



Llywodraeth Cymru
Welsh Government

PUBLICATION

Flood and coastal erosion risk management grants terms and conditions: small scale works grant

Please read the Terms and Conditions before you accept the Contract.

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1. Interpreting the conditions

Any reference in the Conditions to:

'you', **'your'** is to; the name and registered address of the grant recipient as detailed in the Contract

'we', **'us'**, **'our'** is to the Welsh Ministers;

'Welsh Government' is to a representative of the Welsh Government

'Project Manager' is to the Project Manager as detailed in the Contract

'Application' is to your application for Funding;

'Business Day' is to a day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday in Wales under the Banking and Financial Dealings Act 1971;

'Conditions' is to the terms and conditions set out in this document and in the Contract

'Costs Incurred' is to the cost of goods and/or services you have received regardless of whether you have paid for them by the date of your claim;

'Costs Incurred and Paid' is to the invoiced cost of goods and/or services you have received and which have been paid for by you in cleared funds by the date of your claim;

'Notification Event' is to any of the events listed in Annex 1;

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'Delivery Profile' is to the Delivery Profile set when you accept the Contract
'Personnel' is to your management/employees and suppliers or any other person appointed or engaged by you in relation to the Purposes;
any reference to any legislation whether domestic or international law will include all amendments to and substitutions and re-enactments of that legislation in force from time to time.

2. Use of the funding

1. You must use the Funding solely for the Purposes set out in the Contract
2. Any change to the Purposes will require our written consent which must be obtained from us in advance of implementing any change. Please note that we are not obliged to give our consent but we will consider all reasonable written requests.
3. You must not use any part of the Funding for any kind of activity which in our opinion could bring us into disrepute, including but not limited to (1) party political purposes, (2) the promotion of particular secular, religious or political views; (3) gambling, (4) pornography, (5) offering sexual services, or (6) any kind of illegal activities.
4. You must not use any part of the Funding for: (1) purchasing capital equipment (other than as specified in the Purposes), (2) your legal fees in relation to the Contract, (3) Costs Incurred or Costs Incurred and Paid by you in the delivery of the Purposes prior to the period referred to in the Contract.

3. Funding pre-conditions

1. We will not pay any of the Funding to you until you have accepted the Contract on RPW Online within 21 days of the offer and provide documentary evidence that you have put in place all staff and other resources detailed in the Application as required to commence and complete the Purposes.

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2. Where you are required to provide information and documentation to us as evidence that you have satisfied a particular pre-condition, Condition or in support of a claim, the information and documentation must be in all respects acceptable to us. We reserve the right to reject any information and documentation which is for any reason not acceptable to us, and/or request any further or additional information and/or documentation in support of the request for Funding.

4. How to claim the funding

1. You may claim the Funding quarterly in arrears based on Costs Incurred by you in the delivery of the Purposes.
2. You must claim the Funding in accordance with the dates set out in the Delivery Profile. You must claim the Funding promptly. We reserve the right to withdraw any part of the Funding that you do not claim promptly.
3. You must submit your claims via your RPW Online account with all supporting evidence to be eligible for consideration for payment.
4. You must submit the following information in support of your claims via your RPW Online account:
 - a. i) confirmation that you are operating in all respects in accordance with your constitution; and
 - b. ii) confirmation that you have appropriate financial, risk and control systems in place before utilising any part of the Funding to provide a grant to or procure any goods or services from third parties;
 - c. iii) Progress Report
 - d. iv) Invoices supporting payments made when submitting final claim
 - e. v) A breakdown of the final costs of the work on a final claim and where appropriate for construction grants, a copy of the Contractors final accounts.
5. We will aim to pay all valid claims as soon as possible and typically within 20

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Business Days of receipt of a valid claim with supporting evidence being made in accordance with the provisions of the Contract, and provided always that the Funding pre-conditions set out in Condition 3 above have been satisfied and that on both the date of the claim and the date the Funding is to be paid to you:

- a. the declarations made in Condition 6 below are true and correct and will be true and correct immediately after the relevant Funding has been paid to you; and
- b. no Notification Event is continuing or might result from the proposed Funding.

