**Essential Update June 2019 – Learning from Article 127 checks: Procurement Compliance and Hourly rate guidance**

**Learning from Article 127 checks: Procurement Compliance**

There have now been a number of Article 127 visits on the Building Better Opportunities programme. These audits look at items of expenditure and participant files in a similar way to the Article 125 verification checks, but are more extensive with bigger sample sizes. They are designed to provide assurance to the European Commission.

Given what we have learnt from the audits which have taken place, we would like to draw your attention to **compliance with** **procurement regulations**. The requirements vary according to the nature of your organisation and the size of procurement, but the Article 127 auditors expect to see a full audit trail demonstrating compliance with the relevant rules. If a project cannot provide satisfactory evidence that it has complied, it may face financial clawback - a percentage of the value of the procurement amount.

We strongly recommend that you look at any previous and current procurement exercises your project has undertaken, and ensure that full evidence of compliance is secured and readily available. This may include, but is not limited to: records of advertisements, including the time for which they were published, decision making papers and reports, and invitation to tender documents.

The Fund does not have the expertise to advise you on procurement, and you may decide that it is appropriate to check your position with professional advice. As a starting point, please refer to the [National ESIF Procurement Requirements](https://www.gov.uk/government/publications/european-structural-and-investment-funds-procurement-documents).

**Example of the use of use of the hierarchy of evidence and risk based exception in eligibility evidence: Right to live and work in the UK - transgender participants**

Whilst it is important to attempt to obtain evidence showing a participant has the right to live and work in the UK which is on the ‘preferred’ list, there may be occasions where it is not possible or may cause distress to the participant in doing so.

We are aware that there have been instances where transgender individuals have been uncomfortable presenting birth certificates that show a different name and their birth assigned gender. The Managing Authority have confirmed that the hierarchy of evidence would be applicable in these situations. Therefore with a suitable explanation, the participant could provide either alternative credible evidence of the right to live and work in the UK, or no evidence if a fully documented risk based exception is made. The project officer working with the participant should follow the hierarchy of evidence approach set out on the participant entry form (annex H).

For more detail on the use of hierarchy of evidence and risk based exceptions, please see the Managing Authority’s guidance on [ESF Data Evidence Requirements – Eligibility and Results](https://www.gov.uk/government/publications/european-structural-and-investment-funds-eligibility-documents).

**Hourly rate guidance**

Version 2 of the hourly rate guidance is now available on the Guide to Delivering European Funding pages of our website. This reflects the information included within [January 2019 essential update](https://bigmail.org.uk/t/3V8D-IEHA-EA15KZF03F/cr.aspx), allowing pay rises to be taken into account. To support this we have retired annex S as we no longer need to calculate hourly rates using what we previously referred to as the ‘existing’ methodology.