Draft Q & A Issue 18 29/01/19

No.	LAG	Question	Response
		Procurement	
1.	**Monaghan**	As part of a Co-operation project we will be required to use personal credit cards to pay for flights and transport (as we don't have a company credit card). The Operating Rules section 12.2 states that if the promoter doesn't have a credit card in its own name and is using another credit card, they must transfer the funds to the credit card in advance of the purchase. In the case of purchasing flight and transport the cost of flights can fluctuate with a number of hours. With the necessary signature requirement for transferring company funds there is likely to be an issue if the price changes within the timeframe of transferring funds. Would it be acceptable to allow the purchase to be made and the credit card to be reimbursed after the payment? This would provide certainty in relation to price and allow the transfer of funds to exactly match the cost of the purchase.	OR 12.2 says that the promoter must have paid for the goods/service in advance of its receipt and subsequent claim for re-imbursement. However, the Department notes that the order of the three steps applicable to the reimbursement indicates that prior payment must be made to the credit card from which the expense will subsequently be paid. The related text of OR 12.2 is as follows - - where project promoters are required to pay for an item using a credit card e.g. online purchases, but they do not have a credit card in their name, the following steps must be adhered to: 1. Promoter pays the credit card holder the relevant amount for the purchase. This should be traceable through bank statements etc. 2. Credit card holder purchases the item. 3. Receipted invoice is received. The upcoming Version 3 of the LEADER Operating Rules 2014-2020 will be revised as follows. Where project promoters are required to pay for an item using a credit card e.g. online purchases, but they do not have a credit card in their name, the following steps must be adhered to: 1. Credit card holder purchases the item.

			2. Promoter pays the credit card holder the relevant amount for the purchase. This should be traceable through bank statements etc. 3. Receipted invoice is received and claimed by the project promoter.
2	**Wicklow**	In the case if a literary festival where each writer is paid a flat amount to partake, can the promoter submit a quotation for multiple writer's fees without submitting an individual quote from each writer? Are 3 quotes for this action required, as this would be undoable as the festival committee forms the panel of invitees and asking another 2 parties to submit would be not feasible? Therefore, could the festival promoter submit one quote for the per capita fee by the number of participants so that no other quotes would therefore be required? And at payment stage would the individual payments out of the literary festival promoter's bank account suffice, along with a letter from each writer confirming receipt of same for accounting purposes?	Given the nature of the project, where the project promoters are proposing to pay each writer a set fixed amount contribution for their appearance at the festival, it is the Department's view that there is no requirement to carry out a procurement process for this element of the project. The cost should be documented as a fixed amount (no quotation required) in the application for aid. The Evaluation Committee should evaluate if the cost is reasonable. Yes. Individual payments to each writer must be supported by related bank account payment details and written confirmation of receipt of payment by the writer.
		Project File	
3	**Longford**	We have a query from the Local Authority, which has been clarified by Pobal, in relation to the requirement to upload the full set of the signed LEADER Evaluation Committee Minutes to the document repository in relation to an individual project application. I believe this could have implications in relation to data protection and confidentiality, therefore require clarification on same.	Extracts of both Evaluation and LAG minutes will suffice for the document repository record. (Section 12.1 of the LEADER Operating Rules). Alternatively, details of all other projects may be redacted from the minutes.

Eligibility			
4	**Limerick**	We have received a query from a potential new artisan food promoter regarding funding to establish a bagel business. The bagels he proposes to produce are artisanal style Montreal (Canadian) bagels not currently being produced in Ireland. At present the promoter is considering developing the business in the form of a bakery/café where people can see the bagels being made from scratch that they can then purchase and eat on site as well as take part in classes in how to make bagels. If this initial phase of the business proves successful, it is his intention to move to wholesale and sell bagels through other retail outlets. Can you please confirm if the initial phase of the business would be eligible for funding or if it would fall under the definition of conventional retail operations similar to other cafes?	It is the Department's view that the initial phase of the proposed project (the development of the business) will be a conventional retail operation, as the customers can purchase the product in the bakery/café. Operating Rules 6.4 therefore applies - Project Assessment - Ineligible Sectors and Activities.
5		The following appears to be a Horticultural project (see description of the project below). We will be going back to the Group to inform them of this, unless the Department has a different view? <u>Project Description</u> "To establish biodiversity planting and re-construction of a pathway (c 320m) alongside the River XXXXX. This second walkway is at a lower level to the adjacent existing walk from XXXX Castle to the XXXXX and will establish a loop walk over the	Based on the description provided, this project would not appear to be a horticulture project, but one that fits under the sub-theme Protection and Improvement of Local Biodiversity as described in Section 3.5 of the LEADER 2014 – 2020 Operating Rules.

