



Llywodraeth Cymru
Welsh Government

GUIDANCE

Rural Business Investment Scheme: terms and conditions

The Terms and Conditions of Grant for The Rural Business Investment Scheme are detailed below. Please read the Terms and Conditions before you accept the Contract.

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The Terms and Conditions of Grant for The Rural Investment Grant Scheme are detailed below. Please read the Terms and Conditions before you accept the Contract.

The Welsh Ministers shall make a Rural Business Investment Scheme contract offer subject at all times to the following conditions:

- i) The acceptance of the grant contract awarded must be made via the RPW Online blue button within 30 days of the date of the Contract offer letter.
- ii) The Contract offer is made on the basis of statements made by you or your representatives in the application and the following documents:
 - a. Business Plan
 - b. 3 Quotes for each investment item selected on the full application
 - c. 3 Years of Certified Accounts
 - d. Planning consents

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1. General Terms and Conditions of Grant

- a) The maximum period of an investment project will not usually exceed 18 months from the offer of contract.
- b) The award is made on the basis of statements made by you or your representatives in the application form and subsequent correspondence.
- c) The making of false or misleading statements is an offence.**
- d) You must not begin any work on the project without first obtaining written authority to do so from Welsh Government.
- e) You must adhere to the requirements set out in the scheme Contract.
- f) Claims must be submitted via the RPW online claim form and supported by all documentary evidence as required by the scheme.
- g) Claims must be submitted in accordance with the timetable set out in the delivery profile. You must not deviate from the agreed timing and value of your claims without prior written agreement from Welsh Government.
- h) Supporting invoices and evidence of defrayment must be submitted in support of your claim and via your RPW Online account.
- i) The first claim must be submitted no later than six months from the date the Contract is awarded. If the first claim is not made within this period the grant offer will be automatically terminated.
- j) You must comply with the rules on eligible expenditure as detailed in the Scheme Guidance Note.
- k) You must provide confirmation that no other public funding (whether from EU or UK sources) has been sought for the same costs.
- l) You must meet any legal obligations imposed under EU and UK law, including hygiene legislation.

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- m) If other EU or UK public funds are obtained to support the costs of a project, they will be discounted.
- n) No alterations may be made to the project, including the location of the activity, without the written approval of Welsh Government.
- o) No equipment and/or buildings purchased with grant aid must be disposed of, transferred or sold without the prior written consent of Welsh Government during the project delivery and for five years from the project end date.
- p) Projects should be completed within the timetable agreed with Welsh Government. You cannot change this without written agreement from Welsh Government.
- q) You must confirm that none of the items covered by the application are replacements under an insurance claim.
- r) Any publicity given to the project must make reference to the part played by both the European Union and Welsh Government in funding it.
- s) Records concerning the activity of the business and the delivery of the project, including all original invoices and other related documents such as competitive tenders or quotes, must be retained until 2030.
- t) You must allow representatives of Welsh Government, the Auditor General for Wales, Audit Commission and the European Court of Auditors to inspect the project. On request, you must provide them with information and/or access to original documentation in relation to the project.
- u) The information provided in the application and any supporting documentation is subject to the requirements of the Welsh Government's Code of Practice on Public Access to Information, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.
- v) You should be aware that if successful, Welsh Government and the EC reserve the right to publish the name of your business or company, the amount of grant you were awarded and a summary of your project.

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w) The information provided in the application is subject to the Privacy Notice which is available to view in the scheme guidance literature here for [RBIS Food Guidance](#) and here for [RBIS Non-Agricultural Guidance](#). The Privacy Notice explains the Welsh Government's processing and use of your personal data and your rights under the General Data Protection Regulation (GDPR).

2. Amendments to this contract

- a) No amendment or variation to the terms and conditions of the offer of grant as set out in the contract will be effective unless confirmed in writing by the grantor.
- b) The grantor reserves the right to amend the terms and conditions of the offer of grant as set out in the contract by giving written notice to you.

