

- 2 JUL 2008

MERTHYR TYDFIL

Rec'd LW 28/8/08 (96)

To: Gareth Stokes

cc:

From: Linda Weaver

Ext 01267 225484

Fax 01267 235453

Date: 1st July 2008

Subject: **Pembrokeshire Landscape Gallery**
Project Ref.: 56909

Please find enclosed a revised approval letter for the above project.

Should you have any queries or require any further information please do not hesitate to contact me.

Regards,

Linda

Linda Weaver,
Project Development Officer

TOTAL - 3,655,718

WEFO - 1,897,833

P2P - 1,234,551 =

Others - 523,334

33.77%

3,132,384



Llywodraeth Cynulliad Cymru
Welsh Assembly Government

24 June 2008

Mr Richard Griffiths
National Park Officer
Pembrokeshire Coast National Park Auth
Llanion Park
Pembroke Dock
Pembrokeshire
SA72 6DY

Dear Mr Griffiths

European Regional Development Fund (ERDF) Objective 1 SPD 2000 - 2006
Project Title: Pembrokeshire Landscape Gallery - St Davids
Project Reference: 56909 [WAG Reference:] AW56909-11-001
Applicant: Pembrokeshire Coast National Park Authority

1. I am pleased to inform you that the application for ERDF grant towards the eligible expenditure on the above project has been successful. The application is approved on the basis of the details set out in the application and any subsequent amendments agreed with the Welsh European Funding Office (WEFO) in writing prior to the date of this letter.

2. This offer is made by an official in the administrative division serving the Welsh Ministers known as WEFO, under the authority of the Minister for the Economy and Transport, one of the Welsh Ministers (the 'grantor'). The offer is made pursuant to the Structural Funds (National Assembly for Wales) Regulations 2000 (SI 2000/906) and the Structural Funds (National Assembly for Wales) Designation 2000. All references to WEFO in this letter and its annexes are to be construed as references to the grantor. It is subject to acceptance by the applicant of all the conditions set out in this letter and accompanying annexes. Specifically, grant is offered on condition that the project delivers its aims and produces the agreed quantified targets and pattern of expenditure set out in Annexes A, A(I) and C(I).

GYDA'n gilydd
ERS 1957

TOGETHER®
SINCE 1957



Adeiladau Llywodraethol • Government Buildings
Heol Picton • Picton Terrace
Caerfyrddin • Carmarthen
SA31 3BT

Ffôn/Tel: 0845 010 3355
E-Bost/E-Mail:
Enquiries-wefo@wales.gsi.gov.uk

ERDF GRANT PAYABLE

3. The amount of grant payable is calculated as a proportion of eligible expenditure up to a maximum level as set out below. The amount of grant is the maximum payable regardless of any increase in the total eligible expenditure which results from changes to the project:

<i>Eligible Expenditure</i>	£3,655,718
<i>Grant Up To</i>	£1,897,833
<i>Grant Rate</i>	51.9141 %

Annexes A and A(1) set out full details of the estimated eligible costs of the project together with the expected phasing in accordance with the application and the agreed funding profile for the project.

4. Annex B(2) summarises general requirements and conditions of grant with which you must comply, including the following European requirements (as amended and updated from time to time):

Structural Fund Regulations 1260/1999 and 1685/2000 (as amended by Regulation 448/2004)
Regulation 1159/2000 on Information and Publicity Measures
European Community State Aid Rules
Public Procurement Directives
Environmental Legislation
Commission Decision 2002/694/EC
Commission Regulation 1783/1999

5. The grant is conditional upon no expenditure having been defrayed prior to the date of this letter unless specifically agreed and formally confirmed in writing by WEFO, subject to any exception reflected in the special conditions at Annex B. The project start and physical completion dates are as stated in your application, subject to any subsequent amendment confirmed in writing by WEFO. The final claim and audit certificate should be submitted within 3 months of the physical and financial completion of the project or by **30th September 2008**, which ever is earlier.

PAYMENT OF GRANT

6. The grant will be paid in accordance with the conditions set out at Annex D. In the event of an applicant failing to submit a claim form, showing progress made against targets and/or an annual audit certificate on time, payments of grant will be suspended until these are submitted.

7. WEFO may reduce the final payment of grant if the total amount defrayed by the applicant on the project is less than the estimated total in Annex A and/or if there is a change in the funding profile of the project. WEFO is under no obligation to pay more than 95% of the ERDF grant specified until the project has been completed to its satisfaction and a satisfactory final audit certificate has been provided to WEFO.

8. Without prejudice to any other provision of this letter or its annexes, WEFO 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:

- i) any of the terms and conditions in this offer letter or annexes to this letter;
- ii) any European Community obligation which applies to the applicant or the project;
- iii) you have failed to take sufficient measures to investigate and resolve any reported irregularity.

9. Any over payment of ERDF grant must be repaid to WEFO on demand by us, or if you become aware that ERDF assistance has been over-paid, whichever first occurs.

10. WEFO 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 ERDF.

AUDIT AND MONITORING

11. The target(s) against which progress on the project will be monitored are set out in Annex C(1). We expect that you provide WEFO with a report on the progress against the targets for your project quarterly, alongside your claim for payment of grant. However you must comply with the deadlines that we set for any requests for information in whatever form concerning the progress of the project.

12. Once a project has incurred more than 6 months expenditure, applicants will be required to submit an audit certificate up until the end of March each financial year, and when a project is physically and financially complete.