		two pathways. Planting will involve native trees and shrubs, which will be specifically selected to enhance biodiversity. The group plan to remove this invasive species and plant native trees of Ash, Oak, and Chestnut etc. along with shrubs that are attractive to pollinators and birds. The plants will be marked and named and are part of the plan to create an increase of flora and fauna to the area. This varied planting will support an ecosystem with increased biodiversity. This will complement the work already undertaken by XXXXX Tidy Towns in the XXXX Field where they have established a number of biodiversity reserve areas which attract native wildlife. It will also act as an educational area, demonstrating native and pollinator friendly plants and ways of supporting biodiversity The impact of the new path will be maximised by suitable signage, making it an educational, social and heritage resource and an amenity for young and older persons, family groups and tourists. It will provide a shorter looped walk through the woodland area which will be attractive to many groups such as a) Bus Tourists who have limited time, b) Families with very young children, c) people with disabilities or reduced mobility, e) people who may be waiting while their car charges in the soon to be installed chargers in the carpark.”	

6	**Longford**	We have received an enquiry from a business person who operates a small enterprise centre in a rural village. Within the enterprise centre, he operates a Centra Retail store. He is planning to install solar panels on the centre to make it more energy efficient, and would like to apply for RDP funding. In light of the response to a recent Q&A below, am I right in concluding that this application would be eligible? In the event of a professional service organisation (engineering firm) applying to install Solar PV Panels on their main building/premises, can they be considered for support given that the application for grant aid would not relate to the services they provide and would not displace at any significant level other similar organisations in the area. Question 2: The Operating Rules do not preclude private entities from availing of funding under this Theme, therefore the proposed project is eligible in principal for LEADER funding once it is in line with the LDS and other Programme requirements.	Based on the information provided, the Department's view is that as the Centra store is a retail operation it would not be eligible for funding as per Operating Rules Section 6.4 – Conventional retail operations, excluding community based shops and farm shops selling locally produced produce. If elements of the enterprise centre are not used for conventional retail operations, then related costs may qualify for funding subject to the standard eligibility provisions, and an apportionment of overall costs would apply.
7	**Leitrim**	I have been contacted by a person who owns and runs a business providing an important service to farmers. The business is running ok but is struggling in certain ways and needs investment to enhance and improve it particularly in the area of health and safety. The business is a livestock mart and the owner has enquired about the possibility of RDP grant funding	On the basis of the information provided the project would appear to be eligible in principle, subject to the usual conditions, so long as the proposed renovation/upgrade works are not being solely driven by a need to meet regulatory health and safety requirements.

		for investment and mainly in the enhancements of health and safety for the farmers and staff. As far as we can ascertain there is no other RDP or DAFM funding which is directly available to such businesses or such activities. This service business is not directly involved or contributing to primary agricultural production and the LAG (and we as the IP) is unsure if it could be considered that the core activity may still be deemed to be "agriculture". The mart owner has indicated that he cannot increase the fees he charges as this would impact on his business and that the farmers using his services cannot afford such increases so he is struggling to find the necessary funding for these vital and important improvements in the facilities at the mart. I am wondering if this is a business or items which can be or are eligible for RDP LEADER funding. There is little point in progressing an EOI and we would appreciate clarification from you on the matter.	For guidance on projects that may appear related to agricultural activities, please see reply to Question 9 of Q&A 13 on agri-type services in general. Text of same is provided here for reference. The purchase of equipment to provide services to the Agricultural Sector such as the purchase of equipment for scanning, bull and ram fertility testing are not considered as primary agricultural activities in the context of LEADER and are therefore eligible in principle for LEADER funding. In addition, when deciding on the project application for such funding, the LAG must consider, amongst other things, displacement, deadweight, the level of innovation associated with such an investment and whether it is in line with the relevant Theme and Sub-theme & LDS of the LAG. Where awarding funding the rationale used must be documented. In the Department's view, most projects related to scanning, fertility testing etc. would be very difficult to justify using these criteria. The LAG should also be satisfied that funding such projects does not result in double funding by CAP. The purchase of such equipment must be for use on a commercial basis and must not be primarily for the promoters own use.
8	**Roscommon**	We would appreciate if you could clarify eligibility in relation to the following please: LEADER Operating Rules Ineligible Sectors and Activities Aid shall not be awarded or paid in respect of the following areas –	Yoga can be viewed as encompassing physical activity that contributes to human wellbeing in a similar fashion to other physical activities such as walking or cycling. The Department does not consider yoga to be ineligible health care activity as intended within the context of Section 6.4 of the Operating Rules.