3. Changes to this project

- a) Any change to the project must be agreed by the grantor in writing. If you notify us that your Project has changed in any way, we will write to you to tell you how we will treat the changes.
- b) Changes include any alteration to the nature of the Project such as significant changes over the lifetime of the Project to the individual categories of expenditure or quantifiable targets set out in the Project Plan, Business Plan or the Delivery Profile; any change to the Project's use, its financing or ownership and/or any change to the project completion timetable.
- c) Failure to notify the grantor may result in the termination of grant and you may be required to repay part or the whole of any grant paid. No grant will be paid in respect of any changes to the project until those changes have been approved by the grantor.
- d) Whilst you may request project variations after approval, you should not

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assume they will be approved, particularly when the request is to move allocated grant funding into future financial years. Any unclaimed grant from a particular financial year in your agreed Delivery Profile is unlikely to be carried over into later financial years. This is due to the current commitment level and allocations of the existing RDP budget.

e) Unless you have Exceptional /Force Majeure Circumstances, the grant funding allocated to your project for the current financial year will be lost unless the project activity is undertaken and expenditure is incurred (paid out of your business' bank account) by the end of the financial year i.e. 31 March.

f) The applicant is required to notify the grantor at the earliest opportunity if the project undergoes a substantial modification within 5 years of the Contract End Date that:

(i) affects its nature or implementation conditions or gives undue advantage to a firm or public body;

(ii) results either from a change in the nature of ownership of an item of infrastructure or the cessation or relocation of a productive activity.

4. Payment of grant

a) The grant will be paid in accordance with the terms and conditions. In the event of you failing to submit a claim form on time and also showing progress made against targets payments of grant may be suspended until these are submitted.

b) The grantor may reduce the final payment of grant if the total amount defrayed by you on the Project is less than the estimated total and/or if there is a change in the funding profile of the Project.

c) Without prejudice to any other provision in these Terms and Conditions or Contract, the grantor may withhold any or all of the grant payments and/or require all or part of the grant to be repaid if it considers that you have not complied with:

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- (i) any of the terms and conditions;
 - (ii) any European Community obligation which applies to you or the Project;
 - (iii) you have failed to take sufficient measures to investigate and resolve any reported irregularity.
- d) Any over-payment of the grant must be repaid to the grantor on demand by us, or if you become aware that the grant has been over-paid, whichever first occurs.
- e) The grantor will make every effort to pay claims promptly but accepts no liability in respect of loss attributable to delay in the payment of claims or to any suspension, reduction or cancellation of the grant.

5. Accounting and retention of records

- a) The applicant is required to comply with Article 7 EC Regulation 1306/2013 which provides that an administrative organisation and systems of internal control are maintained and Article 125 (4) (b) of EC Regulation 1303/2013 which requires the applicant to maintain either a separate accounting system or an adequate accounting code for all transactions relating to the operation.
- b) The application must comply with Article 140 of EC Regulation 1303/2013 which states that all supporting documentation relating to activities and expenditure supported by the grant is available to us, the European Commission and the European Court of Auditors. The applicant must ensure that all supporting documentation is maintained in an acceptable format, including with regard to electronic documents within the meaning of the community rules. Documents include records of outputs and results.
- c) The applicant must also comply with regulation 9 of the Rural Development Programme Wales 2014 (No. 3222 (W.327)) which sets out domestic requirements on retention of documents. Original documents relating to the

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implementation of the Project and its financing should be retained for audit purposes for at least seven years after the contract end date as stated in this Contract.

6. Audit

- a) If so requested by the grantor, applicants must submit copies of annual audited accounts within 6 months of the end of their financial year. The notes to the accounts shall specifically itemise grant receipts.
- b) Failure to submit a claim form, on time will result in non-payment of grant. Final claims must be submitted by the contract end date.

7. Project Monitoring

- a) Progress of the project will be monitored against the targets in the Contract. You will be required to report progress against these targets. However you must comply with the deadlines that we set for any requests for information in whatever form concerning the progress of the Project.
- b) Information collected through official visits to include in some instances audited accounts will also be used to verify the progress of the project. Where a negative trend or discrepancy develops for a particular project, the grantor will look into the reason behind this and if appropriate, take action. In the worse scenario, action may include the suspension of grant payments and/or the recovery of grant.

8. Inspection Rights and Documentation

- a) In the continuous assessment of a project, it may be deemed necessary to make an inspection visit to the project site to verify the status of the project

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against information provided, or examine records in relation to the same, or to ascertain whether and what sum of financial assistance is payable or recoverable.

b) Without prejudice in this contract, the grantor, Welsh Government, the Auditor General for Wales, Audit Commission, National Audit Office, the European Commission and the European Court of Auditors or their representatives have the following rights:

- to inspect the project and to require such further information in relation to the project as they think fit;
- to be provided with original documentation relating to the project to include if requested, original accounts.

c) You must keep full records in a form agreed with the grantor so as to provide an adequate audit trail. Original documents relating to the implementation of this project and its financing must be retained for at least seven years after the contract end date as stated in the Contract

9. Contract End Date

a) All claims must be submitted to the Welsh Government according to the agreed delivery profile and within 18 months of approval or by 30 June 2023 whichever is the soonest. All project activity must be completed in time for accounts and records to be audited and claims to be prepared and submitted by this date.

