

APPENDIX 1 - ELIGIBILITY GUIDANCE

The ERDF and match funding within the Fund must be defrayed on eligible expenditure by the end of the Convergence Programme period (end of December 2015). Detailed guidance on eligible expenditure is available in the Operational Programme, the Welsh National eligibility rules and the relevant Strategic frameworks, links to which are included below. Suppliers should note that these specific requirements with regards to eligibility apply only to ERDF and match funding; other resources within the fund (i.e. other public and private sector funding can still be used on these items.

Operational Programme:

<http://wefo.cymru.gov.uk/programmes/convergence/erdf/?lang=en>

Welsh National Eligibility Rules:

<http://wefo.cymru.gov.uk/developing/guidance/welshnationalrules/?lang=en>

Strategic Frameworks:

<http://wefo.cymru.gov.uk/applyingforfunding/submitting/strategicframeworks/erdf/3154039/?lang=en>

The Fund Manager and Investment Manager will be responsible for ensuring that ERDF and match are defrayed on eligible items. All schemes coming forward to the Fund will be required to detail within the total scheme costs which elements of the expenditure they regard as eligible under the ERDF rules, and for which elements of the scheme they are seeking funding. The Investment Manager will need to undertake a detailed review of scheme promoters proposals in this regard, and will need to record the basis upon which expenditure is deemed eligible or not. Robust evidence of this will need to be retained for audit purposes. Expenditure which is deemed ineligible during audit may be subject to repayment.

Given the nature of the RIFW, which uses ERDF and match resources as investment rather than grant funding, an approach to determining eligibility has been discussed with WEFO and DG Regio which focuses on understanding the key items which will be deemed ineligible. This means that as long as a scheme is, inter alia, in an Urban area within the Convergence area, part of an IPSUD, in line with the core objectives of the fund, and the following ineligible items are not funded through ERDF and match, then the remaining amount will be eligible. The specific ineligible items identified are set out below.

Suppliers should note that this appendix is provided for information only, and that further guidance and parameters will be included in the WEFO Funding Agreement available to the selected suppliers before appointment.

Thematic Restrictions – the following are ineligible:

- Building and renovating housing (including affordable housing), although there is an allowance for energy efficiency improvements on existing housing;
- Activities that are a Statutory responsibility of Central or Local Government (does not preclude activities by these bodies on non-statutory activities);

APPENDIX 1 - ELIGIBILITY GUIDANCE

- Direct support for generalised (school aged) Statutory education
- In support of primary processing relating to Agricultural, fisheries or forestry
- Direct support for Statutory provision of health services and local welfare facilities
- Activities which demonstrably displace existing activities
- Activities covered by EC sectoral restrictions are ineligible for support

Limits Applied – the following limits must also be applied:

- Expenditure on acquisition of land will be limited to 10% of the value of the ERDF and match funding. Therefore whilst a scheme may exceed 10% the Fund Manager will need to ensure that it remains at or below 10% at fund level. A worked example of this rule is included at [Appendix 3](#).
- Where joint facilities are proposed the proportion linked to statutory provision of services must be treated as ineligible;
- A 70% asset cover ratio (the 70% rule) as described in [Appendix 4](#).

Eligibility of Funding for Infrastructure

The application for ERDF funding for the RIFW is being made from Priority 3 of the Operational Programme: Developing Strategic Infrastructure for a Modern Economy. The Objective of Priority 3 is;

'to equip the region with the physical infrastructure necessary for the development of a modern and competitive economy and to promote agglomeration effects.'

A number of the potential schemes which come forward to the fund may be seeking investment to finance infrastructure works as part of first phases of developments, or to open up sites for wider regeneration opportunities. Such infrastructure is crucial to the success of integrated sustainable urban development and is key to the regeneration of Welsh urban areas. WEFO is concerned that ERDF and match monies are not used to fund infrastructure which in large part supports the future development of ineligible activities – for example by the Fund providing finance used to develop a road on a brownfield site, which opens up the site to then by used for predominantly housing.

In order to safeguard against this, should the Fund wish to record investment in infrastructure as eligible expenditure, the following approach should apply:

- Where over 50% of the estimated land use of the scheme excluding infrastructure, concerns eligible activities, the full cost of the infrastructure may be included in the calculation of the eligible expenditure through JESSICA investment; and
- Where less than 50% of the estimated total cost of a scheme, excluding infrastructure, concerns eligible activities, the infrastructure costs to be included in the calculation will be at the % rate of eligible activity.

APPENDIX 1 - ELIGIBILITY GUIDANCE

A scheme in this instance will be taken as the boundary of the planning consent containing the proposed investment.

The estimation of land use and calculation of % should be based on the most up to date land use plan associated with the scheme at the point that the investment decision is made. This plan and evidence for the decision making process must be retained for audit purposes.