		• Health Care & Health Care equipment; - unless in exceptional cases where approved by the Department. We have received an EOI from a private promoter who wishes to set up (build) a private yoga studio/day retreat centre on her own private rural property as her current (rented) location is a busy town centre with only on-street parking. Promoter aims to provide yoga classes to all age groups, pregnancy yoga and restorative classes (yoga). By relocating to a rural area, promoter (and clients) would have access to a number of scenic designated walks and so could offer day retreats, host visiting yoga teachers, offer yoga camps for the children in the area and mother and baby classes. Promoter could also offer a space for others to rent and work out of, e.g. service offering baby massage. Promoter is restricted in classes she can currently offer due to current premises limitations. We are seeking clarification if yoga is considered to be an element of Health Care. The World Health Organisation has defined Health as "a state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity" (therefore Health Care would be the provision of services and facilities linked to peoples physical, mental and social wellbeing) and the OED has defined Yoga as "A Hindu spiritual and ascetic discipline, a part of which, including breath control, simple meditation, and the adoption of specific bodily postures, is widely practised for health and	In relation to eligibility of other therapy type activities, the Department will consider queries on such applications on a case by case basis.

		relaxation". We would appreciate if you could provide some definitive clarification on this please. We would also appreciate if you could apply the same question to other 'treatment' type services, e.g. physical therapy (also called mechanotherapy - "the employment of mechanical means for the cure of disease", stimulating tissue repair and remodelling), Pilates (improves flexibility, builds strength and develops control and endurance in the entire body; …. It puts emphasis on alignment, breathing, developing a strong core, and improving coordination and balance), etc. as they can be considered to be 'treatments' for ailments and health issues. We appreciate that, should you find that yoga is not covered under 'Health Care', displacement may be an issue but as it does not form part of the assessment criteria for EOIs, it is not relevant to this query.	
Project Calls, EOI's & Applications			
9	**Wexford**	We would like to announce a number of actions together under targeted calls. Once the eligible EOI's have been identified, we would like to split the budgets as required to enable two separate deadlines; - One earlier closing date and evaluation/Art 48 checks/LCDC approval for projects not requiring planning permission and - One later closing date/evaluation/etc. for projects requiring planning.	There would be issues if different closing dates were used and the budget divided on basis of EOIs received. Some EOIs might not materialise into applications, etc. The same application closing date must be used, as all projects could be scored together (whether they needed planning or not) and if the LAG was in agreement, those who needed planning permission could get provisional approval and the non-planning projects could be approved and advance. This would ensure