10. Withholding and/or repayment of grant

a) Grant shall be withheld by the grantor and/or, insofar as payment has been made, the applicant shall repay grant on demand either in whole or in part, where:-

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- (i) a domestic check by the grantor, Welsh Government, the Auditor General for Wales, the National Audit Office, Audit Commission appointed auditors, the European Commission or the Court of Auditors, identifies circumstances whereby a full or partial de-commitment of grant is due or, if the Commission otherwise requires the grant to be withheld, reduced, cancelled or recovered;
- (ii) the grantor and/or Welsh Government considers that the assistance is in breach of European Community State Aid rules or if the European Community Authorities consider that any grant paid should not have been paid; or if a decision of the European Court of Justice requires payment to be withheld, reduced, cancelled or recovered;
- (iii) there has been an overpayment of grant;
- (iv) grant is not used for the purposes of the Project;
- (v) a factor on which the original grant was calculated has changed;
- (vi) the grantor has reasonable grounds to believe that the future of the Project is in jeopardy;
- (vii) information provided in the application for grant or in subsequent or supporting correspondence is found to be incorrect, misleading or incomplete;
- (viii) there is unsatisfactory progress towards completing the Project;
- (ix) there is unsatisfactory progress towards meeting the forecast targets specified in the Delivery Profile.

11. Incorrect claims and Penalties

- a) The applicant is responsible for submitting correct claims; that it is only for defrayed expenditure (the money has gone from your bank account); that all the items and costs are eligible and that the claim is on time.
- b) If the claim is incorrect then your claim will be reduced to the amount that is

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eligible and the grant to be paid will be calculated accordingly. However, if the error is more than 10% of the total amount claimed then a financial penalty will be applied.

c) The penalty may, in certain circumstances, be increased and all of the grant paid to date might be recovered. If that happens you will not be able to submit an application under the scheme in the remainder of the current EAFRD year or for the following EAFRD year.

12. Termination

a) This agreement will automatically terminate if the first claim for grant aid is not submitted within six months from the offer of contract.

b) Save for the circumstances set out at 12 a) the Grantor reserves the right to terminate this agreement at any time upon giving fourteen (14) working days written notice to the applicant. Where notice is given, termination shall take effect at the end of the period of notice.

c) Where any payment of financial assistance has been made, an amount equal to the whole or any part of such payment may be recovered on demand, where:

(i) access to the project site or any records has been denied to personnel authorised by the grantor or persons referred to at 8 b).

(ii) any information provided by the applicant and/or his representative is found to be false or misleading in a material respect;

(iii) the applicant and/or his representative has intentionally or by negligence committed a substantial irregularity in performing the agreement and by fraud, corruption or any other illegal activity or omission on the part of the applicant, has resulted in the Welsh Government and/or European Union suffering a financial loss;

(iv) the applicant and/or his representative has failed, within the period

specified by the grantor to supply any information requested by the grantor;

(v) there has been a substantial change in the nature, scale, costs or timing of the project;

(vi) the grantor has reasonable grounds to believe that project has not been or is not being properly carried out with a view to fulfilling the aims of the project as stated in the application form;

(vii) the project has been or is being unreasonably delayed or is unlikely to be completed by the date of completion specified in the Contract and the agreed Delivery Profile;

(viii) the pattern of expenditure is only partially completed within the time limits specified in the Contract and the agreed Delivery Profile.

(ix) a domestic check by the grantor, the Auditor General for Wales, the National Audit Office, Audit Commission appointed auditors, the European Commission or the Court of Auditors, identifies circumstances whereby a full or partial de-commitment of grant is due or, if the Commission otherwise requires the EAFRD assistance to be withheld, reduced, cancelled or recovered.

(x) the grantor considers that the assistance is in breach of European Community State Aid rules or if the European Community Authorities consider that any grant paid should not have been paid; or if a decision of the European Court of Justice requires payment to be withheld, reduced, cancelled or recovered.