It is understood that there may be minor changes to this plan and consequently to the land use % over the course of the development. WEFO audit will review the basis for the decision at the point the investment decision was made. Scheme promoters should be obligated to inform the fund of any significant changes to proposed land uses and this should be a condition of receiving finance from the fund.

Note on Retail and Displacement

Elements of schemes which are intended to accommodate retail activities can be included in eligible spend as long as there is no displacement of existing activities. All planning applications in Wales have to comply with the Ministerial Interim Planning Policy Statement – Clarification On Retail Policy (MIPPS-02/2005), which sets out Government Policy on considering planning applications for Retail activity in Wales. As all the statutory planning frameworks considered as part of an IPSUD for potential RIFW schemes will be subject to this policy, it may be deemed that issues of displacement will have been fully considered prior to an application for investment from the fund.

Retail activity can therefore be considered as eligible activity provided:

- It forms an approved part of an integrated plan for sustainable urban development (IPSUD);
- The total amount of retail in the scheme is less than 30,000m²; and
- The total value of retail funded through ERDF eligible expenditure in any scheme is less than 50% of the total.

Using ERDF and match on Ineligible Expenditure

The requirement with regards to the ERDF and match is that funds are defrayed on eligible expenditure by the end of 2015. At their own risk, the Fund Manager may for cash flow purposes choose to use some of the ERDF within the fund on ineligible items in the interim period, but only if there is assurance that equivalent funds will be available to defray on eligible expenditure before the deadline. Should the full amount (£40.4m) not have been spent on eligible expenditure by the end of the period then the fund may be in a position where ERDF monies need to be repaid to WEFO. This should also be considered in the context of the 70% rule described in [Appendix 4](#).

WEFO have indicated that in no instance should ERDF cash be used to Fund enhancement works on Welsh Assembly Government land and property assets within the Fund.

Eligible Management Costs of Managing the Fund

The Investment Manager and Fund Manager will be responsible to the Fund for ensuring that only “eligible management costs” are charged against the ERDF and match funding (at the co-financing

APPENDIX 1 - ELIGIBILITY GUIDANCE

rate). Other management costs, which may be deemed “ineligible” under the ERDF rules, will need to be covered through the non match and other resources in the Fund. A sum in the region of £500k will be transferred from the ERDF fund to DE&T at inception to reimburse set up costs incurred in the development and establishment of RIFW. These costs will count as eligible expenditure.

Eligible Management Costs are the costs of managing the fund which fall into either of the following two categories:

- Fund Management and Investment Management Base fees which cover the provision of the scope of services as included in the Service Contracts; and
- Other Management costs as agreed with the Management board, in line with the requirements set out in Section 4.1 of the ITT Questions and Evaluation document.

Ineligible Management Costs

The following costs are ineligible and cannot be charged against ERDF or match funding:

- fund Manager carried interest payments
- interest on debt
- bank charges accounts (except where included in 2. above)
- costs of guarantees provided by a bank or other financial institution for the benefit of RIFW.
- Charges for financial transactions, foreign exchange commissions and losses (inc interest rate and currency exposure hedging), and other purely financial expenses
- loan charges in relation to loans to RIFW
- interest or service charges – arising on leases and hire purchase arrangements to which RIFW is a party
- costs resulting from the deferral of payments to creditors
- costs involved in winding up a company
- bad debts arising from loans to employees, proprietors, partners, directors, guarantors or shareholders
- fines, financial penalties and expenses of litigation (other than in connection with the management of the property or the enforcement of investment documents)
- payment for gifts and donations
- dividends for shareholders

APPENDIX 1 - ELIGIBILITY GUIDANCE

- costs incurred by individuals in setting up and contributing towards private pension schemes, or the setting up of such schemes by organisations in receipt of structural funds
- payments for unfunded pensions
- legal costs relating to the fund taking advice in relation to its position under, or entering any dispute with the Welsh Ministers in relation to the terms of the WEFO Funding Agreement.

Apportionment of Management Costs

All eligible management costs shall be apportioned on a pro-rata rate based on the percentage of ERDF and match in relation to the total value of the Fund, in order to calculate the amount that can be claimed as defrayed. Initially this will be 73.45% which is based on the ERDF plus match funded element of £40.4 million as a percentage of the initial fund value of £55 million. This percentage will remain fixed until new funding, either by way of further ERDF grant, WAG assets or private sector investment takes place. At that stage a new apportionment percentage will be calculated and applied from that date onwards. The apportionment of management costs only applies until all ERDF has been defrayed. After this point no apportionment will be necessary.

Table 1: Example of Apportioned Management Costs

	Example A £m	Example B £m
ERDF	25	25
Match	15.4	15.4
Total value of ERDF + match funding	40.4	40.4
WAG Assets and cash	14.6	14.6
Private sector	0	55
Total Value of funds	55	110
Apportionment %	73.45%	36.72%