		The actions we would announce at the same time would all have some cross over; village enhancement, community facilities/halls, community recreation. Once all eligible EOI's were reviewed they would be aligned to the most suitable action. To ensure equity we would have to proportion allocations for the two assessments relative to the value of eligible EOI's received e.g. if the cumulative grant aid available was valued at €1m and we received €1.5m of EOI's requiring planning and €0.5m of EOI's not requiring planning we would allow €750,000.00 to the planning projects and €250,000 to the none planning projects. Can you confirm if this is allowed under programme rules please?	consistency with the application processing timeline for simultaneous scoring etc.
Evaluation & Decision Making			
10	**Kerry**	I know we are now allowed look at projects subject to full planning permission being obtained by the promoter. My question is where a project had full planning permission but this has expired and they have applied for an extension – can we still look at this subject to planning permission. At the end of the day the promoter cannot undertake the development as they don't have planning so is it any different to full planning application?	The Department would suggest that as the promoter has not already applied for provisional approval subject to planning, that they now do so, stating the reason why. The CRM may be updated to reflect provisional approval status, which will later affect the Article 48 workflow for a second check post LAG approval but prior to contract offer. This will allow the project to advance to the Evaluation Committee pending resolution of the planning permission extension, thereby avoiding any undue delay once the issue is resolved. Related correspondence and the provisional approval request should be saved to the CRM repository for audit trail purposes.
11	**Cork**	We have a query in relation to projects seeking in excess of €200,000. Is there any particular procedure for seeking in excess of €200,000 in grant aid? We are aware of the procedure that was in place in the last programme having approved two	There is no departmental review for high level aid projects in this programme. The LAG may approve community type projects up to a maximum of €500,000, subject to the provisions of Section 9.2 of the LEADER Operating Rules, which are primarily projects that do not

		large scale projects, but we're unclear what needs to be done in the current programme?	involve an economic activity. The standard conditions for provisional approval apply. (See Section 15.3 of the LEADER Operating Rules) Specific queries on such projects should be discussed with the LEADER Unit.
Miscellaneous			
12	**Leitrim**	We have a number of project about to move to stage 15. These are at the stage for final arrangements and are subject drafting and finalising of the access agreements which involve the Local Authority as the landowner and / or insuring the project / property on behalf of the promoter (once the work is done and for the 5 years after). The LAG has made the offer of LEADER funding conditional on the agreements being completed signed and on file and also taking into account the comments in relation to these matter form DRCD (see below) The Leitrim LAG has included a requirement in its Letter of offer / grant contact that all promoters must indemnify a range of parties to the RDP including the Minister, Department the LAG and its partners (FP and IP). In order to draft an acceptable access agreement in these projects the County Council has presented the draft document to their insurers and requested them to confirm if they can comply with these items and also insure and indemnify the projects properties organisations concerned. They (insurers) have indicated that in general they can provide public liability cover for the project and the works through the County Council's insurance but that they cannot indemnify the various parties identified in the Letter of Offer grant contract. (They	**Question 1:** If access agreement are completed and the promoter cannot comply with this element of their grant contract/letter of offer, does this raises a compliance issue or an Article 48 concern? **DRCD Reply:** Access permissions must be in place, as must all arrangements relating to insurance, as appropriate. **Question 2:** Does the inspection audit control process include checks to see if the promoter has complied with such detail in the LAG / promoter contract? **DRCD Reply:** As part of the control process on claims for payment, the Inspectorate undertakes checks to assess what insurance details have been provided by the beneficiary. **Question 3:** Can the LAG redefine its letter of offer to remove this requirement, to provide evidence of the indemnifications for the various named parties, in such an arrangement? **DRCD Reply:** The promoter must, in the first instance and in accordance with Section 14.10 of the LEADER

		have indicated that they will only indemnify the project promoter). I attach the extract from the Leitrim LAG letter of offer / grant contract related to insurance. 1. If access agreement are completed and the promoter cannot comply with this element of their grant contract / letter of offer does this raises a compliance issue or an Article 48 concern? 2. Does the inspection audit control process include checks to see if the promoter has complied with such detail in the LAG / promoter contract? 3. Can the LAG redefine its letter of offer to remove this requirement, to provide evidence of the indemnifications for the various named parties, in such an arrangement? We would like clarification on the DRCD current and up to date requirements position for insurance and the evidence required from promoters of such cover at final claim stage and also during the durability stage (5 years from last grant) payment where a third party such as the Local Authority has agreed to insure a completed project on behalf of the promoter. This project may or may not be located on the property belonging to or in charge of the Local Authority.	Operating Rules 2014-2020, indemnify the Minister or any official of the Department in relation to any such damage, loss or injury howsoever occurring during the development works or other activities. This confirms that the promoter will not hold the aforementioned parties liable for any such harm or damage. Such indemnification is separate from, but in addition to ensuring the putting in place all and any insurance cover as may be appropriate to the project during implementation and in order to meet the five year durability conditions. Indemnification is evidenced or attested to by way of the promoter's acceptance of Appendix 5 of the LEADER Operating Rules 2014-2020. **DRCD reply to request for Clarification on Insurance Requirements** Therefore, the Department confirms that, as per Section 14.10 of the LEADER Operating Rules, in conjunction with the insurance terms of the project contract, the LAG must advise all applicants of the requirement to confirm their responsibility and duty to effect and keep in force, for both the project implementation process and the 5-year durability period, self-insurance arrangements and/or public liability insurance. The LAG/Promoter contract must contain comprehensive conditions regarding insurance cover and related contingencies in the event of loss or damage to project assets. The minimum text in this regard is included in Appendix 5 of the LEADER Operating Rules 2014-2020.

