³ lists eligible equipment costs in accordance to the type of operation selected.
- 10.5 Fixed assets purchased under the project that are damaged or stolen must be replaced – to the same specifications or better – by the Beneficiary organization, out of its own funds, at no additional cost to the project. Both original and replaced asset shall be included in the Beneficiary’s inventory list. In case of stolen items, the beneficiary should prepare a technical report and report the incident to the Police while also retaining a copy of the report issued by the latter.
- 10.6 An inventory template should always be kept with respect to the items procured through the funds. In the case of beneficiaries which are either government

³³ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R0531&from=EN>

departments or ministries, the inventory list / fixed asset register should be in compliance with MF Circular No. 14/99 (and any subsequent amendments) which refers to the Revised Inventory Control Regulations³⁴.

Rule No. 11: Depreciation

11.1 Depreciation is not eligible, except when it is duly approved by the MA.

11.2 In cases where depreciation is approved, such expenditure can only be claimed from the project if there is a direct link with the implementation of the project and provided that the:

- a. Public Funds (including National or Community funds) have not contributed towards the purchase of the same assets;
- b. Assets are directly used by the project;
- c. Cost relates exclusively to the period of co-financing of the operation in question;
- d. Appropriate working papers showing how the depreciation costs have been calculated have been maintained by the Beneficiary. These include the costs, description and location of purchased items, the date of purchase, the method of depreciation, the length of time the item has been used, whether the equipment was used wholly or partly for EMFF purposes, and where relevant, the present estimated residual value of the asset;
- e. The amount of the expenditure is duly justified by supporting documents having equivalent probative value to invoices for reimbursed eligible costs actually incurred and paid; and
- f. Method of calculating depreciation cost is in accordance with the relevant accountancy rules and with the Beneficiary organisation's accounting policy. The depreciation method should be provided in the Grant Agreement.

11.3 The depreciation rate of an item of property or equipment shall be calculated with the straight-line method, in relation to the standard duration of its useful life. The depreciation method shall reflect the pattern in which the asset's economic benefits or service potential is consumed by the entity. This means that only the portion of equipment depreciated according to the duration of use for the project and the rate of actual use for the project is eligible.

11.4 The following table³⁵ shall serve as a guide for the calculation of the depreciation of the items for co-funding when depreciation is applicable. It reflects the minimum number of years over which items are to be depreciated.

³⁴https://treasury.gov.mt/en/Documents/Government_Accounts_Directorate/Accrual_Accounting_Circulars/MF_14-1999,_Government_Accrual_Accounting,_Revised_Inventory_Control_Regulations.pdf

| Category of items | Years |
|--|--------------|
| Computers and electronic equipment | 4 |
| Computer Software | 4 |
| Motor vehicles | 5 |
| Furniture, Fixtures, Fittings and Soft Furnishings | 10 |
| Catering equipment | 6 |
| Electrical and Plumbing Installation and Sanitary Fittings | 15 |
| Cable Infrastructure | 20 |
| Pipeline Infrastructure | 20 |
| Communication and Broadcasting Equipment | 6 |
| Medical Equipment | 6 |
| Lifts and escalators | 10 |
| Other machinery | 5 |
| Ships and vessels | 10 |
| Other plant | 10 |

11.5 Regarding the cost of premises, in line with the provisions of Article 14 (f) (i) of the Income Tax Act (Chapter 123 of the Laws of Malta), the general practice is to apply an annual depreciation rate of 2% on the cost of the premises, ie. the cost of the premises is fully depreciated over a period of 50 years.