5. Your general obligations to us

You must:

1. safeguard the Funding against fraud generally and, in particular, fraud on the part of your Personnel and notify us immediately if you have reason to suspect that any fraud within your organisation has occurred or is occurring or is likely to occur whether or not it relates to the Funding. You must also participate in such fraud prevention initiatives as we may require from time to time;
2. maintain appropriate procedures for dealing with any conflicts of interest in relation to the Funding whether actual, potential or perceived;
3. comply with all applicable domestic or international laws or regulations or official directives;
4. maintain adequate insurances to cover against the risks which may arise in connection with any property or any activity undertaken in delivery of the Purposes. We reserve the right to require you to provide proof of your insurance;
5. maintain appropriate financial, risk and control systems before utilising any

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part of the Funding to provide a grant to or procure any goods or services from third parties;

6. co-operate fully with the Welsh Government or consultant appointed by us to monitor your use of the Funding and your compliance with the Conditions;
7. inform us immediately if any of the declarations made in Condition 6 is incorrect in any respect or, if repeated at any time with reference to the facts and circumstances then existing, would be incorrect;
8. notify us of any funding received by you from any source which is procured or utilised in conjunction with the Funding to directly support the Purposes including but not limited to your insurance provider (cancellation/business disruption insurance), the UK Government's Coronavirus Job Retention Scheme and/or any Welsh Government fund/scheme and any other funders. The intention of this Condition is to avoid any duplication of funding in respect of the Purposes.

6. Declarations

You declare that:

1. you have the power to enter into and to perform the obligations set out in the Terms and Conditions and you have taken all necessary action to authorise the entry into and performance of the obligations under the Terms and Conditions;
2. no limit on your powers will be exceeded as a result of claiming the Funding, or the grant of any security contemplated by the Terms and Conditions;
3. the entry into and performance by you of, and the transactions contemplated by, this letter do not and will not contravene or conflict with:
 - a. your constitutional documents;
 - b. any agreement or instrument binding on you or your assets or constitute a default or termination event (however described) under any such

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- agreement or instrument; or
- c. any law or regulation or judicial or official order, applicable to you;
4. no Notification Event is continuing or might reasonably be expected to result from the provision of the Funding and no other event or circumstance is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination thereof, would constitute) a default or termination event (howsoever described) under any other agreement or instrument which is binding on you or to which any of your assets is subject;
 5. no litigation or arbitration or administrative proceeding is current or pending or, so far as you are aware, threatened, which has or could have an adverse effect on your ability to perform and comply with any of the Terms and Conditions;
 6. you have disclosed to us all material facts or circumstances which need to be disclosed to enable us to obtain a true and correct view of your business and affairs (both current and prospective) or which ought to be provided to any person who is considering providing funding to you;
 7. any information, in written or electronic format, supplied by you to us in connection with the Funding was, at the time it was supplied or at the date it was stated to be given (as the case may be):
 - a. if it was factual information, complete, true and accurate in all material respects;
 - b. if it was a financial projection or forecast, prepared on the basis of recent historical information and on the basis of reasonable assumptions and was arrived at after careful consideration;
 - c. if it was an opinion or intention, made after careful consideration and was fair and made on reasonable grounds; and
 - d. not misleading in any material respect, nor rendered misleading by a failure to disclose other information, except to the extent that it was amended, superseded or updated by more recent information supplied by you to us.

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8. there are no conflicts of interest in relation to the Funding whether actual, potential or perceived;
9. acceptance of this award of Funding will not result in duplicate funding in respect of the activities required to deliver the Purposes. This includes but is not limited to any payments received by you in relation to the effects of the spread of the Coronavirus (COVID-19) from your insurance provider (cancellation/business disruption insurance), the UK Government's Coronavirus Job Retention Scheme and/or any Welsh Government fund/scheme and any funders.
10. You will be deemed to repeat the declarations in this Condition 6 on each date you may have any liability to repay the award of Funding to us, and by reference to the facts and circumstances existing on each such date.