13. The Welsh Ministers, WEFO, the Auditor General for Wales, Audit Commission, Wales Audit Office, the European Commission and the European Court of Auditors or their representatives shall have the right to the following:

- i) to inspect the project and to require such further information relating to the project as they think fit;
- ii) to be provided with the original documents relating to the project.

14. The audit and monitoring requirements are set out in Annex B to this letter. Guidance on financial control visits is also enclosed with this letter, for information.

DOCUMENTATION

15. You must keep full records in a form agreed with us, of all the activities that generate eligible costs so as to provide the audit trails specified by the EC. You must retain these documents until three years after the EC has made the final payment for the Programme under which your project is funded to WEFO. This means at least until March 2014. We will inform you when you can destroy your documents. If you intend to claim grant on eligible expenditure made by others acting on your behalf you must ensure that you have a legally binding agreement with them which specifies what information is to be provided and when. You must ensure that those acting for you have original documentary evidence to support all the payments they make for you and for which you wish to claim grant.

CHANGES TO THE PROJECT

16. The following changes must be agreed in advance by WEFO in writing:

- (i) any change that alters the nature of the project;
- (ii) significant changes over the lifetime of the project to the individual categories of expenditure or expenditure profile or quantifiable targets set out in Annexes A and C;
- (iii) any change to the project's use, its financing or ownership.

17. Failure to do so may result in the termination of grant and we may require you to repay part or the whole of any grant paid.

AMENDMENTS TO THIS LETTER AND ANNEXES

18. No amendment or variation to the terms of this letter or its annexes will be effective unless confirmed in writing by WEFO. 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.

WEFO reserves the right to amend the terms and conditions of this letter or its annexes by giving notice to the applicant.

HOW TO ACCEPT THIS OFFER OF GRANT

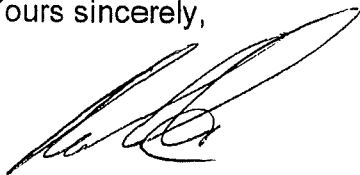
19. If you wish to accept this offer please sign and return the enclosed copy of this letter to which are attached Annexes A, A(1), B, B(2), C, C(1) and D, to be received at the following address no later than twenty (20) working days after the date of this letter.

Government Buildings
Picton Terrace
Carmarthen
SA31 3BT

Would you please ensure that:

- the project contact officer is advised of the receipt of this approval letter, and,
- where your organisation constitutes a local authority, a copy of this offer letter must be passed to your designated Section 151 officer. (Section 151 officers have their derivation from Section 151 of the Local Government Act 1972).

Yours sincerely,



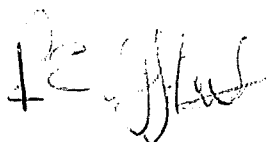
Signed by Ian Watson Head of Branch, Spatial Support & Regeneration Branch,
~~Carmarthen~~, Carmarthen under the authority of the Minister for the Economy and
Transport, one of the Welsh Ministers

ACCEPTANCE

European Regional Development Fund (ERDF) Objective 1 SPD 2000 - 2006
Pembrokeshire Landscape Gallery - St Davids
Project Reference: 56909WAG Reference: AW56909-11-001
Applicant: Pembrokeshire Coast National Park Authority

I accept the offer of an ERDF grant on behalf of the applicant subject to the terms and conditions set out in your letter above and the attached Annexes, all of which I have read, fully understand and accept.

Signed:



Position:

Chief Financial Officer

Organisation:

P.C.N.P.A.

Date:

30/6/08

ANNEX A

Funding profile

Sponsor	Pembrokeshire Coast National Park Authority
Project	Pembrokeshire Landscape Gallery - St Davids
Total project cost	£3,827,008
ERDF grant	£1,897,833

Match Funding

Sponsor	Amount	Type
Pembrokeshire Coast National Park Authority	£234,635	Public
WAG - DEIN (WTB)	£98,115	Public
Welsh Assembly Government	£180,000	Public
National Museums and Galleries of Wales	£120,000	Public
Welsh Assembly Government - Pathway to Prosperity	£1,234,551	Public
Dept for Business Enterprise & Regulatory Reform	£61,874	Public

Project Capital & Revenue Costs

Cost Description	Total Eligible	Total Ineligible
Capital Costs		
Construction Costs	£3,035,601	£153,900
equipment	£306,425	£0
Fees	£313,692	£17,390

Please Note:

(i) Under the 2000-2006 Structural Fund Programmes, to avoid automatic de-commitment of programme resources, it is essential that the project spends in accordance with the agreed expenditure spend profile as detailed in Annex A(1). Acceptance of grant is an acceptance of this expenditure profile. The applicant shall inform WEFO as soon as possible if it appears that any requirements of the financial spend profile cannot be met.

(ii) In the event of a shortfall in Private Sector contributions being experienced the applicant will need to provide additional funding from own sources to enable ERDF to be drawn down. The level of ERDF will not increase.

(iii) Virement between the categories of approved eligible expenditure not

exceeding 10% will be allowed. Above this level, full details of and an explanation for such variations should be included in the payment claim form. WEFO will advise the applicant when paying grant claims of its decision on the eligibility of such expenditure.

(iv) If the acquisition of equipment has been included in the eligible project cost, the serial numbers of the equipment for which grant has been awarded should be forwarded with the payment claim form on which they appear and must be available for inspection on the site.

