

**This Guide regulates the basic issues
related to cost eligibility
in research and development projects,
under the SG OP, Measure 4.4.**

It contains sections/appendices defining:

- The time frames and principles for cost eligibility
 - Catalogue of eligible costs
 - Catalogue of non-eligible costs
- Documenting incurred expenditures
- VAT as eligible cost
- The rules of fulfilling public contracts

COST ELIGIBILITY GUIDE *under Measure 4.4 OF THE SMART GROWTH OPERATIONAL PROGRAMME for units not being beneficiaries of state aid*

The Cost Eligibility Guide under Measure 4.4 of the Smart Growth Operational Programme (the "Guide")) has been developed based on existing legal regulations.

The main aim of the *Guide* is to facilitate the classification of expenditures for beneficiaries, at the stage of project planning and during subsequent project settlement.

However, the foregoing shall not prohibit or limit the possibility of different arrangements and results of inspections carried out by competent authorities.

Definitions:

Beneficiary – recipient of a grant in the extra-stipendiary grant project of the Foundation for Polish Science – an entity specified in Art. 2(10) and Art. 63 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013; whenever the term “beneficiary” is used in this Guide it should also be understood as the partner and the entity authorised to incur expenditures specified in the project proposal, unless the Guide expressly states that it refers to the beneficiary as a party to the co-financing agreement..

1. Aim of the Guide

The aim of the Guide is to develop, clarify and illustrate the issue of cost eligibility, to facilitate beneficiaries' development of a cost schedule within the prepared projects and the settlement of received funds and to improve the monitoring of projects at various stages of evaluation, by providing effective and efficient public finance management and equal opportunities with respect to the access to funding by creating uniform, transparent rules of cost eligibility.

2. Legal grounds

This *Guide* has been developed taking into account the existing regulations governing finance management in projects subject to financing from the ERDF and the principles of project realisation under the Smart Growth OP.

3. Scope of the Guide

3.1 The Guide sets forth the rules of cost eligibility for projects realised under Measure 4.4, of the Smart Growth Operational Programme. It contains a catalogue of eligible costs and a catalogue of ineligible costs.

3.2 The eligibility of the given cost depends on compliance with general rules of eligibility, in particular those provided in the *Guidelines on the eligibility of expenditures under the European Regional Development Fund, the European Social Fund and the Cohesion Fund for the years 2014–2020* and the *Guidelines on the eligibility of expenditures under the Smart Growth Operational Programme 2014–2020 (guidelines from the minister in charge of regional development)*, as well the specifics of the project and the inclusion of the given expenditure in the substantive scope of the project included in the project proposal, constituting an appendix to the co-financing agreement.

3.3 The rules refer to all eligible expenditures incurred by the beneficiary (also by potential partners), whether using the own funds of the beneficiary or the received funding.

3.4 Depending on the type of project, additional eligibility criteria may be specified in the applicable regulations or Competition Documentation.

4. Rules for cost eligibility

4.1 Timeframe of eligibility

4.1.1 The term “cost eligibility period” refers to the period during which eligible expenditures may be incurred and settled within the project. Expenditures incurred and settled outside the eligibility period shall be ineligible costs. The cost eligibility period for each project is specified in the co-financing agreement.

4.1.2 The incurred expenditures have to be listed in the financial report submitted by the beneficiary, on a cash basis; i.e. only actually incurred expenditures (cash payments or money transfers from the bank account of the beneficiary) may constitute eligible costs. The following are exceptions from this rule:

- a) expenditures settled in the form of a lump sum, e.g. expenditures settled at lump-sum rates;
- b) depreciation costs; and
- c) deductions specified in Art. 498 of the Polish Civil Code.

4.1.3 All expenditures listed in the financial report have to be actually incurred and paid during the cost eligibility period and prior to the submission of the financial report (in which they are listed).

4.1.4 In case of invoices or other accounting documents issued in foreign currency, the amount of the eligible expenditure should be converted into PLN at the foreign currency sales rate determined by the bank realising the payment on the date of the payment, i.e. the principle of reimbursement of actually incurred expenditures should be applied, at the exchange rate of the day on which the beneficiary settled the invoice or other accounting document (not of the date of listing of the invoice or other accounting document). If it is impossible to apply the sales exchange rate of the given bank, expenditures eligible for funding incurred in foreign currency should be converted at another rate compliant with the applicable legal regulations and the accounting policy adopted by the beneficiary. If the payment for the invoice or other accounting document issued in foreign currency is made in instalments, then the amounts of individual instalments of the eligible cost should be converted into PLN under the rules described above..