7. Notification events and their consequences

1. You must notify us immediately if a Notification Event has occurred or is likely to occur but we also reserve the right to notify you where we believe a Notification Event has occurred or is likely to occur.
2. We will either:
 - a. notify you that we, at our absolute discretion, consider the Notification Event is not capable of remedy; or
 - b. if we consider, at our absolute discretion, that the Notification Event is capable of being remedied, seek to discuss the Notification Event with you with a view to agreeing a course of action to be taken to address the Notification Event.
3. We will be entitled to take any of the actions listed in Condition 7(d) if:
 - a. despite our efforts we have been unable to discuss the Notification Event with you; or
 - b. we notify you that the Notification Event is not, in our opinion, capable of

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- remedy; or
 - c. a course of action to address and/or remedy the Notification Event is not agreed with you; or
 - d. a course of action to address and/or remedy the Notification Event is agreed with you but you fail to follow it, or any conditions attached to it are not met (including without limitation the timescale for such course of action) to our satisfaction; or
 - e. the course of action fails to remedy the Notification Event to our satisfaction.
4. If any of the circumstances set out in Condition 7(c) occurs we may, at our absolute discretion, by notice to you:
- a. withdraw the award of Funding; and/or
 - b. require you to repay all or part of the Funding; and/or
 - c. suspend or cease all further payment of Funding; and/or
 - d. make all further payments of Funding subject to such conditions as we may specify; and/or
 - e. deduct all amounts owed to us under the Conditions from any other funding that we have awarded or may award to you; and/or
 - f. exercise any other rights against you which we may have in respect of the Funding.

All repayments of Funding must be made to us within 20 Business Days of the date of our demand.

8. Monitoring requirements

You must:

1. provide us with such documents, information and reports which we may reasonably require from time to time in order for us to monitor your compliance with the Terms and Conditions including:
 - a. progress reports including future forecast spend.
2. meet with the Welsh Government as we may from time to time reasonably

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require.

3. ensure that the Project Manager (or such person as we may agree) together with any other person attends all meetings with the Welsh Government.

9. Audit requirements

1. You must:
 - a. maintain complete, accurate and valid accounting records identifying all income and expenditure in relation to the Purposes;
 - b. without charge, permit any officer or officers of the Welsh Government, Audit Wales or any UK subsidy enforcement body at any reasonable time and on reasonable notice (in exceptional circumstances, such as the prevention or detection of fraud, it may not be practicable to provide you with reasonable notice) being given to you to visit your premises and/or to inspect any of your activities and/or to examine and take copies of your books of account and such other documents or records howsoever stored as in such officer's reasonable view may relate in any way to your use of the Funding. This undertaking is without prejudice and subject to any other statutory rights and powers exercisable by the Welsh Government, Audit Wales or any UK subsidy enforcement body or any officer, servant or agent of any of the above;
 - c. retain all original documents relating to the Funding until we inform you in writing that it is safe to destroy them;
2. Under paragraph 17 of Schedule 8 to the Government of Wales Act 2006 the Auditor General for Wales has extensive rights of access to documents and information relating to monies provided by the Welsh Government. They and their officials have the power to require relevant persons who control or hold documents to give any assistance, information and explanation that they may require; and to require those persons to attend before them for such a purpose. The Auditor General and their staff may exercise this right at all reasonable times.

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10. Third party obligations

1. Nothing in the Terms and Conditions imposes any liability on us in respect of any liability incurred by you to any third party (including, without limit, employees and contractors).
2. You must indemnify us against any liabilities, claims, proceedings, demands, losses, costs and expenses suffered or incurred by us directly or indirectly arising as a result of or in connection with any failure by you to perform fully or in part any obligation you may have to a third party.

11. Intellectual property rights and publicity

1. Nothing in the Terms and Conditions transfers to us any rights in any intellectual property created by you as a result of the Purposes.
2. You must acknowledge our support in relation to the Purposes. Such acknowledgement(s) must be in a form approved by us and must comply with the Welsh Government's branding guidelines.
3. You must provide the Welsh Government with details of all the acknowledgement(s) referred to in Condition 12(b) for our approval before any such acknowledgements are used and you may not use such acknowledgments without our prior written approval. We will endeavour to respond to all written requests for approval within 14 Business Days.
4. You agree that from the date of this letter until 5 years from the date of the final payment of Funding we may include details about your organisation and business, the Funding and the Purposes in Welsh Government promotional materials and you further agree to cooperate with our reasonable requests to achieve the production of such materials.