(v) The applicant must inform WEFO of the date on which expenditure was incurred and any proposed revised start date or physical or financial completion date, when submitting their first payment claim.

(vi) WEFO reserves the right to withdraw this offer on or at any time after the expiration of three months of the date of this letter, unless within that period, the project has started work.

Grant Expenditure Constraints Profile

Grant Constraint	Approved Amount
Not Applicable	

Annex A(1)

PROJECTED QUARTERLY EXPENDITURE PROFILE

Expenditure		Jan - Mar	Apr - Jun	Jul - Sept	Oct - Dec	Total
2005	Gross	£0	£4,200	£0	£0	£4,200
	Eligible	£0	£3,980	£0	£0	£3,980
2006	Gross	£2,600	£3,500	£40,001	£79,478	£125,579
	Eligible	£2,464	£3,317	£37,905	£75,316	£119,002
2007	Gross	£35,446	£123,958	£542,871	£813,311	£1,515,586
	Eligible	£33,589	£117,466	£514,439	£770,714	£1,436,208
2008	Gross	£763,506	£1,237,137	£181,000	£0	£2,181,643
	Eligible	£723,498	£1,192,030	£181,000	£0	£2,096,528
				Grand Total	Gross	£3,827,008
					Eligible	£3,655,718

ANNEX B

General conditions of Grant

1. The provisions of Council Regulation (EC) No 1260/99 and Commission Decision 2002/694/EC of 24 July 2000 and the usual operating practices of the European Commission shall apply.
2. The applicant shall inform any co-funders of the project from whom it has received financial assistance or to whom an application for assistance has been made that it has received an award of ERDF in relation to the project.
3. The applicant must inform WEFO when claiming grant of any co-funders for the project who will directly benefit from the grant.
4. The applicant is required to comply with any special conditions listed below. Otherwise no special conditions apply.

This project is subject to the following Special Conditions:

1. Copy of tender report on appointment of new/build refurbishment works contractor to be sent to WEFO for review.
2. A works programme to be submitted to WEFO for review.
3. A report to be submitted detailing the appointment of the Architect to Stage 1 works and the basis of the Stage 2 works fee.
4. A copy of the tender report detailing the appointments of the remaining professional consultants to be forwarded to WEFO.
5. A copy of your Procurement rules to be sent to WEFO for review.
6. WEFO will monitor the project during the construction phase of the works.
5. Grant shall be withheld by WEFO and/or, insofar as payment has been made, the applicant shall repay grant either in whole or in part, within 30 days of raising an invoice including if:-
 - a) a domestic check by WEFO, the Wales 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 ERDF assistance to be withheld, reduced, cancelled or recovered;

- b) WEFO 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;
- c) there has been an overpayment of grant;
- d) grant is not used for the purposes of the project;
- e) there is a change that WEFO considers to be substantial in the nature, scale of costs or timing of the project or if there has been a change in any of the factors on which the original grant was calculated;
- f) WEFO considers the future of the project to be in jeopardy;
- g) any information provided in the application for grant or in subsequent or supporting correspondence is found to be substantially incorrect or incomplete;
- h) there is unsatisfactory progress towards completing the project;
- i) there is unsatisfactory progress towards meeting the forecast outputs specified in Annex C(I);
- j) 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 Annex C or 5 years from date of the grant offer letter whichever is the later.
- k) within the period beginning on the date of this letter and during the lifetime of the project any of the following events occur, of which WEFO must be informed as soon as possible:
 - (i) the applicant ceases to be a subsidiary of any company of which it is a subsidiary at the date of this letter or the applicant becomes a subsidiary of any company of which it is not a subsidiary at the date of this letter. The word "subsidiary" shall be interpreted in accordance with the definition in Section 736 of the Companies Acts 1985 as substituted by Section 144(1) of the Companies Acts 1989;
 - (ii) 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.

Accounting and retention of records

6. In particular, the applicant is required to comply with Article 34(1)(e) of EC Regulation 1260/1999, which provides that those bodies taking part in the management and implementation of the assistance maintain either a separate accounting system or an adequate accounting code for all transactions relating to the award of grant to facilitate the verification of expenditure by the Community and national control authorities. All payments should be supported by receipted invoices, or where this cannot be done, by accounting documents of equivalent probative value.

7. In particular, the applicant is required to comply with Article 38(6) of EC Regulation 1260/1999 which sets out the Commission requirements on retention of documents. Original documents relating to the implementation of the project and its financing should be retained for audit purposes for a period of 3 years following the payment by the Commission of the final financial claim for the Objective 1 Programme (2000-2006). This means that all records should be retained to at least the end of March 2014. We will inform you when you can destroy your documents.

Audit

8. If so requested by WEFO, voluntary organisations, local enterprise agencies and companies 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 ERDF grant receipts.

9. Once a project has incurred more than 6 months expenditure, applicants will be required to submit an audit certificate for expenditure up to the end of March of each financial year, and when a project is physically and financially complete.

10. All applicants, apart from local authorities and higher and further education authorities, should submit their annual audit certificate at the same time as they submit their claim reporting actual expenditure to the end of March. Local Authorities and higher and further education authorities should submit a photocopy of their claim form, with original signatures on the photocopy, at that time. The original claim form and audit certificates should be submitted by 30 September in the same year.