4.2 Verification of cost eligibility

4.2.1 During the evaluation of the project proposal, the initial assessment of cost eligibility consists in the analysis of compliance with existing regulations (in particular the *Guidelines on the eligibility of expenditures under the European Regional Development Fund, the European Social Fund and the Cohesion Fund for the years 2014–2020* and the *Guidelines on the eligibility of expenditures under the Smart Growth Operational Programme 2014–2020*) as well as with the Competition Documentation applicable to the given edition of the call and the version of the Guide in force as of the date of announcing the call for proposals. Verification shall be conducted basing on information contained in the project proposal.

4.2.2 During the evaluation of the financial report, the verification of cost eligibility consists in the analysis of its compliance with existing regulations (in particular the *Guidelines on the eligibility of expenditures under the European Regional Development Fund, the European Social Fund and the Cohesion Fund for the years 2014–2020* and the *Guidelines on the eligibility of expenditures under the Smart Growth Operational Programme 2014–2020* in force as of the date of incurring the cost) as

well as with the Competition Documentation for the given edition of the call, the co-financing agreement, and the Guide. Verification shall be conducted based on the project proposal, grant agreement, the financial report and the control or verification (at the premises of the beneficiary) of documents confirming the incurred expenditures.

4.2.3 In order to verify the correctness of agreements concluded as part of the realisation of the project as a result of conducted proceedings, the *Guidelines of the Minister of Infrastructure and Development on the eligibility of expenditures under the European Regional Development Fund, the European Social Fund and the Cohesion Fund for the years 2014–2020* and the *Guidelines of the Minister of Infrastructure and Development on the eligibility of expenditures under the Smart Growth Operational Programme 2014–2020* in the version in force as of the date of initiation of the proceedings leading to the conclusion of the given agreement shall apply. Initiation of the proceedings means the publication of an announcement on the initiation of proceedings or the intention to award a public contract, as specified in section 6.5 of the *Guidelines on the eligibility of expenditures under the European Regional Development Fund, the European Social Fund and the Cohesion Fund for the years 2014–2020*, or the recruitment of employees pursuant to an employment relationship, provided that the beneficiary proves the publication of the announcement on the initiation of proceedings.

4.2.4 Projects with a funding value exceeding PLN 3 million shall be subject to mandatory external audit pursuant to Art. 34 of the Act on the Rules for Financing of Science. The cost of the audit constitutes an eligible cost if the audit began after incurring of at least 50% but no later than incurring of 80% of the planned project expenditures.

4.3 Eligible costs

4.3.1 The expenditure may be deemed eligible if all of the following conditions are met:

- a) The expenditure was actually incurred during the period specified in the grant agreement, pursuant to the conditions defined in *the Guidelines on the eligibility of expenditures under the European Regional Development Fund, the European Social Fund and the Cohesion Fund for the years 2014–2020 and the Cost Eligibility Guide as part of the Smart Growth Operational Programme 2014–2020*;
- b) It has been incurred in line with the provisions of the Guide;
- c) It is compliant with applicable European Union and national law;
- d) It is compliant with the *Smart Growth Operational Programme 2014–2020* and the *Detailed Description of the Priority Axes of the Smart Growth Operational Programme 2014–2020*;
- e) It has been incurred in compliance with the grant agreement;
- f) It was included in the substantive scope of the project contained in the project proposal;
- g) It is necessary for the realisation of the project and was incurred in connection with the realisation of the project;
- h) It has been incurred in a transparent, rational and efficient way, in compliance with the principle of achieving the best effects from the given expenditures;
- i) It has been appropriately documented;
- j) It has been listed in the financial report;
- k) It refers to delivered goods, provided services or performed works;
- l) It has been incurred in compliance with the Public Procurement Law (if applicable) or the principle of competitiveness, or the principle of performing and documenting market research;
- m) It does not constitute an ineligible expenditure pursuant to European Union and national law;
- n) It is compliant with the conditions for deeming it an eligible expenditure specified in the Competition Documentation.

4.3.2 Eligible costs are costs calculated pursuant to currently binding accounting principles, the principles of proper finance management and the practices of the beneficiary (accounting policy). For

the purposes of settlement of the project costs, each of the beneficiaries shall apply the practices (guidelines) adopted by its organisation. The possibility to settle the incurred expenditures pursuant to the accounting principles applied by the given organisation does not mean that the beneficiaries may create new principles especially for the purposes of the project.

4.3.3 The beneficiary of the project is obliged to incur expenditures in compliance with Art. 44(3) and Art. 162(3) of the Public Finance Act.

4.4 Documenting incurred expenditures¹

4.4.1 The costs should be documented in a manner that enables the evaluation of the realisation of the project from the financial and substantive points of view.

4.4.2 Beneficiaries and partners realising the project are obliged to keep separate bookkeeping records for the project in a manner that enables the identification of individual accounting and banking operations.