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12. Information

1. (You acknowledge that we are subject to the requirements of the Freedom of Information Act 2000 (the “FOIA”), the Environmental Information Regulations 2004 (the “EIR”), the Data Protection Act 2018 (the “DPA”) and the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (the “UK GDPR”).
2. You acknowledge that we are responsible for determining in our absolute discretion whether:
 - a. to disclose any information which we have obtained under or in connection with the Funding to the extent that we are required to disclose such information to a person making a disclosure request under the FOIA or the EIR; and/or
 - b. any information is exempt from disclosure under the FOIA or the EIR.
3. You acknowledge that we may share any data you provide to us with fraud prevention agencies and third parties for the purposes of preventing and detecting fraud. Any personal data we collect will be managed in accordance with our [Privacy Notice](#).

13. Buying goods and services

1. If you decide to buy any goods and/or services to deliver the Purposes, they must be purchased in a competitive and sustainable way so as to demonstrate that you have (i) achieved best value in the use of public funds, and (ii) complied with your conflict of interest policy at the relevant time.
2. We may from time to time request evidence from you to demonstrate your compliance with this Condition 13. Such evidence may take the form of evidence of your:
 - a. compliance with any procurement regulations, legislation or guidance in

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- place from time to time to which you, or any person carrying out a business or function of the same or similar nature to you, is subject; or
- b. compliance with your procurement policy in place at the relevant time; or
 - c. obtaining a minimum of three written quotations for the relevant goods and/or services.

You must supply such evidence to us promptly following our written request for such evidence.

14. Giving notice

Where notice is required to be given under the Terms and Conditions it must be in writing in the form of a letter with a topic heading of “**Notice in relation to the xxxx**” via your RPW Online account.

A notice will be deemed to have been properly given as follows:

By RPW Online: upon transmission or the next Business Day if after 4pm or on a weekend or public holiday.

15. Equality

You must have in place and apply equality policies covering employment, use of volunteers and provision of services, in accordance with the Equality Act 2010.

16. Welsh language

1. The Welsh Government is committed to supporting the Welsh language and culture and The Cymraeg 2050: A million Welsh speakers Welsh language strategy (Cymraeg 2050) provides a vision for the growth and further development of the Welsh language.

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2. Where the Purposes include or relate to the provision of services in Wales, they must be provided in Welsh and English unless it would be unreasonable or disproportionate to do so. They must be provided in such a way as to not treat the Welsh language less favourably than English, in accordance with the Welsh Language (Wales) Measure 2011.
3. Where the provision of services forms part of the Purposes, you must act in accordance with the Welsh Language (Wales) Measure 2011 and the aims of Cymraeg 2050. In practice, this will include the following:
 - a. Ensure that any written material produced, including digital material, is bilingual.
 - b. Ensure that any signage is bilingual.
 - c. Ensure that any training or public events are held bilingually.
 - d. Actively promote and facilitate the Welsh language (including providing services and increasing opportunities to use the Welsh language) within funded activities.

For general advice on providing services bilingually and for information on which organisations are able to support you, please contact the Welsh language advice service “Helo Blod” on 03000 258888 or e-mail heloblod@gov.wales with your query.

17. Sustainable development

Your use of the Funding must contribute to the achievement of the Welsh Government’s well-being objectives contained in the Welsh Government’s Programme for Government. You must work in a sustainable way (sustainable development principle) in delivering the Purposes so as to ensure you are working in a preventative, integrated, long-term and collaborative way that involves people that reflect the diversity of Wales. Please refer to the Contract for further information.

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18. Welsh Ministers' functions

You acknowledge that the Welsh Ministers have a range of functions which will continue to accrue and be amended and that decisions in relation to each such function are obliged to be taken in the light of all relevant and to the exclusion of all irrelevant considerations. You agree that nothing contained or implied in, or arising under or in connection with, the Terms and Conditions will in any way prejudice, fetter or affect the functions of the Welsh Ministers or any of them nor oblige the Welsh Ministers or any of them to exercise, or refrain from exercising, any of their functions in any particular way.

19. General

1. If at any time any of the Terms and Conditions are deemed to be or become invalid, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired.
2. No failure or delay on our part to exercise any power, right or remedy under the Terms and Conditions will operate as a waiver of any such power, right or remedy or preclude its further exercise or the exercise of any other power, right or remedy. The powers, rights or remedies hereby provided are cumulative and not exclusive of any powers, rights or remedies provided by law.
3. Any amendment or variation to the Terms and Conditions must be in writing and signed by us and you in the same manner as the Contract (or as otherwise agreed by us in writing from time to time).
4. You may not assign or otherwise dispose of in any way your rights, benefits, obligations or duties under the Terms and Conditions.
5. Conditions 5,7,9,11,12 and 19(e) of the Terms and Conditions and such

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other Conditions which by implication need to continue in force beyond the final payment of Funding will so continue in full force and effect.