11. Applicants have a responsibility to make it clear to their auditors that their promptness in dealing with annual and final audit certificates is required. Failure to submit a claim form, showing progress made against performance activity targets and/or an annual certificate on time, will result in non-payment of grant. Final claims must be submitted within three months of physical and financial completion of a project or **30 September 2008**, whichever is earlier, and must also be audited. Failure to do so will result in the retention of the final 5% of your grant and may lead to recovery of grant.

12. Qualifications for auditors certifying grant claims are detailed below:

i) reports on grant claims from all companies and businesses that are not incorporated under the Companies Acts, and where the total grant offered in support of a project is over £25,000; must be made by an independent accountant eligible under the terms of Section 25 of the Companies Acts 1989 for appointment as a company auditor. A person eligible under Section 34(1) of the Companies Acts 1989 for appointment as auditor of an unquoted company (as defined in that Section) may only report on grant claims made by such a company or from businesses that are not incorporated under the Companies Acts;

ii) reports on grants claims from organisations that are not incorporated under the Companies Acts and where the total grant offer is not more than £25,000 may be made by :

those qualified as defined above; or
by members of the following accountancy bodies;

Institute of Chartered Accountants in England and Wales
Chartered Institute of Management Accountants
Institute of Company Accountants
Association of International Accountants
Chartered Institute of Public Finance Accountants
Association of Chartered Certified Accountants;

iii) claims made by local authorities and analogous bodies should be certified by auditors appointed by the Audit Commission under the Audit Commission Act 1998;

iv) auditors must be independent of the organisation on which they report.

ANNEX B(2)

EC REQUIREMENTS

This is a summary of the following EC requirements which apply to this grant. The applicant should take its own legal advice in connection with them. They may be amended from time to time:

1. STRUCTURAL FUND REGULATIONS

1.1 Council Regulations 1783/1999 (ERDF), 1260/99 (General Regulations) and 1685/2000 (as amended by EC 448/2004) (Eligibility) apply to this project. Other Regulations produced under relevant Articles in 1260/99 from time to time may also apply to this project.

2. EUROPEAN COMMUNITY STATE AID RULES

Principles

2.1 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 87 and 88 of the EC Treaty. 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.

2.2 Applicants are required to abide by any EC State aid limits which are applicable. Where the applicant is a public authority, it should satisfy itself whether state aid rules apply to the project and should inform WEFO immediately if it has decided it does not need to notify the project to the Commission. In all other cases, no grant will be paid in respect of the project until WEFO has been informed of the Commission's approval of the project under the notification of the state aids procedure pursuant to Article 88(3) of the EC Treaty, or WEFO 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 WEFO.

Notification

2.3 Where a project will use public expenditure (including structural funds) either directly or indirectly to provide subsidised benefits to the private sector, eg grants to

firms for investment, R&D, training and a reduced cost business consultancy, the assistance provided to the project will normally need to conform to EC State Aid rules and normally need to be formally approved by the EC.

2.4 There is a threshold below which aid need not be notified provided all the relevant conditions are satisfied, known as *de minimis*. The total *de minimis* aid granted to any undertaking (an entity engaged in economic activity) must not exceed 200,000 Euros over any period of three fiscal years. For undertakings in the road transport sector, the *de minimis* threshold is set at €100,000. In calculating whether this threshold is reached, account must be taken of all aid that such organisations have or will receive from any public source.

2.5 Applicants for projects which are proposing to provide state resources to third parties in reliance upon the *de minimis* rules, must ensure that all the conditions of 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 are satisfied.

3. PROCUREMENT

3.1 The European Community rules on Procurement apply to contracts that are financed or part financed by Structural Funds grant. Within the coverage of the Directives set out below, contracts above certain limits are required to be advertised in the Official Journal (OJ) of the European Communities. Bids for contracts must be assessed on an objective basis and contract awards should be published in the OJ. Grant will be reclaimed if it is found subsequently that the procurement rules have not been observed.

3.2 Organisations that are not financed or supervised by public sector bodies and commercial organisations in the private sector may not be covered by the procurement rules but are nonetheless expected to use fair and open practices including competitive tendering when letting contracts for which they intend to claim Structural Funds grant.

3.3 If your organisation is not covered by the procurement directives we expect the following procurement procedures (or equivalent) to be adopted according to the estimated value (inc. VAT) of the contract at pre-tender stage. Your decision must demonstrate best value and you must keep records which support your decision. We also expect that public sector bodies awarding contracts below the thresholds to demonstrate best value for instance by following these procedures.

Estimated Value	Tender Action Required
Below £5k	Obtain written approval from budget holder. One quote from single supplier.
£5k to £24,999	Written quotes from a minimum of three suppliers.
£25,000 to £93,738	Identify need and seek budget holder approval. Prepare contract award evaluation criteria. Evaluate Expressions of Interest. Prepare and issue invitation to tender. Tender opening board. Contract approved and awarded.
£93,738 and above	As for over £25,000 plus: contracts must be advertised in the Official Journal of the European Union (OJEU). Contract award notice to be placed in OJEU. (Advertising period is for a minimum of thirty days).

3.4 Private sector organisations letting any works contracts covering civil engineering, hospitals, sports facilities, recreation and leisure facilities in excess of 5,000,000 euros for which 51% or more of the costs are funded by a public body must meet the EC procurement rules.