(xi) during its economic life, the Project undergoes substantial change defined as being used for purposes other than those specified in the application or having a change of owner. The economic life is the period up to the last payment of grant or achievement of the last of the targets specified in the Delivery Profile or 5 years from the end date of the project whichever is the later;

(xii) within the period beginning on the date of this contract and during the economic lifetime of the Project any of the following events occur, of which the grantor must be informed as soon as possible;

(xiii) the applicant ceases to be a subsidiary of any company of which it is a subsidiary at the date of this contract or the applicant becomes a subsidiary of any company of which it is not a subsidiary at the date of this contract. The word "subsidiary" shall be interpreted in accordance with the definition in Section 736 of the Companies Act 1985 as substituted by Section 1159 of the Companies Act 2006;

(xiv) the applicant is the subject of a proposal for voluntary arrangement or has a petition for an Administration Order or a petition for a Winding-up Order brought against it or passes a resolution to wind-up or makes any composition, arrangement, conveyance or assignment for the benefit of its creditors or purports to do so, or if a receiver or any other person is appointed in respect of its undertaking or any of its property.

d) On termination of the agreement, the applicant shall:

(i) repay within 28 working days the whole or part of any grant paid which has not, at the date of termination been spent for approved purposes and

(ii) Comply with the provisions of any demand for repayment served by the grantor.

13. Interest

Where it is decided that a recovery is to be made, interest on that amount is payable at the rate of one percentage point above the Bank of England base rate in respect of each day of the period from the day on which the financial assistance was granted until the day on which the amount is recovered. Please refer to regulation 12 of the 2016 Regulations for the definition of 'Bank of England base rate'.

14. Research and Evaluation

a) In order to gauge its effectiveness all European funds assistance must be

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the subject of research and evaluation. Welsh Government, or independent contractors acting on behalf of Welsh Government, may ask you to co-operate with them in carrying out such research. You are expected to comply with all such reasonable requests. In particular, you must, upon request, supply the grantor, Welsh Government, (or the contractor conducting the study), with basic details about the project.

All information provided will be treated in the strictest confidence; the findings of research and evaluation studies will not identify individual projects or beneficiaries and individual projects will not be compared.

15. Inventory of Assets

The applicant must establish and maintain an inventory of all fixed assets acquired, built, or improved wholly or partly using the grant. An asset is defined as an item that will not be used up within 12 months and which is not intended to be sold before the end of its useful life. Assets below £10,000 can be excluded.

The inventory should show the:

- date of purchase;
- description of asset;
- price paid net recoverable VAT;
- amount of grant paid;
- location of the title deeds;
- serial or identification numbers;
- location of the asset;
- date of disposal; and
- sale of proceeds net of VAT.

No equipment and/or asset acquired with grant aid must be disposed of, transferred or dissipated within 5 years of the Contract End Date without the prior written consent of the grantor.

16. Ineligible expenditure

The applicant is required to comply with the rules on ineligible expenditure as detailed in the relevant Scheme Guidance Notes.

17. Special conditions

The applicant is required to comply with any special conditions listed in the contract otherwise no special conditions apply.

18. EC requirements

The following is a summary of the EC regulations, rules and directives that apply to this grant. They may be amended from time to time. The applicant should take his/her own legal advice in connection with them.

EUROPEAN RURAL DEVELOPMENT REGULATIONS

- Commission Regulation 1303/2013 – common provisions for the ESI Funds
- Council Regulation (EC) No 1306/2013 of 17 December 2013 on the financing of the common agricultural policy
- Council Regulation (EC) No 1305/2013 of 17 December 2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)
- Commission Regulation (EC) No 809/2014 of 17 July 2014 laying down detailed rules for the application of Council Regulation 1306/2013
- Commission Regulation (EC) No 808/2014 of 17 July 2014 laying down detailed rules for the application of Council Regulation 1305-2013
- Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to de minimis aid.

19. European Community state aid rules

Grants provided under this scheme are aid which fall within the scope of the State aid frameworks. Articles 107, 108 and 109 of the TFEU apply to support given for Rural Business Investment Scheme - FOOD - Guidance Notes development under the Welsh Government Rural Communities – Rural Development Programme 2014-2020.

Grants provided under this scheme are compliant aid as they respect the conditions set out in Article 14 Commission Regulation 651/2014 (General Block Exemption Regulation) (SA.60339 - Welsh Government Capital Investment Aid and Employment Aid Scheme).

