



OPERATIONAL PROGRAMME II COHESION POLICY 2007-2013

ELIGIBILITY RULES

Eligibility rules laid down by Malta and applicable to Operational Programme II funded by the European Social Fund (ESF)

Effective date: 1st June 2014

APPLICABLE REGULATIONS OF THE EUROPEAN UNION

The following Regulations are used as the basis for rules on eligibility of expenditure for the implementation of operations under Operational Programme II (OP II) funded through the European Social Fund (ESF):

Council Regulation (EC) No. 1083/2006 of 11 July 2006 as amended by Council Regulation (EC) No 1989/2006 of 21 December 2006; No 1341/2008 of 18 December 2008; No 284/2009 of 7 April 2009; and by Regulation (EU) No 539/2010 of the European Parliament and of the Council of 16 June 2010 laying down general provisions on the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the Cohesion Fund (CF) and repealing Regulation (EC) No. 1260/1999;

Regulation (EC) No 1081/2006 of the European Parliament and of the Council of 5 July 2006 on the ESF as amended by Commission Regulation (EC) No 396/2009 of the European Parliament and of the Council of 6 May 2009 and repealing Regulation (EC) No. 1784/1999;

Commission Regulation (EC) No. 1828/2006 of 8 December 2006 as amended by Commission Regulation (EC) No 846/2009 of 1 September 2009 and Commission Regulation (EU) No 832/2010 of 17 September 2010 setting out rules for the implementation of Council Regulation (EC) No. 1083/2006 laying down general provisions on the ERDF, the ESF and the Cohesion Fund and of Regulation (EC) No. 1081/2006 of the European Parliament and of the Council on the ESF.

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 Article 56 (4) of Regulation (EC) No. 1083/2006 and within the parameters of the EC Regulations. Beneficiaries should ensure that proposals are formulated on the basis of these Eligibility Rules. These national eligibility rules shall also be used by the Intermediate Body as the basis for drawing up specific rules with regard to aid schemes implemented under Article 107 of the Treaty¹.

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

¹ These will also require the endorsement of the MA to ensure that they are compliant with the National Eligibility Rules.

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. *Date of when the expenditure was incurred* – activity takes place within the eligibility period;
3. *Location* – expenditure incurred must be related to a project implemented within/for the direct benefit of the eligible territory;
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*

The Structural Funds and the Cohesion Fund are the financial instruments supporting the European Union Cohesion Policy. Cohesion Policy is intended to narrow the development disparities among regions and Member States, therefore, in pursuing the goal of economic, social and territorial cohesion.

The **European Social Fund (ESF)** is one of the EU Structural Funds. The aim of ESF is to reduce differences in prosperity and living standards across EU Member States and regions. It is a means of promoting economic and social cohesion and ultimately creating more and better jobs.

For expenditure to be eligible it must be in line with the priorities of the *Operational Programme II (OPII)*, entitled *Empowering People for More Jobs and a Better Quality of Life* and must be incurred as part of an approved operation for which a Grant Agreement has been issued. Expenditure can only be considered eligible for those cost items that have been agreed upon with the Managing Authority.

In line with Article 56(3) of Regulation EC1083/2006 expenditure shall be eligible for a contribution from ESF only where incurred for operations decided on by the Managing Authority or in the case of aid schemes by the Intermediate Body, in accordance with criteria fixed by the Monitoring Committee.

2. *Eligibility period*

For expenditure to be eligible it must be incurred between **1 January 2007** and **31 December 2015**. 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 2007 and 31 December 2015³. In the case of Aid Schemes implemented under Article 107 of

² As a clarification, an operation (including scheme) is considered approved at the point that the MA issues a letter of approval following the PSC process. This approval letter is followed up by a formal Grant Agreement (GA) and / or Commission Decision, as the case may be. In case of major projects, the GA follows the Commission Decision.

³ Expenditure incurred before the approval letter but after 01/01/2007 is to be considered eligible, unless otherwise stipulated in the approval letter and / or Grant Agreement.

the Treaty, the date of eligibility cannot precede the date when the call for proposals by Intermediate Bodies⁴ (to Beneficiaries) is issued.

3. Eligibility of operations depending on the location

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

4. Proof of expenditure

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)].

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.

In the case of aid schemes under Article 107 of the Treaty and other exceptional cases (as approved by the MA), funds may be paid upon presentation of a *reimbursement request*, where a Beneficiary requests reimbursement for expenditure it incurred in the furtherance of a co-financed operation. Reimbursement requests need to be supported by invoices and receipts (or accounting documents of equivalent probative value) and must be within the conditions and objectives of the aid granted.