Rule No. 12: Vehicles

12.1 The purchase of vehicles may be eligible if defined in EU eligibility rules.

³⁵ Based on the Deduction and Wear and Tear of Plant and Machinery Rules (S.L. 123.01)

Rule No. 13: Transport Costs

- 13.1 Transport costs for officers undertaking verification checks may be considered eligible for co-financing under EMFF in the following cases:
- a. when it is generally made available under similar activities using national/public funds;
 - b. in exceptional and justifiable cases and has to be specifically approved by the MA. Acceptance or rejection is at the sole discretion of the MA.
- 13.2 Transport costs related to the implementation of one or more aspects of EMFF (as defined in Rule 22) are considered eligible upon presentation of appropriate supporting documentation.
- 13.3 Transport to and from airports for overseas travel related to EMFF operations are considered eligible upon presentation of appropriate supporting documentation.
- 13.4 Other transport costs may be eligible only in specific cases and with the approval of the MA.

Rule No. 14: Purchase of Second Hand Equipment

- 14.1 Purchase of second hand equipment is not considered eligible unless it is duly justified and required for the implementation of the project and pre-approved by the MA.

Rule No. 15: Financial and Other Charges and Legal Expenses

- 15.1 *Bank Charges on Accounts:* Where co-financing by the EMFF requires the opening of a separate bank account or accounts for implementing an EMFF operation³⁶, the bank charges for opening and administering of this account form part of the administrative costs relating to an operation and are therefore eligible expenditure.
- 15.2 *Financial Charges:*
- a. Interest on debt is not eligible.
 - b. Charges for financial transactions, foreign exchange commissions and losses, and other purely financial expenses are not eligible.
- 15.3 *Legal Fees for Advice, Notary Fees, the Costs of Technical or Financial Expertise and Accountancy or Audit Costs:* The cost of legal fees for advice, notary fees, technical or financial expertise and accountancy or audit services are eligible provided that they are directly linked to the operation and are necessary for its preparation or

³⁶ Particularly relevant in the case of aid schemes

implementation. Costs related to litigation or advice/consultancy related to possible litigation is not eligible (e.g. possible appeals).

15.4 *Fines, Financial Penalties and Expenses of Litigation* are not eligible.

15.5 *Costs of Guarantees provided by a Bank or other Financial Institution*: These costs are eligible only to the extent that the guarantees are required by national or Community legislation.

15.6 *Costs Relating to MEPA Permits and other Regulatory Permitting*:

- a. Costs incurred by the Beneficiary for the preparation and/or submission of the necessary documentation relevant to the MEPA application processes can be considered eligible subject to MA approval.
- b. MEPA or other permit fees shall, as a general rule, not represent more than 2% of the total eligible expenditure of the operation unless a higher percentage is approved by the MA and reflected in the Grant Agreement. Such claims should reflect real costs and be supported by invoices and receipts.
- c. MEPA guarantees in relation to permits are not considered eligible.

15.7 *Other Related Expenditure*: Other expenditure including costs involved in winding up a company, bad debts, losses on exchange of currencies and service charges arising on finance leases, hire purchase and credit arrangements are not considered eligible.

Rule No. 16: Expert/Consultancy Fees

16.1 Consultancy which is necessary for the implementation of the project (e.g. drafting of application form, feasibility studies, business plans, cost-benefit analyses, technical and financial experts) may be considered eligible.

16.2 Consultancy which provides support in the completion of application for funds is an eligible item of expenditure subject to a number of conditions:

- a. Approval of the project
- b. The services of the contractor have been procured in a transparent and competitive way and according to the principle of good governance. In the case of public entities such services need to be procured according to the Public Procurement Regulations.
- c. If it is directly linked to the project and necessary for its preparation and implementation.
- d. The appropriate publicity requirements have been used.

16.3 The documentation requested for the verification of consultancy/expert fees should include the following documents related to procurement/recruitment process:

- a. Contracts/ Letters of Offer and Letters of Acceptance;
- b. Timesheets carried out during the respective timeframe if an hourly rate is being claimed;
- c. Invoices and receipts or payslips;
- d. Proof of transparency in the selection of the company/individual (eg. Of the newspaper adverts, quotations, tenders depending on the thresholds);
- e. Proof of payment to the expert/external company.