Principles

- The European Commission has considerable powers to monitor, control and restrict the forms and levels of aid given by all Member States to their industries. The principles underlying State Aid are set out in Articles 107, 108 & 109 of the Treaty of the Functioning of the European Union (TFEU). Detailed guidance on State Aid rules can be found in “European Community State Aids: Guidance for all Departments and Agencies” published by DTI in March 2001 and the various frameworks and guidelines issued by the Commission on the application of the rules. All State Aid (other than those covered by de minimis provisions or a block exemption – see below) must be notified to and approved by the Commission in advance of implementation, otherwise it is illegal.
- Applicants are required to abide by any State Aid limits which are applicable. No grant will be paid in respect of the project until the grantor has been informed of the Commission’s approval of the project under the notification of the state aids procedure pursuant to Article 108(3) of the TFEU, or the grantor has formed the view that such notification is not required. Recipients of illegal aid will risk being required to repay aid together with interest in the event the project is found to have infringed the State Aid rules, and also risk actions for damages from third parties. If you are in any doubt contact the Welsh Government.

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Notification

- Where a Project will use public expenditure (including rural development funds) either directly or indirectly to provide subsidised benefits to the private sector, eg grants to firms for investment, training and a reduced cost business consultancy, the assistance provided to the project will normally need to conform to the State Aid rules.

This grant is awarded in accordance with the State Aid cover as set out in the relevant Scheme Guidance note.

20. Publicity Requirements

Press Releases and publicity about project activity

- i) In accordance with Article 115 and Annex XII of Council Regulation 1303/2013 the applicant must when entering into publicity in relation to this project, acknowledge the support being made by the European Union through Welsh Ministers. Such publicity should refer to the Welsh Government.
- ii) Publicity, for these purposes, shall include; formal and informal announcements; brochures, pamphlets, leaflets and all other printed material; job recruitment advertisements; press and journal articles and press releases, media interviews (television and radio) and official launches and openings.
- iii) If you decide to accept this offer, as contained in this contract, you may be contacted by the Welsh Government Communications Team to discuss this publicity requirement. If you decide to enter into publicity before a member of the communication team has a chance to contact you, please contact Ruralnetwork@gov.wales in the first instance, to discuss your proposals.
- iv) Additionally, you must publicise the fact that the European Union, through Welsh Ministers, is part-funding your project. This publicity should ensure that beneficiaries are fully aware that the project in which they are participating has

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been partly financed by the European Union and that you raise awareness of the European Union funding amongst potential beneficiaries and the general public.

v) As a minimum this must include the Welsh Government logo; the European Union logo and the following wording;

1. Cronfa Amaethyddol Ewrop ar gyfer Datblygu
2. Gwledig: Ewrop yn Buddsoddi mewn
3. Ardaloedd Gwledig
4. The European Agricultural Fund for Rural
5. Development: Europe Investing in Rural Areas

21. Publication of information about grant awards

In accordance with Commission Regulation (EC) No 1303/2013, the Welsh Government is obliged to publish, at least every six months, details about the beneficiaries receiving Rural Development payments including details of such payments. The details published will be:

- The first name and surname of the beneficiary or the name of the company, partnership or organisation which is the beneficiary;
 - The town or city name and the first 3 or 4 characters of the Post Code where the beneficiary resides e.g. Cardiff CF10;
 - The amount of funding, including both the contribution from EAFRD and the Welsh Government, received in the financial year.

This information will be published by 30 April each year and annually on this date thereafter at <http://cap-payments.defra.gov.uk>

All requests to the Welsh Government for the disclosure of information (including that related to this grant application or award) will be considered in accordance with the Welsh Government's Code of Practice on Access to Information ('the Code') and the Welsh Government's statutory obligations under the Freedom of

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Information Act 2000 (FOIA), Environmental Information Regulations 2004 (EIR) and General Data Protection Regulation 2018 (GDPR). The Code reflects the Welsh Government's approach to open government and provides guidance on how the Welsh Government will respond to requests for information from members of the public whether they fall under the FOIA, EIR or GDPR.

22. Competitive tendering and procurement requirements

i) Project sponsors **must demonstrate that they have used fair and open practices** by using a competitive tendering exercise for all goods or services that are included in the project for which they intend to claim grant support. **The grant paid on goods or services may be reclaimed in full or in part if it is found subsequently that the competitive tendering requirements have not been met.**

ii) Competitive tendering and procurement must be carried out in accordance with the Welsh Government Rural Communities - Rural Development Programme 2014-2020 Competitive Tendering and Public Procurement Technical Guidance Note. For further information please see:

https://beta.gov.wales/sites/default/files/publications/2018-09/rural-development-programme-2014-2020-technical-guide-competitive-tendering-and-public-procurement_0.pdf

<https://beta.gov.wales/sites/default/files/publications/2018-09/rural-development-programme-2014-2020-competitive-tendering-and-public-procurement-template.pdf>

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