Documents regarding expenditure need to be kept available for the Commission, the Court of Auditors and the Audit Authority for a period of three years following the closure of an Operational Programme, in accordance with Article 90 of Council Regulation (EC) No. 1083/2006, i.e. at least till 31st December 2020.

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 the case of Beneficiaries that are not public organisations (such as Voluntary Organisations and Private Sector Beneficiaries) these are to be kept on the premises of the Beneficiary at least until 31st December 2020.

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, Letter of Acceptance or official correspondence issued by the MA or IB) 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,

Only expenditure that is incurred at the Beneficiary level is eligible for funding.

⁴ In the case of OP II, the Intermediate Body in charge of the implementation of aid schemes under Article 107 of the Treaty is the Employment and Training Corporation.

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

6. Type of expenditure

Structural Funds aim 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 i.e. the promotion of economic growth, competitiveness and job creation.

The rules in the next section outline categories of expenditure eligible for contribution from the ESF 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.**

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 ESF 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 RULES

Rule No. 1: Project Administration and Training Costs

1. By Contract of Service (employment)

When a Beneficiary opts to recruit persons to perform project administration or training services on an employment basis – full-time or part-time – the recruitment and selection procedure should follow the official channel of recruitment of the organisation, in line with national legislation, good governance and transparency⁵.

- i. Employment procedures need to be competitive and transparent; therefore an open call needs to be issued⁶.
- ii. Unless otherwise approved by the MA, internal calls restricted only to the Beneficiary / partner organisation's own permanent staff are not eligible under ESF funds.
- iii. Social Security Contributions and related costs linked to the employee can be considered eligible expenditure where these are genuinely and definitely borne by the Beneficiary⁷. The

⁵ It is advisable that, prior to publication, the Beneficiary consults with the Personnel and Human Resources Organisation (PAHRO) and/or the Department of Industrial and Employment Relations to identify the appropriate procedure to apply in the particular case

⁶ Public Sector entities shall follow the procedures outlined in Employment and Training Services Act before issuing an open call.

⁷ Pay slip and payroll (as applicable) need to be made available as proof of payment.

employer's social security contributions are also considered eligible as long as proof of payment can be provided⁸.

- iv. Overtime related to staff working on the project may be considered eligible subject to the approval of the Managing Authority and if the following conditions are met:
 - a. 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 Code⁹
 - b. for employees engaged by other stakeholders within the Public Sector (e.g. Intermediate Bodies) – the overtime work performed may be eligible if appropriately approved and if it follows the criteria set by or for the organisation concerned.
- v. 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.
- vi. In principle, employment contracts have to be restricted to the specific task and duration of the project.¹⁰
- vii. Unless approved by the MA, costs directly related to the project management or training work of the Project Leader on the approved project are not eligible.
- viii. The provision of a training allowance for participants may also be considered eligible subject to the approval of the MA.
- ix. Allowances as per Collective Agreement may be considered eligible subject to the approval of the MA.

2. By Contract for Service (public procurement)¹¹

Beneficiaries may procure these services (project administration and training – related services) through public procurement procedures,¹² with due regard to the conditions laid down by prevailing Regulations.¹³

3. Staff Costs

Project administration and training-related services may be obtained internally from existing staff within the beneficiary organisation as approved by the MA.¹⁴ Staff costs are to be apportioned on the following basis (except for staff costs related to transnational partners, where staff costs may be calculated in accordance with Rule No 17 (5)):

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⁸ 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 employers' 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.

⁹ PSMC Eleventh Edition, published on 7th March 2011 and eventual updates.

¹⁰ 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.

¹¹ Although functions can be contracted out, the legal and financial responsibility of the project remains with the Beneficiary. The beneficiary should undertake regular checks itself on contracted management / supervision and regular reports must be maintained

¹² Or the principles of the public procurement regulations in the case of NGOs

¹³ Reference should be made to the relevant regulation including but not limited to the Public Contract Regulation

¹⁴ Approved staff costs need to be verified through supporting documents, such as signed attendance sheets which must be countersigned by the trainer

Eligible staff costs	=	hourly rate * number of hours worked on the project
Where, <i>hourly rate</i>	=	$\frac{\text{Annual Salary}^{15}}{\text{Total number of hours worked in a year}^{16}}$

- 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 and definitely borne by the Beneficiary¹⁷. The employer's social security contributions are also considered eligible as long as proof of payment can be provided¹⁸.
- c. Unless part of the collective agreement of the employee, income supplements to trainers already employed by the Beneficiary shall not be considered eligible.