Rule No. 17: Leasing

17.1 Expenditure related to the leasing of PCs as per standing Government policy is eligible in its entirety.

17.2 Other Expenditure incurred in relation to leasing operations is eligible subject to the rules set out below:

- a. The equipment remains the property of the lessor (i.e. the person leasing out the good);
- b. The lessee (i.e. the person who leases the equipment from someone else) is not responsible for the maintenance, insurance, repairs etc. of the equipment;
- c. At the end of the lease the equipment does not become the property of the lessee;
- d. Leasing costs for which Public Aid is paid should be limited (as a maximum) to the duration of the project;
- e. Where a leasing contract is terminated before expiry of the minimum leasing period without the prior approval of the competent authorities, the lessor shall undertake to repay to the national authorities concerned (for credit to the appropriate fund) that part of the Public Aid corresponding to the remainder of the leasing period;
- f. The cost has to be pre-approved by the MA.

17.3 The acquisition costs of the asset and the cost of leasing equipment under a finance lease which is similar to hire purchase agreements (where at the end of the lease the equipment becomes the property of the lessee) are not eligible.

17.4 The choice between leasing or purchase must always be based on the least expensive option.

Rule No. 18: IT Systems/Software

- 18.1 The development/procurement of software and the development or upgrading of IT systems and software is considered eligible.

Rule No. 19: Training Costs

- 19.1 Training that is part of the commissioning of equipment and any introductory training is considered to be part of the investment cost, thus eligible. Any other training is eligible subject to it being in line with the EMFF Operational Programme.

Rule No. 20: Contributions in Kind

- 20.1 Contributions in kind are not eligible.

Rule No. 21: VAT and other Taxes

- 21.1 VAT constitutes eligible expenditure as long as it is genuinely borne by the Beneficiary if it is non-recoverable under national VAT legislation.
- 21.2 VAT which is recoverable, by whatever means, cannot be considered eligible, even if it is not actually recovered by the Beneficiary.
- 21.3 The treatment of VAT will vary depending on the status of the activity carried out. In this regard, Beneficiaries should consult the VAT Department.
- 21.4 Other taxes and related charges which arise from co-financing by the EMFF funds do not constitute eligible expenditure except where they are genuinely and definitively borne by the Beneficiary.

Rule No. 22: Costs Incurred in Managing and Implementing EMFF Funds³⁷

22.1 Technical assistance is critical to the efficient implementation of the EMFF. In line with article 59 of the CPR and Malta's EMFF OP, the following actions under Priority 7 Technical Assistance may be supported:

- a) Actions for preparation, management, monitoring, evaluation, information and communication, networking, complaint resolution, and control and audit.
- b) Actions for the reduction of the administrative burden on beneficiaries, including electronic data exchange systems.
- c) Actions to reinforce the capacity of Member State Authorities and beneficiaries to administer and use the fund.
- d) Actions to support the strengthening of the institutional capacity of partners in particular as regards small local authorities, economic and social partners and nongovernmental organisations, in order to help them so that they can effectively participate in the preparation, implementation, monitoring and evaluation of the programmes. Support may take the form of inter alia, dedicated workshops, training sessions, coordination and networking structures or contributions to the cost of participating in meetings on the preparation, implementation, monitoring and evaluation of the programme.

22.2 The Technical Assistance budget shall be managed by the EMFF Managing Authority on a demand driven basis. Beneficiaries shall include the Managing Authority, the Certifying Authority, the Audit Authority as well as the relevant partners.

22.3 The following categories of expenditure are eligible for co-financing through the EMFF assistance under certain conditions:

- a. Expenditure relating to the preparation, project selection, management, monitoring, evaluation, publicity and information, and control activities of the assistance and of operations, including the computerised management system (EMFF Database);
- b. Expenditure on meetings of monitoring committees, the annual examination meeting and other meetings relating to EMFF and the implementation of assistance. This expenditure may also include the costs of experts and other participants in these meetings, where the Managing Authority considers their presence essential to the effective implementation of the assistance;
- c. Expenditure relating to controls (including management verifications), audits and on-the-spot checks of operations;
- d. Expenditure of salaries of public officers involved in the implementation system;

³⁷ It is pertinent to note that all other eligibility rules have been and will continue to apply to Technical Assistance.

