



## Building Better Opportunities Essential update March 2022 - Audit Update

### Audit update

We are in the last stages of finalising the 2021 A127 audits, so this seems like a good opportunity to update projects on what has been found and things to look out for. Irregularities were found by the GIAA in 9 of the 12 audits. The main themes identified, remaining unchanged from past audits, relate to staff costs and procurement.

#### **Staff costs**

A range of issues were identified with both hourly rate and full time BBO staff, although these tend to be lower value many of them also attract a projected irregularity which increases the value:

- Failure to account for employers NI allowance in hourly rate calculations
- Failure to account for employers NI allowance for full time staff
- Inclusion of benefits such as healthcare plans that aren't part of the employee's contract
- Time sheets not added up correctly or too many hours claimed
- No evidence to prove the defrayal of on-costs
- Double claims for lines of staff costs

#### **Procurement**

Procurement has been a theme running through recent audit years, the MA has expressed increasing concern around this area, and it tends to account for most of the costs of irregularities. We've seen irregularities against several different costs, including but not limited to, consultants / sessional workers, IT support, mobile phone contracts, recurring IT licenses, evaluations and room hire. The details of each case can vary; however, common areas of non-compliance are:

- Failure to be able to provide any or inadequate evidence of procurement, this attracts the same level of penalty as failing to carry out procurement at all



- Incorrectly identifying the contracting authority status of an organisation and following the wrong procurement process
- Failing to advertise as required in the regulations regardless of contracting authority status
- Variations to contracts beyond the scope allowed in the regulations
- Organisations assuming as a charity procurement rules and EU regulations do not apply to them

We'd like to remind all grant holders and partners that for any ESF money spent on goods or services that should have been procured (including claims for goods or services against a contract procured at organisation level), the compliance of the procurement with the ESIF procurement guidance can be tested. Where non-compliance is found, penalties have ranged from 25% to 100% of the expenditure on the goods or services in question, based on the penalties set out in the ESIF procurement guidance. All evidence of procurement must be kept, in line with the document and data retention policy for the ESF 2014 - 2020 programme and must provide a full audit trail.

Grant holders and partners must follow the ESIF procurement guidance [located here](#), and the first step of this process is to identify if your organisation is a contracting authority, so that the correct procurement pathway can be followed. The GIAA considers most organisations that are in receipt of ESF to be Contracting Authorities, if you do not believe that you are a Contracting Authority, you should seek expert advice on this point to demonstrate to auditors the status of your organisation and justify the procurement pathway that has been followed.

#### **Update to PCR 2015 thresholds**

You may be aware that since the end of the transition period for the UK's exit from the EU, procurement guidance in the UK has changed. This included the introduction of Find a Tender (FTS) in place the Official Journal of the European Union (OJEU), as the correct place to advertise higher value opportunities for contracting authorities; and from January 2022, different procurement thresholds.



However, we have confirmed with the Managing Authority that as BBO projects are funded by money from ESIF we are required to refer to [Article 138\(1\) of the Withdrawal Agreement](#), which reads:

*In respect of the implementation of the Union programmes and activities committed under the MFF 2014-2020 or previous financial perspectives, applicable Union law, including the rules on financial corrections and on clearance of accounts, shall continue to apply to the United Kingdom after 31 December 2020 until the closure of those Union programmes and activities.*

This means that we **must** continue to comply with [Directive 2014/24/EU](#), following the EU requirements as specified in the [ESIF National Procurement Requirements](#). This includes ensuring that where required, opportunities are advertised using OJEU.

The European Commission has advised that UK access to the Official Journal of the European Union (OJEU) will be maintained after 31 December (2020) for the purpose of implementing ESIF requirements.

Note, there is no difference to sub-OJEU threshold procurement processes for the UK following EU withdrawal and grant holders that are contracting authorities should continue to Respect the Treaty Principles. Non contracting authorities must also continue to follow the National Rules as set out in the [ESIF National Procurement Requirements](#).