Rule No. 2: Wage Subsidies

Wage subsidies, which lead to improved chances of employment (e.g. definite and reasonable periods of on-the-job training / apprenticeships) may be considered eligible.

Rule No. 3: Travel and Subsistence Allowance

1. Costs related to travel subsistence allowance (inc. utilised contingencies) are considered eligible in cases where projects involve activities which need to be held abroad (these may include study visits, scholarships, internships, and activities related to Transnational Co-operation).
2. Unless otherwise approved by the Managing Authority, travel (economy)¹⁹ and subsistence allowance (inc. 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 and subsequent amendments) or the relevant policy of the organisation and supported by the relevant documentation.
3. In the case of experts coming to Malta, the subsistence allowance established by the European Commission within the Europe Aid Framework²⁰ 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.

Rule No. 4: Indirect Costs (Overheads)

¹⁵ Annual Salary includes the gross wage (before tax) plus the employer's national insurance and statutory bonuses

¹⁶ (Number of weeks in a year * number of working days in a week) – (vacation leave + public and national holidays not falling either on Saturday or Sunday) * number of hours worked each day, e.g. (52 weeks * 5 days) – (24 days leave + xx days public holidays) * 8 hours = xxxx hours worked in a year.

¹⁷ Pay slip and payroll (as applicable) need to be made available as proof of payment.

¹⁸ 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 employers' 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.

¹⁹ 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 ESF.

²⁰ http://ec.europa.eu/europeaid/work/procedures/implementation/per_diems/index_en.htm

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).
2. Arbitrary apportionment of the applicant's indirect costs is not considered eligible. However, these costs can be declared on a flat-rate basis, according to the table under item (4) below.
3. The flat rate on indirect costs will be calculated on the declared expenditure relating to direct costs²¹ incurred from the beginning of the project. This *direct* expenditure should be justified by paid invoices and other accounting documents of equivalent probative value.
4. The rates to be applied are as follows:

All Beneficiaries (except for Government Departments)²²

Size of Grant	% Flat Rate
< € 200,000	10%
€ 200,000 - € 600,000	8%
€ 600,001 - € 2.3 million	5%
> € 2.3 million - € 4 million	2%
> € 4 million	2%

Projects implemented by Government Departments²³

Size of Grant	% Flat Rate
< € 200,000	4%
€ 200,000 - € 600,000	4%
€ 600,001 - € 2.3 million	4%
> € 2.3 million - € 4 million	2%
> € 4 million	2%

5. If the Managing Authority has approved a flat rate covering indirect costs in the Grant Agreement, this rate is eligible subject to the conditions in the agreement and those listed below:
 - a. Actually incurred direct costs are the basis for the calculation of indirect costs. Any reduction in these direct costs (i.e. in relation to the estimated budget or following a financial correction) will have an impact on the flat-rate amount of indirect costs, which will be validated by the Managing Authority;
 - b. Any income generated within an ESF operation shall be deducted from the total costs declared on the ESF operation, which will result in a proportionate decrease in the indirect costs validated by the MA;
 - c. The flat rate does not apply to ERDF type of expenditure.

Rule No. 5: Research/Studies

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

²¹ Direct costs are those costs which are directly related to an individual activity of the entity, where the link with this individual activity can be demonstrated.

²² Including Government Entities, Authorities, Commissions and Local Councils.

²³ Government Ministry or Department.

Rule No. 6: Publicity Costs

1. Publicity costs (such as advertising of project activities), are eligible for funding under ESF provided that any publicity measures undertaken are operation-specific and are in line with Articles 8 and 9 of the Commission Regulation (EC) No. 1828/2006 (and subsequent amendments).
2. Publicity costs must also be justified and in proportion to the operation.
3. Information and publicity measures shall include requirements as indicated in the Manual for Procedures and Visual Identity Guidelines.
4. Special conditions may apply for small objects.
5. Publication, translation and distribution costs resulting from published and audio-visual material required for the implementation of the operation are also eligible. The MA will share full rights over publicity measures/actions and published/audio-visual material. The afore-mentioned material can be used by the MA for further ESF publicity at no costs.