3.5 The Procurement rules are complex and the following list provides a very brief description. The following description is not intended to provide guidance on how the Directives should or should not be applied. If there is any doubt about the application of the Procurement rules you should seek legal advice. In general, where doubt remains (after consultation with lawyers or other experts) about the application of the Procurement rules, it may be better to err on the side of caution and apply the procurement process. Note that Directives are implemented in the UK by Statutory Instruments (SIs). Applicants should examine the appropriate SI to ensure they comply with the requirements. The thresholds are revised regularly. The Directives are:

The Public Works Directive

3.6 Directive 93/37/EEC amended by Directive 97/52/EC, implemented in the UK by Statutory Instrument (SI) 1991/2680. The organisations covered are Government Departments, local authorities and a wide range of public bodies not of an industrial or commercial nature. Included are organisations established for the specific purpose of meeting needs in the general interest that are financed for the most part by other bodies, subject to management supervision by them or having an administrative, managerial or supervisory body more than half of whose members are appointed by them. The rules apply to contracts for building or civil engineering works, the award of works concession contracts and works contracts funded by the above organisations. Works concessions contracts are those where the contractor has the right to exploit the works (e.g. to levy road tolls), although they may be paid as well.

Government Procurement Agreement sector contracts

3.7 For Government Procurement Agreement (GPA) sectors, (ie central government bodies listed in the Schedule to SI 1995/201), the current threshold is 5m Standard Drawing Rights ("SDR"), (which equates to 5,923,624 euros).

3.8 The current threshold for non GPA sector contracts is 5M SDR. The current threshold for small lots is 1,000,000 euros.

Subsidised Works Contracts

3.9 If the organisation awarding the contract contributes more than half the contract value, where the total contract value exceeds 5,000,000 euros for any works contract covering, in general, civil engineering (roads bridges, railways, tunnels etc), hospitals, sports facilities, recreation and leisure facilities, school and university building or buildings for administrative purposes, then the contribution must be conditional on the subsidised body complying with the rules as if it were a Contracting Authority.

The Public Supplies Directive

3.10 Directive 93/36/EC amended by Directive 97/52/EC, implemented in the UK by SI 1995/2001. This covers the purchase or hire of goods by the same organisations covered by the Public Works Directive.

3.11 The current thresholds are 200,000 SDR for non GPA sectors (which equates to 236,945 euros) and for GPA sector contracts 130,000 SDR (which equates 154,014 euros).

There are certain exceptions for which the current thresholds are 200,000 euros. The current threshold for small lots is 80,000 euros.

The Public Services Directive

3.12 Directive 92/50, (as amended by Directive 97/52/EC, implemented in the UK by SI 1993/3228. Based on the Works Directive, but allows greater freedom to use the negotiated procedure with a prior call for competition. Includes rules on design contests and quality assurance. Does not apply to public service concession contracts.

3.13 The current threshold is 200,000 SDR for non GPA sectors (which equates to 236,945 euros). The current thresholds for GPA sector contracts is 130,000 SDR (which equates to 154,014 euros).

The Utilities Directive

3.14 Directive 93/38/EEC (replaced 90/531/EEC and includes services) on procurement procedures of entities operating in the water, energy, transport and telecommunications sectors as last amended by Directive 98/4/EC, implemented in the UK by SI 1996/2911.

3.15 This Directive shall apply to contracting entities:

- (a) which are public authorities or public undertakings and which pursue one of the activities referred to in Articles 3 to 6¹;
- (b) which, when they are not public authorities or public undertakings, have as one of their activities any of the activities referred to in Articles 3 to 6, or any combination thereof and operate on the basis of special or exclusive rights granted by a competent authority of a Member State.

3.16 A contract, which is intended to cover several activities, and which cannot be split up shall be subject to the rules applicable to the activity for which it is principally intended.

3.17 This Directive applies to contracts where their estimated value, net of VAT, is equal to or greater than:

- (a) 473,890 euros in the case of supply and service contracts in the water, electricity, urban transport, airports and ports sectors (with certain exceptions in the case of services where the current threshold is 400,000 euros).
 - i 400,000 euros for oil, gas, coal and railway sectors
 - ii 600,000 euros for telecoms sectors
- (b) 5,923,624 euros in the case of works contracts in the water, electricity, urban transport, airports and ports sectors (with certain exceptions in the case of services where the current threshold is 400,000 euros).
- (c)
 - i 5,000,000 euros for oil, gas, coal, railway and telecoms sectors.
 - ii 1,000,000 euros for small lots.

These thresholds are the current thresholds.

¹ Directive 93/38/EEC as amended; Scope: Definition of the activities and entities covered; Section 2; Activities referred to; p60-62

Supply, Works and Service Contracts

3.18 Supply, works and service contracts mean contracts for pecuniary interest concluded in writing between one of the contracting authorities or entities referred to in Article 2 (2)², and one or more suppliers, contractors or service providers, having as their object:

- (a) in the case of supply contracts, the purchase, lease, rental or hire-purchase of products, with or without the option to buy;
- (b) in the case of works contracts, which have as their object either the execution, or both the execution and design of building and civil engineering activities (referred to in Annex XI³). In addition, these contracts may cover the execution of these activities, by whatever means, as required by the contracting authority;
- (c) in the case of service contracts, contracts concerning services are mentioned in Annex XVI⁴

Compliance and Remedies Directives

3.19 There is also a Compliance Directive (89/665) for the general public sector and a Remedies Directive (92/13) for the utilities. These deal with remedial action for breaches of the rules. They are implemented in the UK via the main SIs.