- e. The payment of overtime work may also be considered eligible if pre-approved by the MA and if the following conditions are met:
 - i. For employees engaged by stakeholders within the Public Service – the overtime work performed is approved in accordance with and follows all applicable criteria set in Section 3.2 of the Public Service Management Code³⁸.
 - ii. For employees engaged by other stakeholders within the Public Sector– the overtime work performed may be eligible if it is appropriately approved and if it follows the criteria set by or for the organisation concerned.
- f. Purchase³⁹ of furniture and equipment in line with the provisions provided in Rule No. 10;
- g. Costs (incurred locally and abroad) related to the participation in meetings and events linked to the EMFF Programme and the previous programming period European Fisheries Fund;
- h. Expenditure relating to training costs (incurred locally and abroad) of stakeholders involved in the implementation of the programme;

22.4 Expenditure incurred in relation to renting is eligible for contribution under EMFF provided that renting of equipment and venues is necessary for the implementation of the operation/activity. In this case the relevant public procurement regulations apply.

22.5 Charging a fee for the use of one's own premises is not eligible.

Rule No. 23: Revenue Generation

23.1 Article 61 of the CPR applies to operations which generate net revenue after their completion. Net revenue is defined by the regulation as cash in-flows directly paid by users for the goods or services provided by the operation, such as:

- i charges borne directly by users for the use of infrastructure, sale or rent of land or buildings,
- ii or payments for services less any operating costs and
- iii replacement costs of short-life equipment incurred during the corresponding period.

23.2 Operating cost-savings generated by the operation shall be treated as net revenue unless they are offset by an equal reduction in operating subsidies.

23.3 EMFF operations may generate revenues, such as provision of services, rentals and enrolment fees. However, these are to be taken into account when calculating the public contribution, in line with the principle of sound financial management. Hence,

³⁸ PSMC Eleventh Edition, published on 7th March 2011 and eventual updates.

³⁹ Leasing of equipment is also eligible if this is standard Government policy.

estimated net revenues generated directly by the project are to be deducted in advance from the total eligible expenditure when calculating the public contribution in the Grant Agreement.

23.4 *The calculation of the public contribution:* the calculation is based on the costs categories defined in the agreement minus the revenues generated or expected to be generated by the specific EMFF operation⁴⁰. Where some of the costs of an action are not eligible for co-financing, the revenues shall be allocated pro-rata to the eligible and non-eligible costs.

23.5 In case of net revenue generated during implementation of the operation, resulting from sources of revenue not taken into account in determining the potential net revenue of the operation, this shall be deducted from the eligible expenditure of the operation, no later than in the final payment claim submitted by the beneficiary.

23.6 The potential net revenue of the operation shall be determined in advance through the following method chosen by the MA on the basis of Reg. (EU) No 1303/2013 Article 61 (3a) which refers to the:

- application of a flat rate net revenue percentage for the sector or subsector applicable to the operation as defined in Annex V or in any of the delegated acts referred to in the second, third and fourth subparagraphs;

Whereas Annex V mentioned in Article 61(3a) may not be applicable for EMFF as this relates to the following sectors:

| Sector | Flat Rates |
|-----------------|------------|
| Road | 30% |
| Rail | 20% |
| Urban Transport | 20% |
| Water | 25% |
| Solid Waste | 20% |

*Article 2 of Commission Delegated Regulation (EU) 2015/1516 stipulates that a flat rate of 20% is established for **operations in the sector of research, development and innovation**. In this regard, the method for determining potential net revenue through the application of the 20% flat rate can be applied in line with Method 2 described in the Financial Control Unit's Memo 10/2016⁴¹.*

23.7 Should point 23.6 above not be applicable due to sector-specific operations, the MA may choose to opt for other methods for calculating discounted net revenue of

⁴⁰ For example if the eligible cost of an operation is 100K€ and revenues amount to 20K€ the public contribution will be a maximum amount of 100 – 20 = 80K€.