Rule No. 7: Consumables

1. Consumables²⁴ 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 the accounting principles and rules.
2. Consumables required for the implementation of the project/Programme²⁵ are eligible for co-financing by the ESF, subject to the following conditions:
 - a. It must be procured specifically and used solely for the project;
 - b. It must not be apportioned between those that are used by the Beneficiary in carrying out its normal or other business (not eligible) and those that are related to the project (implementation of ESF).
3. Eligible consumables²⁶ include amongst others:
 - a. Printing of documents necessary for the implementation of the operation;
 - b. Stationery necessary for the implementation of the operation;
 - c. Course material required for delivery of training; and
 - d. Postage and mail (with supporting documentation e.g. log book).

Rule No. 8: Childcare Costs

1. Childcare related cost shall be considered eligible provided that:
 - a. Childcare provision aims to support the participants who are benefiting from the project;
 - b. Childcare provision is contracted out through a service tender, taking into consideration public procurement procedures²⁷; or through a definite full/part-time employment contract²⁸;

²⁴ Where consumables include the need for technical installation/expertise, these costs are eligible.

²⁵ This also applies to Technical Assistance actions.

²⁶ This also applies to Technical Assistance actions.

²⁷ or the principles of the public procurement regulations in the case of NGOs.

²⁸ 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.

Rule No. 9: Transport Costs

1. Transport costs for officers undertaking verification checks /participants/trainers may be considered eligible for co-financing under ESF if directly attributable to the operation.

Rule No. 10: Bank and Financial charges, fines and penalties

1. Bank and financial charges (interest on debt, charges on financial transactions, forex commissions, etc) are not eligible.
2. Fines, financial penalties and expenses of litigation are not eligible.
3. 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. 11: Consultancy Fees

1. Consultancy which is necessary for the implementation of the project (e.g. drafting of application form, feasibility studies, cost-benefit analyses) may be considered eligible.
2. 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 implementation. Costs related to litigation or advice/consultancy related to possible litigation is not eligible (e.g. possible appeals).

Rule No. 12: Leasing

1. Expenditure related to the leasing of PCs as per standing Government policy is eligible.
2. 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 duration of the project;
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.

Rule No. 13: Software

The development/procurement of software for training purposes and for collection of data relating to human resources and the development or upgrading of IT systems and software which support reforms is considered eligible.

Rule No. 14: Renting

1. Expenditure incurred in relation to renting is eligible for contribution under ESF.
2. Charging an arbitrary fee for the use of one's own premises is not eligible.
3. The provision of rental subsidies (for a limited period) as an accompanying measure within projects aiming at integrating particular disadvantaged groups in the labour market may also be eligible.
4. Renting of premises of the Beneficiary and renting of premises for project management purposes is not eligible.

Rule No. 15: Contributions in Kind

Contributions in kind are not considered as eligible expenditure.

Rule No. 16: VAT and other Taxes/Charges

1. VAT constitutes eligible expenditure as long as it is genuinely borne by the Beneficiary.
2. VAT which is recoverable, cannot be considered eligible.

Rule No. 17: Transnational Co-operation

1. In line with article 3(5) of the Council Regulation (EC) No. 1081/2006 of the European Parliament and of the Council on the ESF establishes that ESF shall support transnational and interregional actions in particular through sharing of information, experiences, results and good practices, and through developing complementary approaches and co-ordinated or joint action.
2. Unless specifically authorised, eligible transnational partners must be located in the regions covered by Cohesion Policy 2007-13 and include:
 - a. Public Sector organisations, including Government Ministries, Departments, Entities, Authorities, Public Commissions, Public Sector Foundations, etc.
 - b. Local Councils or their equivalent;
 - c. Other organisations such as Social Partners and Voluntary Organisations (VOs) can also be eligible transnational partners, provided that they are set up already and are established for the specific purpose of meeting needs in the general interest and not having an industrial or commercial character.
3. Private individuals, undertakings and organisations having an economic/commercial nature are not considered as eligible transnational partners.
4. Expenses connected with the hosting of the foreign delegates (unless covered by the travel and subsistence allowances) as well as expenses linked for seminars in Malta, are considered eligible.
5. From 1st June 2014 onwards, for the purposes of determining staff costs for training-related costs (both administrative and training, and subject to the approval of the MA), the hourly rate applicable may be calculated by dividing the latest documented annual gross employment costs by 1 720

hours²⁹ for full time employment. Part time employment shall be calculated on a pro-rata basis and to be agreed with the Managing Authority.