New public sector and utilities procurement directives (2004/18/EC) and 2004/17/EC) are due to be implemented by 31 January 2006.

4. COMMUNITY PUBLICITY REQUIREMENTS

4.1 It is a condition of the grant offer that when entering into publicity in relation to this project, you must acknowledge the support being made by the European Union through the Welsh Ministers. Such publicity should refer to the Welsh Assembly Government. Publicity for these purposes shall include formal and informal announcements, press and journal articles and press releases, media interviews (television and radio) and official launches and openings. If you decide to accept this offer as contained in this letter you may be contacted by WEFO Communications Team to discuss this publicity requirement. If you decide to enter into publicity before a member of the WEFO Communications Team have a chance to contact you, please ring 01685 729346 in the first instance to discuss your proposals.

² Directive 93/38/EEC as amended; Definition of the activities and entities covered; Article 2 Contracting entities; p59

³ Directive 93/38/EEC as amended; Statistical obligations, implementing powers and final provisions; list of activities as set out in Article 1 (b), point B; p131

⁴ Directive 93/38/EEC as amended; Statistical obligations, implementing powers and final provisions; services within the meaning of Article 30 & 31; p150

4.2 Additionally, you must publicise the fact that the European Union, through the Welsh Ministers, is part-funding your project. A plaque will be issued shortly, free of charge, which must be displayed in a prominent position where visitors can be made aware of the funding received. This publicity should ensure that beneficiaries are fully aware that the project in which they are participating has been partly financed by the European Union and that you raise awareness of the European Union funding amongst potential beneficiaries and the general public.

Full details are contained in the Publicity Guidelines enclosed which must be strictly adhered to. If in doubt please telephone enquiries on 0845 010 3355 or email enquiries-wefo@wales.gsi.gov.uk You should also use these contacts for the ordering of extra plaques for further distribution to beneficiaries.

ANNEX C

Monitoring of EC Programmes

1. In accordance with the arrangements for monitoring and evaluation of the Objective 1 Programme agreed by the Programme Monitoring Committee, targets are being set for each project approved.
2. From the information provided in the application form for ERDF grant submitted to WEFO in respect of project reference number 56909, and taking into account any subsequent amendments made in consultation with WEFO the targets as identified in Annex C (I) have been set for the project.
3. Payment claim forms will be issued to sponsors quarterly by WEFO. The form must be returned showing progress made against performance activity targets even if no claim for grant is being made. You will also be expected to retain records and to report on progress using geographical, equal opportunity and other sub category breakdowns in respect of these targets.
4. During the life of the project, should it appear that any of the targets need to be amended by WEFO, a written explanation of the reason for the change must be submitted for consideration by WEFO before such changes may be confirmed by WEFO.

Monitoring of EC Programme expenditure

5. Article 38 of EC Regulation 1260/1999 sets out the general provisions for financial control. WEFO, takes responsibility in the first instance for financial control of ERDF assistance. The applicant agrees that the measures WEFO takes in relation to this grant may include:
 - (a) verifying that management and control arrangements for individual projects have been set up and are being implemented in such a way as to ensure that Community funds are being used efficiently and correctly;
 - (b) carrying out on-the-spot checks, including sample checks, on the operations financed by ERDF funds and on management control systems;
 - (c) ensuring that all assistance is managed in accordance with all the applicable Community rules and the funds are used in accordance with the principle of sound financial management.

ANNEX C (I)

Targets Set For Project 56909

	Description	Type	Predicted
1088	No. of marketing and promotion events supported	Activity	1.00
1089	No. of local facilities improved	Activity	1.00
1001	No. of gross new direct jobs	Result	7.90

ANNEX D

PAYMENT ARRANGEMENTS (ARREARS PAYMENTS)

Eligible expenditure

1. You must comply with the EC Regulations on eligible expenditure which are in the annex to EC Regulation 1685/2000. The EC may issue further regulations on this. In addition you should comply with the following definition of eligible expenditure.
2. Eligible expenditure must:
 - (1) not exceed the amounts stated in Annex A;
 - (2) not be expenditure on the costs described as ineligible at Annex D; and
 - (3) be project costs which have been paid by you and those organisations making payments for the project listed in the offer letter.
3. Before you can claim grant, the project costs must have been paid. "Paid" is defined as when the project has given money for goods and/or services and the money due has passed out of the control of the project by the time it is included in a claim for grant. In the UK the point at which this occurs is when the money is given or sent to the supplier by post or electronic instruction to the project's bank. As an example, for expenditure in relation to goods and/or services provided to the project by a supplier to be included in a claim for grant, an invoice must have been received, a transaction entered into the project's accounts and a cheque or equivalent sent to the supplier. The date the cheque or equivalent is sent will be the payment date.
4. ERDF grant is calculated as a percentage of eligible expenditure.

How to Claim grant

5. Applicants will be paid quarterly in arrears. Claim forms (P6) will be issued by WEFO on a quarterly basis and need to be returned by the date specified on the claim form (normally within 3 weeks) with claims reflecting actual expenditure for the previous quarter. The first form will be issued upon receipt of your acceptance of the offer of grant.
6. Claiming periods will operate on a quarterly rolling programme commencing at the start of the project i.e. for those applicants whose projects start work in January, April, July or October the claiming periods will be: January to March, April to June, July to September and October to December. For those whose projects start work in February, May, August or November the claiming periods will be February to April, May to July, August to October and November to January. For those whose projects start in March, June, September or December the claiming periods will be March to May, June to

August, September to November and December to February. Claim forms will be issued by WEFO to applicants at the end of each payment period.

