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PEACE III Programme

G14

Guidance Note on Asset Management and Legal Charges

1.0 Introduction

Asset management is a key part of the financial management of projects funded under the PEACE III Programme (the “programme”). Effective asset management is essential to ensure efficient and effective acquisition, use, maintenance and disposal of assets.

This guidance note is primarily concerned with:

- The management of assets funded through grant aid over the asset’s lifetime;
- Disposal of such assets;
- Executing a legal charge on assets.

This guidance is intended to complement and develop guidance on the disposal of assets that is set out in Regulation (EC) No 1083/2006 Article 57 on the Durability of Operations and that is also included in the Standard Conditions of Grant which is a contractual document annexed to all Letters of Offer issued under the programme. It also reflects the guidance issued by the Department of Finance and Personnel (NI) in Managing Public Money Northern Ireland and available from:

<http://www.aasdni.gov.uk/frab/browse.asp?branch=1&category=43&maxres=20&orderby=3&start=0> and the Code of Practice For the Governance of State Bodies issued by the Department of Finance (Ireland). This guidance also complements guidance on the procurement of assets issued previously by the Managing Authority (Guidance Note G4 Guidance on Procurement and Tendering).

For the purposes of this guidance note all references to 'assets' should be read as a reference to assets funded by grant aid from the programme unless explicitly stated otherwise.

2.0 Asset Management – Definition and Economic Life

An asset is defined as any tangible item with a useful economic life of more than one year and a cost of greater than €1,000 (net of VAT) or £1,000 (net of VAT).

The full purchase cost of an asset (excluding the purchase of land which is dealt with in G6 Section 8.0), used wholly and exclusively for the co-financed project, can be classified as eligible expenditure and may be charged to the project only where:

- a. the asset is purchased within the period of co-financing;
- b. the asset has a useful economic life less than or equal to the remaining life of the project; and
- c. expenditure relates to the purchase or construction of plant and equipment that is to be permanently installed and fixed in the project, provided that it is included in the projects assets register and that it is treated as capital expenditure in accordance with standard accounting practice.

3.0 The Management of Funded Assets

Assets funded or purchased through grant aid may only be used for the purposes described in the project application and approved by the Steering Committee (subject to any subsequent amendment approved by the Intermediate Body). The assets of each project must be managed and maintained at all times with a view to efficiency and value for money with appropriate steps taken to minimise the risk of theft or fraud.

All projects must take the following action to ensure effective management of assets:

- Nominate a senior member of staff who will have responsibility for the management and disposal of assets;

- Prepare and maintain a register of all assets valued at more than €1,000 / £1,000. In drawing up the register particular care should be taken with valuable or attractive items which may be susceptible to theft;
- The asset register must be updated continuously with auditable records of procurement and disposal of funded assets;
- The register must be checked quarterly and must be available upon request to staff from the Intermediate Body, SEUPB or any authorised auditor;
- Assets must be maintained in a cost effective manner designed to ensure they are retained at a good standard.

The asset register must be reviewed quarterly to assess its adequacy for the project's objectives focusing at all times on ensuring efficiency, value for money and compliance with the established objectives of the project. In accordance with the Standard Conditions of Grant, SEUPB shall be entitled to take possession of grant funded assets which have been purchased, constructed or used in breach of any of the terms of those Standard Conditions of Grant or the agreed objectives of the project as stated in the Letter of Offer. (Further information on Asset Management is contained within section A.4.8 of Managing Public Money Northern Ireland).

4.0 The Disposal of Funded Assets.

Neither the Lead Partner nor any Project Partner shall, during its economic life, dispose of any asset wholly or partly purchased with any part of the Grant Aid unless disposal is specified in the Letter of Offer or approved in writing by SEUPB prior to disposal. Where such assets are disposed of the SEUPB *may* require immediate payment of such a portion of the proceeds of disposal as it may reasonably require, or off-set the amount due against any further payments of Grant Aid.

Where analysis of the asset register in the context of organisational needs recommends disposal, the process must be completed as quickly as the market will allow with the objective of achieving the best consideration reasonably obtainable. Where SEUPB approval is required for disposal of an asset, and particularly where the SEUPB has a claim on a portion of the value realised, the method of disposal should also be approved by the SEUPB.

Independent professional advice must be sought prior to the disposal of land or real estate to ensure best value. Other assets including plant, machinery, office equipment, furniture and consumable stores will usually be sold by public auction as seen or by public tender with payment obtained before the goods are released. Alternatively and where appropriate, such assets may be disposed of to a charity or another project working in a similar field to the donor project. In all cases care should be exercised to avoid the risk of fraud, particularly in relation to disposal through public tender where care must be exercised to ensure the process is fair and well publicized. Except in exceptional circumstances, agreed with the SEUPB, goods must be disposed of to the highest tender.

5.0 Legal Charges

Where appropriate, the JTS/Consortium should secure a formal legal charge on funded assets. There is no minimum threshold identified in relation to legal charges. It is usual to take a registered charge on land under the Land Registration Act (Northern Ireland) 1970 and its Rules. Legal charges are particularly important in relation to high risk projects, therefore, the JTS/Consortium should assess the risk in each project and take the appropriate action in regard to legal charges. (Further information is available from Managing Public Money Northern Ireland Section A.5.2.) The duration of the legal charge should normally be for a minimum period of 7 years or reflect the economic life of the asset as defined in Section 2 above.

The purpose of such a charge is to protect public investment and in particular to ensure that Programme funds are used for the purpose for which the grant was made. Consequently, the duration of the charge and the extent of SEUPB's entitlement to claw back grant funding under its terms, will depend on the nature of the project and the asset concerned. Factors considered to be of particular relevance in establishing the duration are:

- The purchase value of the asset;
- The economic life of the asset;
- The period over which the intended benefits of the project will fall.

The duration of the charge will not normally extend beyond the economic life of the asset. However, exceptions to this principle may arise where the project is intended to give benefits significantly beyond the economic life of the asset and may arise, for example, in relation to the construction of real estate or infrastructure projects.

6.0 Process of Acquiring the Legal Charge

In the first instance, the Case Officer within the JTS/Consortium should determine whether a legal charge is required in relation to each specific operation/project. Where a legal charge is deemed necessary, then the relevant Manager should contact SEUPB's solicitors in order to develop a legal charge relevant to that particular operation.

Where a legal charge is completed, the Managing Authority should be informed by forwarding the relevant details to the Manager of the Managing Authority. The Managing Authority will keep a central record of all legal charges relating to the Programme.

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