4.4.3 Beneficiaries that are not obliged to maintain any bookkeeping records pursuant to the existing regulations (the Accounting Act, tax laws) are obliged to maintain a register of documents related to operations connected with the realisation of the project (respectively: accounting books and tax books).

4.4.4 The evidence of incurring an expenditure is an invoice or other accounting document of equivalent probative value along with confirmation of payment. Each original accounting document (invoice, receipt, etc.) has to be annotated specifying the following information:

- a) name (title) of the project as specified in the co-financing agreement;
- b) date and number of the co-financing agreement;
- c) amount of the eligible cost;
- d) description of the connection between the cost and the co-financing agreement – the description of the invoice should provide information about the category of expenditures approved in the co-financing agreement to which the expenditure documented by the given invoice refers;
- e) information about the financing of the project from ERDF funds – e.g. “Project co-financed from the funds of the European Regional Development Fund”;
- f) assignment and item number of the document;
- g) information about formal and substantive correctness;
- h) annotation on the method of payment (if not stated in the document);
- i) if the given accounting document is only partly connected with the project, the description should unequivocally state the part of the expenditure, divided into eligible and ineligible costs, that is connected with the project, by specifying certain elements or the percentage share of the expenditure in the project pursuant to the accounting document.

Invoices or other accounting documents issued in foreign currency should additionally contain the exchange rate used for the conversion of the foreign currency into PLN pursuant to the rules specified in section 4.1.4 of the Guide. If the payment for the invoice or other accounting document issued in foreign currency is made in instalments, then the annotation should also contain the exchange rates for specific instalments.

4.4.5 Documents confirming costs connected with depreciation incurred as part of the project are, in particular, accounting documents or excerpts from accounting records that reflect the amount of the incurred costs, certified for compliance with the original document by authorised persons, or, in the

¹ Does not apply to simplified methods of expenditure settlement.

case of entities that are not obliged to revalue fixed assets, an appraisal prepared by an authorised entity.

4.4.6 If expenditures are documented by an electronic invoice, an accounting document recorded on a digital carrier should be presented which is the equivalent of a traditional accounting document, along with the description in the electronic version, in compliance with the requirements specified in section 4.4.4.

4.5 Prohibition of double financing

4.5.1 Total or partial double financing of a given cost is prohibited.

4.5.2 Double financing refers, in particular, to:

- a) full or partial, repeated confirming, refunding, or settling the same expenditure as part of co-financing or own contribution in the same or different project(s) co-financed from the structural funds or CF and/or subsidies from national public funds;
- b) disclosing, refunding, or settling the cost of VAT from the structural funds or CF, and then recovering that tax from the state budget pursuant to the VAT Act of March 11, 2004;
- c) purchasing a fixed asset using EU funds and/or subsidies from national public funds, and then settling the costs of depreciation of such a fixed asset under the same project or other projects co-financed from the EU funds;
- d) listing a cost as part of settlement of a subsidy and then listing the same cost under the co-financed project;
- e) refunding an expenditure incurred by the lessor for the purchase of a leased asset pursuant to financial leasing and then refunding the instalments paid by the beneficiary in connection with leasing of that asset;
- f) financing pursuant to a civil-law contract of the tasks performed by a project staff member which fall into the scope of their normal duties under the employment relationship;
- g) purchase of a used fixed asset that was co-financed from the EU funds and/or from national public funds² during the previous 7 years (10 years for real property);
- h) situations where the funds for pre-financing of the EU contribution had been obtained in the form of a loan which was later written off³;
- i) receiving for the eligible costs of the given project or part of the project non-refundable financial support from several sources (national, European or other) in a total amount exceeding 100% of eligible costs under the project or its part;
- j) covering of the eligible costs of the project by both loan and guarantee support;
- k) settlement of the same expenditure as part of indirect and direct project costs.

5. VAT (Goods and services tax)

5.1 VAT constitutes an eligible cost only if it was incurred by the beneficiary in connection with eligible costs and the beneficiary has no legal possibility to recover the VAT paid (VAT subject to recovery pursuant to the VAT Act shall not be deemed eligible, even if it was not actually recovered by the beneficiary, if there was a possibility to do so under legal regulations – in such case the VAT is always an ineligible cost).

5.2 The possibility to recover the VAT shall be determined pursuant to the VAT Act of March 11, 2004.

² The 7- or 10-year periods are calculated in calendar months, starting from the purchase date (e.g. 7 years from November 9, 2007 is the period from that date to November 9, 2014).

³ Double financing shall relate only to the part of the loan or advance that has been written off.