7. Applicants must return their claim form even if no claim for grant is being made. Annex A showing performance made against activity targets, and section 15 showing future expenditure forecasts, which are used for monitoring and forecasting purposes must be completed in all cases.

8. Each claim must cover the whole of the period in question and must include a breakdown of the amount of eligible expenditure that will be funded by grant and the amounts funded by each of the other funding sources (or in kind contributions) specified in your application.

9. Annual audit certificates are required to support claims as at 31 March each year and at final claim stage. Final claims must be submitted within 3 months of physical and financial completion of the project or **30 September 2008**, whichever is earlier. 5% of grant will be retained pending the satisfactory receipt of this and the final audit certificate.

10. The total grant payable will be restricted to the total amount of grant shown in the covering letter. The amount of grant paid for each claim will be based on an approved percentage grant rate applied to the total eligible expenditure for the capital and revenue elements combined.

Inventory of Assets

11. The applicant must establish and maintain an inventory of all fixed assets acquired, built, or improved wholly or partly using ERDF grant, whether owned by Partnership members or third parties. 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 £2,500 can be excluded.

12. The inventory should show the:

- i) date of purchase;
- ii) description of asset;
- iii) price paid net recoverable VAT;
- iv) amount of ERDF grant paid;
- v) location of the title deeds;
- vi) serial or identification numbers;
- vii) location of the asset;
- viii) date of disposal; and
- ix) sale of proceeds net of VAT.

Examples of ineligible expenditure are listed below:

(Please note this list is not exhaustive. If you have a concern about whether an item of expenditure is eligible and covered by your approval you should contact WEFO.)

overheads allocated or apportioned at rates materially in excess of those used for any similar work carried out by the applicant

costs incurred prior to the date of the offer letter

notional expenditure

payments for activity of a political nature

depreciation, amortisation and impairment of assets purchased with the help of ERDF grant

provisions

contingent liabilities

contingencies

profit made by the applicant

dividends

interest charges unless under an approved State Aid scheme

service charges arising on finance leases, hire purchase and credit arrangements

costs resulting from the deferral of payments to creditors

costs involved in winding up a company

payments for unfair dismissal

payments into private pension schemes

payments for unfunded pensions

compensation for loss of office

bad debts arising from loans to employees, proprietors, partners directors, guarantors, shareholders or a person connected with any of these

payments for gifts and donations

entertainments

reclaimable VAT

statutory fines and penalties

criminal fines and damages

legal expenses in respect of litigation

Publicity and Information Guidelines for Approved Projects

Promoting the support from the European Union, provided through the Welsh Ministers, is a condition of grant included in the approval letter. As an integral element of their visits the Financial Control Team will be verifying that the support provided by the European Union has been properly acknowledged throughout all the project documentation and other publicity and information material including electronic material. Some or all of the grant awarded may be reclaimed if such support is not acknowledged in accordance with the approval and the guidance on publicity.

Commemorative Plaques

Permanent commemorative plaques are an excellent way to show that support has been received from the European Structural Funds and especially at sites accessible to the general public.

As of January 2004 bi-lingual plaques, publicising the support received from the European Union, provided through the Welsh Ministers, will be issued free of charge by WEFO to all approved project sponsors.

The plaque must show the logo applicable to the Programme or Community Initiative under which the project has been approved.

Billboards

In the case of infrastructure projects whose total cost is more than EUR 3 million (ERDF/ESF/EAGGF) or more than EUR 500,000 (FIFG) billboards are required on site both during and following construction for which the project sponsor will bear the costs. Billboards must be of a size that is appropriate to the scale of the operation and may either reflect all sources of finance or may just show the applicable logo for the programme.

The section of the billboard showing European support must meet the following criteria:

- It must take up at least 25% of the total area of the billboard
- The emblem shall be presented in accordance with the current specifications
- It must show the logo applicable to the programme under which the project has been approved.

The lettering used to indicate support from the European Union, must also state that that support is provided through the Welsh Assembly Government and must be at least the same size as the lettering for other contributions, although the typeface may be different.

Billboards shall be removed not later than six months after completion of the work and replaced by the commemorative plaque as supplied.

Publicity/Information Material

Publications (e.g. booklets, newsletters, leaflets)

A clear indication of the European Union participation must be given on the title page and it must also be stated that such support is provided through the Welsh Assembly Government. The applicable logo for the programme or community initiative must also be used. Publications must also include references to the body responsible for the information content and to the Welsh European Funding Office acting under the authority of the Welsh Ministers who are responsible for the implementation of the Structural Funds in Wales as sources of further information. The applicable logo should also be used on the stationery of a part-financed project.

Electronic information (e.g. websites, audio-visual material)

The principles for publications should be applied. For websites in particular, the applicable logo must be included at least on the home page and hyperlinks included to Commission websites related to Structural Funds e.g. <http://europa.eu.int>. All visual presentations (power point, over head projector etc) for a project part-financed by the European Union should display the applicable logo.

Information Events

Conferences, seminars, fairs and exhibitions in connection with part-financed projects must display the applicable European Union logo in a prominent place (for example, display/banner stands and literature) and any other publicity material used.