⁴¹

<http://eufunds.gov.mt/en/EU%20Funds%20Programmes/Financial%20Control%20Unit/Documents/Circulars/Circular%20102016.pdf>

operations generating net revenue in line with Method 1 or 3 of the Financial Control Unit's Memo 10/2016 mentioned above and any further guidance notes issued, if any.

- 23.8 In ALL cases where a project generates revenue/cost savings that were not taken into consideration, the Beneficiary should inform the Managing Authority immediately. The Beneficiary will need to take into consideration such revenue/cost savings in the calculations and subsequently the MA will adjust the Grant Value accordingly. The MA may effect adjustments to the public eligible amount of the project up to the deadline set for the submission of Closure Documents to the Commission.

Rule No. 24: Service Utility Works

- 24.1 In cases where the nature of the project necessitates interventions to utility services these may be considered as eligible. The MA recommends separate BoQs for service utility works.
- 24.2 It is imperative to note that Service Utility Works may only be considered eligible within the framework of an approved project (and not as a project on its own).
- 24.3 Costs linked to repairs or replacement of cables as well as the new cables and service utilities owned by third parties are not eligible.

Rule No. 25: Arrangements for Temporary Structures/Infrastructure

- 25.1 Operations may require the creation of structures/upgrading of alternative infrastructure in order to temporarily provide services which would otherwise be disrupted due the project's planned activities. Such expenditure is eligible as long as it is directly linked to the project, strictly necessary for its implementation and pre-approved by the MA.

Rule No. 26: Maintenance/Repair Costs

- 26.1 Maintenance/repair costs – including those related to items procured through an EMFF project – are, in principle, not considered eligible⁴². The costs related to maintenance agreements (including extended guarantees) in tenders should be clearly identifiable in the contract.
- 26.2 As per article 2 of Commission Delegated Regulation (EU) 2015/531, in order to preserve the incentive effect of the investments eligible under this regulation, costs

⁴² Other than those identified for the maintenance of the EMFF Database and the maintenance costs arising from the lease of equipment needed for the implementation of the EMFF Operational Programme (equipment financed/leased through Technical Assistance).

relating to scheduled or preventive maintenance of any part of equipment which keep a device in working order should be excluded from funding under the EMFF.

Rule No. 27: Hospitality

27.1 Hospitality costs are only eligible if pre-approved by the MA. When approved, the following conditions apply:

- a. That the scope of the hospitality is linked to the activity and not mere entertainment;
- b. That the same hospitality is extended during similar activities organised by the Beneficiary through national (or other) funds; and
- c. The costs incurred are reasonable.

Rule No. 28: Renting

28.1 Expenditure incurred in relation to renting is eligible for contribution under EMFF provided that renting of equipment, mobile assets or venues is necessary for the implementation of the project. In this case, the relevant public procurement regulations and principles⁴³ apply.

28.2 Charging a fee for the use of one's own premises may be eligible for TA support

28.3 Renting of premises of the Beneficiary and renting of premises for project management purposes is not eligible.

Rule No. 29: Ineligible Costs

In accordance with article 69 of the CPR, the following costs are not eligible for funding:

- a) interest on debt, except in relation to grants given in the form of an interest rate subsidy or guarantee fee subsidy;
- b) the purchase of land not built on and land built on in the amount exceeding 10 % of the total eligible expenditure for the operation concerned. For derelict sites and for those formerly in industrial use which comprise buildings, that limit shall be increased to 15 %. In exceptional and duly justified cases, the limit may be raised above the respective aforementioned percentages for operations concerning environmental conservation;
- c) value added tax except where it is non-recoverable under national VAT legislation.

⁴³ Depending on the nature of the Beneficiary.