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EUROPEAN COMMISSION

European Structural and Investment Funds

Updated

Guidance for Member States on

the calculation of total eligible costs to apply for major projects in 2014-2020

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1. **BACKGROUND**

1.1. Regulatory references

Regulation	Articles
Regulation (EU) No 1303/2013 Common Provisions Regulation *(hereafter CPR)*	Recital 92 Articles 61, 100
Implementing Regulation (EU) No 2015/207 *(hereafter IA)*	Article 2, Section C of Annex II

1.2. Purpose of the guidance and key differences with the 2007-2013 period

According to Article 100 CPR, major projects (MP) are *"[…] operations comprising a series of works, activities or services intended in itself to accomplish an indivisible task of a precise economic or technical nature which has clearly identified goals and for which the total eligible cost exceeds EUR 50 000 000 and in the case of operations contributing to the thematic objective under point (7) of the first paragraph of Article 9 where the total eligible cost exceeds EUR 75 000 000 […]".*

For the 2014-2020 period, according to Article 100 CPR, the total *eligible* cost of the project determines whether a project is to be approved as a major project.

This guidance note clarifies that the total eligible cost of a project for the application of Article 100 CPR is calculated on the basis of applicable eligibility rules. As Article 100 CPR covers the cohesion policy funds (European Regional Development Fund and Cohesion Fund), the eligibility rules referred are those for those funds.

The guidance note also clarifies that state aid rules or the decision of a managing authority to apply the co-financing rate of a programme to total eligible expenditures or public eligible expenditures are critical for the calculation of the threshold.

The updated version of the guidance reflects the Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (the Omnibus modification), which introduced better alignment of rules for projects falling under State aid rules with requirements included under Article 61(1-6). While there may be still a requirement to submit major projects to the Commission both under State aid rules and the CPR, Article 61(8) CPR reduces administrative burden for Member States, in particular by simplifying the method for calculating the Union contribution.

In addition, the updated version of the guidance contains a simpler method of calculating the threshold of major projects, required for submission to the Commission.

2. GUIDANCE

2.1. Definition of eligible costs of major projects

Article 100 CPR refers to 'total eligible cost' for defining the major project threshold. Total eligible costs are the costs remaining after deducting ineligible costs from the total costs of the major project[1].

Eligible costs become eligible expenditure only when Member States decide to declare these to the Commission. As can be seen from section C.1 Point (1) of Annex II (format for submission of information on a major project) of Commission Implementing Regulation (EU) 2015/207 ineligible expenditure is:

(i) expenditure outside the eligibility period,

(ii) expenditure ineligible under applicable EU and national rules,

(iii) other expenditure not presented for co-financing[2].

If Article 61 CPR (1 to 5) applies, the amount of eligible expenditure is to be reduced in advance by potential net revenues. Therefore, this will reduce the total eligible costs to which Article 100 CPR refers. In case of an exception as referred to in Article 61(7) CPR, eligible costs are not to be reduced by net revenues.

The provisions linked to the calculation of net revenues (paragraphs 1 to 6 of Article 61) do not apply to operations for which support under the programme constitutes State aid (Article 61(8) CPR).

2.2. Rules determining programme contribution and the contribution from the Funds to a major project

According to Article 120(1) and (2) CPR, the Commission decision adopting a programme fixes the co-financing rate for each priority axis and whether this rate should be applied to total eligible expenditure (public and private) or public eligible expenditure.

The application of state aid rules does not need to lead to a reduction of the eligible costs but limits the amount of public contribution to the project. The effective contribution from the Funds to the project cannot exceed this amount.

[1] For phased projects under Article 103, according to Article 103(b) CPR, the sum of the total eligible costs of all phases of the major project are taken into account for defining the Major project threshold; for phased projects that cannot benefit from Article 103 and are submitted under Article 102 only the eligible costs under 2014-2020 period are taken into account for the purpose of defining whether an operation is major project or not.

[2] For instance, covered by another EU programme such as the Connecting Europe Facility.

2.3. Rules for major projects spanning over 2014-2020 and 2021-2027 periods

The question has arisen how to treat major projects where the main expenditure will be incurred in the period 2021-2027. Based on the fact that the legislators foresaw the possibility of receiving a major project spanning over two programming periods (see Article 101(i)), and in conjunction with Article 111 of the CPR proposal for 2021-2027 as well as Article 103 (1b) of the CPR, the total eligible cost of both phases (2014-2020 and 2021-2027) should be taken into account to define whether the operation is exceeding the thresholds set out in Article 100 of the CPR.

2.4. Example

A) <u>Priority axis with calculation based on **public expenditure**</u>

Aid intensity under State aid rules: **50%** (total cost of 100 million * 50% = 50 million[3]) → **cap**

Co-financing rate of the priority: 85%

Total project cost: 100 million

(with 60 million private and 40 million public cost)

of which ineligible 20 million (e.g. paid before 01/01/2014)

Hence 100 million minus 20 million ineligible makes

Eligible cost reflecting public contribution to the programme: **40 million → it does not qualify as MP (private contribution is not eligible under this operational programme and is not certified to the Commission)**

EU contribution to the project: 40 million x 85% co-financing rate = 34 million

As the programme contribution is calculated on the basis of eligible public expenditure, the permissible state aid ceiling of 50 million will not be exceeded and there is no need in such case for a capping.

[3] For the purposes of examples A and B it is assumed that the total cost of the project is the relevant reference point for calculating the permissible state aid; depending on the applicable state aid rules the reference point may be different.

B) Priority axis with calculation based on **total expenditure**

Aid intensity under State aid rules: 50% (total cost of 100 * 50% = 50 million) → **cap**

Co-financing of the priority: 85%

Total project cost: 100 million

(with 60 million private and 40 million public cost)

of which ineligible 20 million (e.g. paid before 01/01/2014)

Hence 100 million minus 20 million ineligible makes

Total eligible cost (=public and private):	**80 million → it qualifies as MP**

EU contribution to the programme before state aid verification:

80 million x 85% co-financing rate = 68 million

EU contribution to the project after state aid verification (capped at): 50 million

It is to be noted that when the permissible aid intensity is lower than the co-financing rate of the priority (e.g. 50% compared to 85% of co-financing as in the example above), the excess amount arising from the application of the state aid rules to the total eligible cost will have to be allocated by the Member State to other operations under the same priority.

2.5. Contact points

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