Information to Beneficiaries

It is essential to make beneficiaries aware that they are participating in a project part-financed by the European Union through the Welsh Ministers. The applicant should refer to the Welsh Assembly Government (rather than the Welsh Ministers). This is particularly important for beneficiaries of training schemes and employment measures as well as businesses and community groups, clearly stating the assistance in letters to beneficiaries as well as using the applicable logo on certificates and forms are just some methods. Beneficiaries should be aware of the location of the free plaque that will have been issued so that they are aware of the Structural Fund Programme or Community Initiative under which their scheme is being part-financed.

Posters

In order to inform beneficiaries and the general public, the Welsh European Funding Office, acting under the authority of the Minister for the Economy and Transport, one of the Welsh Ministers, shall be entitled to display posters indicating the European Union's contribution and the Programme concerned on your premises.

Press Releases

In developing press releases, it would be helpful if you could work alongside the Welsh Assembly Government press office in terms of timing, content etc.

In press releases about your project (eg. announcing approval or a launch event) you must acknowledge the funding received from the European Union, provided through the Welsh Assembly Government, and the Programme or Community Initiative concerned.

It is desirable that the following descriptions of the Programmes or Community Initiatives to which the approval relates are explained:

Objective 1

Development Lagging Behind - to promote the development and structural adjustment of regions whose economic development is lagging behind - usually those regions whose per capita GDP is less than or close to 75% of the Community average.

Objective 2

Industrial Areas and Regions in Decline - to convert the areas hardest hit by industrial decline, where traditional industries such as coal and steel, textiles and shipbuilding can no longer compete successfully, causing major social and economic hardship and dislocation for the local workforce. Areas where the average rate of unemployment and the percentage of industrial employment is higher than the Community average.

Objective 3

Combats long term unemployment; assists young people and those at risk from exclusion from the workforce; promotes equal opportunities and improves women's position in the workforce; promotes adaptability and entrepreneurship in the workforce; and improves training, education and counselling for lifelong learning.

LEADER+

A Community Initiative to promote the development of rural areas. Its aim is to encourage and help rural actors to think about the longer-term potential of their area. LEADER+ seeks to encourage the implementation of integrated, high-quality, original strategies for sustainable development based upon innovative approaches towards rural development.

INTERREG IIIA

A Community Initiative which promotes cross-border, transnational and inter-regional co-operation in the European Union and its border regions. INTERREG IIIA supports joint Irish/Welsh projects with the aim of promoting the sustainable development of the cross-border region through an integrated approach to economic, social and environmental development.

EQUAL

A Community Initiative which aims to promote new ways of combating all forms of discrimination and inequalities in relation to the labour market, through transnational co-operation. EQUAL also includes action to help the social and vocational integration of asylum seekers.

URBAN II

A Community Initiative which aims to promote sustainable economic and social regeneration of an urban area. URBAN II is a European wide initiative, west Wrexham being the only area in Wales receiving assistance.

You may also choose to further describe the tasks of the particular fund under which your project has been approved as follows:

European Regional Development Fund (ERDF)

- Helping to reduce the gap in development between the Community's regions.

European Social Fund (ESF)

- Helping develop employment by promoting employability, the business spirit and equal opportunities and investing in human resources.

European Agricultural Guidance and Guarantee Fund (EAGGF)

- Helping preserve the link between diversified farming and the land.
- Improving and supporting the competitiveness of agriculture as a key activity in rural areas.
- Ensuring the diversification of the economy in rural areas.
- Helping to keep thriving communities in rural areas.
- Preserving and improving the environment, the landscape and the rural heritage.

Financial Instrument for Fisheries Guidance (FIFG)

- Helping achieve a sustainable balance between marine resources and their exploitation.
- Modernising fishing structures to ensure the future of the industry.
- Helping maintain a dynamic and competitive fishing industry and revitalise areas dependent on fishing.
- Improving the supply and exploitation of fishery products.

Wording for more than one Fund:

- The **Structural Funds** aim to help to promote the development and structural adjustment of a region that has fallen behind other parts of the European Community.

Abbreviations must not be used without the full names of the Funds.

If you choose to mention the **Welsh European Funding Office**, it must be made clear that it is acting on behalf of the Welsh Ministers who are the Managing Authority for European Structural Funds in Wales and that the Welsh Ministers are generally referred to as the Welsh Assembly Government in this context. Please use our full name rather than the abbreviated form (i.e. WEFO).

You should never use the WEFO logo in any publicity material.

European Funding Logos

Style guidance notes for the logos, - used for Objective 1, Objective 1 ESF, Objective 2, Objective 3, URBAN II, EQUAL, LEADER+ and INTERREG IIIA can be obtained by contacting our enquiries service.

The ESF logo is only used for projects approved under Objective 3, Objective 1 and the EQUAL Community Initiative ESF funded projects.

Keeping Us Informed

Please add us to your mailing list for press releases etc (FAO Marcia Morgan, Communications Manager). We would also be interested in attending project launch events and welcome any photographs/videos of your project.

Further Information - We Are Here to Help

If you require any further information/advice contact

Enquiries-wefo@wales.gsi.gov.uk or telephone our help desk on 0845 010 3355
Or contact:

Siân Bryant, Website/Publicity Manager on 01685 729341
E-mail: Sian.Bryant@wales.gsi.gov.uk

Marcia Morgan, Communications Manager on 01685 729340
E-mail: Marcia.Morgan@wales.gsi.gov.uk