6. All the Rules listed in this document shall be equally applicable to transnational actions.

Rule No. 18: Costs Incurred in Managing and Implementing the Structural Funds³⁰

1. The technical assistance supports the main horizontal stakeholders of Malta's implementation system, including the Managing Authority, the Certifying Authority, the Audit Authority, the Intermediate Bodies, and other Bodies relevant to Malta's implementation system, including those related to the goal of enhanced participation by socio-economic partners and NGOs. Activities have to meet the criteria as approved by the Monitoring Committee.
2. The following categories of expenditure are eligible for co-financing under ESF 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;
 - b. Expenditure on meetings of monitoring committees and sub-committees relating to the implementation of assistance. This expenditure may also include the costs of experts and other participants in these committees,
 - c. Each TA request shall address the implementation of one or more aspects of Cohesion Policy. The term "*Cohesion Policy*" includes, amongst others:
 - additional activities regarding the 2004-2006 Programming Period (in the case of OPI, where eligible, as per sub-article 2(h) of this Rule);
 - Regulatory activities including those related to simplification exercises and policy, Future of Cohesion Policy and Territorial Cohesion; and
 - the implementation of Territorial Agenda (in the case of the latter as relevant to Cohesion Policy).
 - d. Expenditure relating to controls (including management verifications) and audits;
 - e. Expenditure of salaries of public officers involved in the implementation of the Operational Programme.
 - f. The payment of overtime work may also be considered eligible if pre-approved by the MA and if the following conditions are met:
 - c. 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 Code³¹
 - d. for employees engaged by other stakeholders within the Public Sector (e.g. Intermediate Bodies) – the overtime work performed may be eligible if appropriately approved and if it follows the criteria set by or for the organisation concerned.
 - g. Purchase of furniture and equipment in line with the provisions provided in Rule No. 11;

²⁹ Based on Article 68 of Council Regulation (EU) No 1303/2013

³⁰ It is pertinent to note that all other eligibility rules have been and will continue to apply to Technical Assistance

³¹ PSMC Eleventh Edition, published on 7th March 2011 and eventual updates.

- h. The financing of common activities supporting the implementation of both Operational Programme I and II on the basis of a ratio of 70:30 (OP I:OP II);
 - i. Costs (incurred locally and abroad) related to the participation at events linked to Cohesion Policy of stakeholders involved in the implementation of OP II.
 - j. Expenditure relating to training costs (incurred locally and abroad) of stakeholders involved in the implementation of the programme.
2. Expenditure incurred in relation to renting is eligible for contribution under ESF 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.
 3. Charging a fee for the use of one's own premises is not eligible.

Rule No. 19: Hospitality

Hospitality costs are not eligible unless 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 these are usually provided during similar activities organised by the Beneficiary through national (or other) funds; and
- c) The costs incurred are reasonable.

Rule No. 20: Cross-financing

Without prejudice to the derogations laid down in the specific regulations of the Funds, the ESF may finance, in a complementary manner and subject to a limit of 10% of Community funding for each Priority Axis of an Operational Programme, actions falling within the scope of assistance from the European Regional Development Fund (ERDF).

The national Eligibility Rules related to ERDF/CF shall apply to such expenditure.

Rule No. 21: Revenue Generation

1. ESF operations may generate revenues, such as sales of products, work or 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 as laid down by Article 14(1) of the General Regulation. Hence, although excluded from the scope of Article 55 (Revenue Generation) of the same Regulation, estimated net revenues generated directly by the project are to be deducted from the total eligible expenditure when calculating the public contribution in the Grant Agreement.
2. *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 ESF operation³² 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.
3. *Deduction of revenues shall be made in the final payment of the operation:* The final payment on the project is net of actual and expected revenues declared by the beneficiary at the date.

³² For example if the eligible cost of a training is 100k€ and the fees from participants amount 20k€ the public contribution will be a maximum amount of 100 – 20 = 80k€.

4. *The reference period to be used:* As a general rule the reference period should be equal to the period of implementation of the co-funded operation.
5. 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 calculation of the funding gap 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, currently set at 31 March 2017 (Article 89, EC1083/2006).

Rule No. 22: Maintenance/Repair Costs

Maintenance/repair costs, including those related to items procured through an ESF project, shall not be considered eligible³³. The costs related to maintenance agreements (including extended guarantees) in tenders should be clearly identifiable in the contract.

³³ Other than (i) those identified for the maintenance of the Structural Funds Database 2007-13 and (ii) the maintenance costs arising from the lease agreement of supplies, as approved by the Managing Authority, and in accordance with Article 46 of EC 1083/2006 referring to Technical Assistance of the Member States