5.3 The beneficiary is obliged to submit a statement concerning the eligibility of the VAT.

5.4 The lack of a legal possibility to recover VAT occurs if the beneficiaries are not entitled to reduce the amount of output VAT (connected with the taxed operations within the project) by the amount of input tax (connected with the costs of the purchased goods and services and fixed assets).

Such situations may occur in the following cases:

- a) The project does not or will not generate any revenues – the purchased goods, services or fixed assets are not used for taxed sale – or there is no direct, indisputable connection between the purchased goods, services or fixed assets and taxable operations.
- b) The beneficiary is legally exempt from VAT.
- c) The beneficiary performs only actions that are legally exempt from VAT.

5.5 A situation in which VAT is an eligible cost only for a part of the project is acceptable. If, as part of the proposed project, the beneficiary uses the purchased goods, services or fixed assets for the performance of actions that entitle it to reduce the output VAT by the input VAT as well as actions that do not entail such right, and if the beneficiary is able to determine the amount of input VAT connected with activities that do not entitle it to reduce the output VAT, the eligible cost may be only the part of the VAT that is connected to the activities that do not entitle the beneficiary to reduce the amount of output VAT by the amount of input VAT. In such a situation, the beneficiary shall be obliged to ensure a transparent system of settling the project, so as to avoid any doubts regarding the part and the scope in which the VAT may be deemed an eligible cost.

5.6 If the beneficiary is unable to separate the total or partial amounts specified in item 5.5 and thus settles the VAT by reducing the amount of output VAT by the portion of the input VAT that can be proportionally assigned to activities that entitle it to reduce the amount of output VAT (the “sale coefficient” as defined in Art. 90(2) of the VAT Act of March 11, 2004), and in the case of purchasing goods and services used both for the purposes of the beneficiary’s economic activities and for purposes other than business operations, when assigning those goods and services fully to the beneficiary’s business operations is not possible, the amount of the input tax is calculated according to the method of specifying the scope of using the goods and services purchased for the purpose of business operations (the so-called pre-ratio as referred to in Art. 86(2a) of the VAT Act of March 11, 2004) then the VAT in such project constitutes an ineligible expenditure as a whole.

6. The rules of public procurement

6.1 A public contract is an agreement made for consideration and entered into between a contracting party and a contractor, whose object is providing services, supplies, or construction work.

6.2 All expenditures made as part of a project must be transparent, reasonable, and efficient, with the principles of achieving the best results from given expenditures being observed.

6.3 For contracts with an estimated value in excess of PLN 50,000 net, i.e. excluding VAT, the Beneficiary shall prepare and conduct procurement proceedings using a method that ensures transparency, fair competition, and equal treatment of contractors.

6.4 The above requirements are met through the application of:

1. Public Procurement Law Act of January 29, 2004 (Journal of Laws, 2015, item 2164, as amended), hereinafter referred to as the PPL Act, – for beneficiaries obliged pursuant to Art. 3 of the PPL Act to apply it,

or

2. the competitiveness principle defined in the *Cost Eligibility Guide for the European Regional Development Fund, the European Social Fund, and the Cohesion Fund for the years 2014–2020*, for beneficiaries who:

- a) are not the contracting party in the meaning of the PPL Act for contracts exceeding PLN 50,000 net, i.e. without VAT,
- b) are the contracting party in the meaning of the PPL Act for contracts whose value equals or is lower than the amount specified in Art. 4(8) of the PPL Act, which at the same time exceeds PLN 50,000 net, i.e. without VAT, or for sectoral contracts with a value lower than the amount specified in the regulations issued pursuant to Art. 11(8) of the PPL Act, which at the same time exceeds PLN 50,000 net, i.e. without VAT.

6.5 For contracts with a value of more than PLN 20,000 net and less than or equal to PLN 50,000 net, i.e. without VAT, the beneficiary must conduct and document market research according to the procedure described in the *Cost Eligibility Guide for the European Regional Development Fund, the European Social Fund, and the Cohesion Fund for the years 2014–2020*.

6.6 If, pursuant to the regulations in force other than the PPL Act, the application of the PPL Act is excluded, the beneficiary referred to in Art. 3 of the PPL Act conducts a public tender in line with those regulations.

6.7 If the beneficiary breaches the terms and procedures of public procurement, the Foundation for Polish Science shall consider all or part of the expenditures related to the contract to be ineligible, according to the regulation of the minister in charge of regional development, issued pursuant to Art. 24(13) of the Act of July 11, 2014 on the principles of conducting coherence policy programmes in the financial perspective 2014–2020 (Journal of Laws, 2014, item 1146, as amended).

7. Appendices

Appendix No. 1. Catalogue of eligible costs under Measure 4.4 Increasing the human potential in R&D sector

Appendix No. 2. Catalogue of ineligible costs