6. The award of the Funding is to you alone and no one else is entitled to make any claim in respect of the Funding or seek to rely on or enforce any of the Terms and Conditions.
7. In circumstances where you comprise two or more persons or bodies, the liabilities of such persons or bodies shall be joint and several and the default of one of such persons or bodies shall be deemed to be the default of all.
8. The Terms and Conditions and any disputes or claim (including any non-contractual disputes or claims) arising out of or in connection with it its formation or its subject matter are to be governed by and construed in accordance with the laws of Wales and England as applied in Wales and the parties hereto submit to the exclusive jurisdiction of the courts of Wales and England.

Annex 1

Notification Events

The Notification Events referred to in Condition 7 are listed below:

1. repayment of any part of the Funding is required in accordance with any relevant legislation;
2. you fail to comply with any of the Terms and Conditions;
3. the Funding, in full or in part, is not being used for the Purposes;
4. you fail to achieve any or all of the Purposes within the Contract;
5. there is unsatisfactory progress towards completing the Purposes within the

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Contract;

6. you fail to provide information about the Purposes requested by us or any UK subsidy enforcement body or any of its auditors, agents or representatives;
7. we have reason to believe that you and/or any of your Personnel are involved in fraudulent activity or have been involved in fraudulent activity [whilst the Purposes are/were being carried out];
8. we have made an overpayment of Funding to you;
9. there is a duplication of funding in respect of any part of the Purposes. This includes but is not limited to any payments received by you in relation to the effects of the spread of the Coronavirus (COVID-19) from your insurance provider (cancellation/business disruption insurance), the UK Government's Coronavirus Job Retention Scheme and/or any Welsh Government fund/scheme
10. any declaration made in Condition 6 is, or proves to be, incomplete untrue or misleading incorrect in any respect or, if repeated at any time with reference to the facts and circumstances then existing, would be incorrect;
11. there has been a modification (qualification, adverse or disclaimer) to the auditor's opinion on your financial statements;
12. an event or circumstance has occurred and is outstanding which constitutes (or, with the expiry of a grace period, the giving of notice, the making of any determination or any combination thereof, would constitute) a default or termination event (howsoever described) under any other agreement or instrument which is binding on you or to which any of your assets is subject;
13. a moratorium in respect of all or any of your debts or assets or a composition or an agreement with your creditors is agreed, applied for, ordered or declared;

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14. you stop or suspend payment of any debts or are unable, or admit in writing your inability, to pay your debts as they fall due;
15. the value of your assets is less than your liabilities (taking into account contingent and prospective liabilities);
16. you commence negotiations, or enter into any composition, compromise, assignment or arrangement, with one or more of your creditors with a view to rescheduling any of your indebtedness (because of actual or anticipated financial difficulties).
17. any action, proceedings, procedure or step is taken in relation to you in relation to:
 - a. the suspension of payments, a moratorium in respect of any indebtedness, winding up, dissolution, administration or reorganisation (using a voluntary arrangement, scheme of arrangement or otherwise); or
 - b. a composition, compromise, assignment or arrangement with any of your creditors; or
 - c. the appointment of a liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer in respect of you or any of your assets.
18. a statutory demand is issued against you;
19. you cease, or threaten to suspend or cease, to carry on all or a material part of your business;
20. there is a change in your constitution, status, control or ownership and/or your external auditors resign;
21. you fail to comply with any statutory reporting obligations which are applicable to you (including, but not limited to, filing requirements at Companies House, the Charity Commission, the Financial Conduct Authority);

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22. there is any change, whether permanent or temporary, in your shareholders, directors, trustees or partners and/or Personnel which may affect your ability to deliver the Purposes;
23. any event occurs or circumstances arise which in our opinion gives reasonable grounds for believing that providing the Funding and/or the continuation of the arrangements contemplated by the Contract could bring us into disrepute;
24. any event occurs or circumstances arise which in our opinion gives reasonable grounds for believing that you may not, or may be unable, to perform or comply with any of your obligations under the Terms and Conditions.

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