			If there is any doubt regarding the adequacy of insurance cover on any aspects of a project either during or post implementation, the promoter must provide the LAG with evidence from its contractors, sub-contractors, its insurers and/or the Local authority, that comprehensive insurance cover and related contingencies exist (or will be put in place, as appropriate) in the event of loss or damage to project assets and/or claims under the heading of public liability.
13	**Longford**	I wish to advise that Longford LCDC considered the matter of confidentiality in relation to information at its October 2018 meeting. The members noted the provisions of the Freedom of Information and Data Protection Acts in relation to the release of information. In particular they noted that the purpose of the FOI Act is to enable members of the public to obtain access to records held by FOI bodies to the greatest extent possible consistent with the public interest and the right of privacy. The members agreed that having regard to the relevant legislation and guidelines and the principles of openness and transparency, it is desirable that as much information as possible be made publicly available while ensuring that the rights enshrined in legislation are protected. It was also agreed that the committee must be able to be clear in its operations, and members must be able to report back relevant information to local groups.	As Longford County Council and the LCDC are Public Bodies designated under the FOI Act 2014, any FOI information request received by them relating to LEADER should be reviewed within the context of information held by that body, having regard to the provisions of the FOI Act 2014. With regard to the point made by the IP concerning publicity, (Operating Rule 22.6), this outlines that beneficiaries will be published on the Department of Agriculture, Food and Marine's website. However, the second paragraph confirms that details of the project and project promoter may also be published on the Department and the LAG's website. Being an intrinsic part of the project, such publications may include details of grant aid approved for the project. In any case, all promoters must be made aware of these provisions and related evidence of such notification retained on their respective project files. In relation to the amendment of the content of the LAG's contracts with promoters, the Department considers that this is a matter for the LAG.

		It is difficult to determine precisely what documentation may or may not be released. The main areas of concern are • records relating to the deliberation of FOI bodies • information obtained in confidence • commercially sensitive information • personal information The members requested me to write to the Department of Rural and Community Development to seek clarity as to what documentation/information it considers should be made available to the public in relation to the LEADER Programme. I would appreciate your specific guidance in relation to • Expressions of interest • Project assessment reports • Recommendations of the LEADER Evaluation Committee • Financial Reports • Details of amounts approved for promoters of LEADER projects. I would particularly appreciate your clarification in relation to publishing details of LEADER grants approved to promoters. While these are presently published on the Department's website, the Implementing Partner has pointed out that the Operating Rules (22.6) and the contract between the LAG and the promoter refer to funding received by the promoter and not funding approved. If a change	

		is to be made please advise as to whether the contracts should be amended.	
14	**Limerick**	I would like to clarify wording in relation to Reallocating Funding as outlined in Section 8.3 of the LEADER 2014 – 2020 Operating Rule and Circular 11 - 2018 The rules state: Funding may only be reallocated to items approved by the LAG Decision Making Members and as per the original funding offer i.e. the LAG Decision Making Members or Authorised Officer may not reallocate funding to new cost elements. The re-allocation of funds as a result of the non-delivery of an approved project element is not permitted. My query is in relation to what is meant by “new cost elements”. Do elements refer to individual items within a single quotation or to each project element for which funding and individual quotations were sought? For example if a promoter is awarded funding for a range of office equipment to be supplied by a single supplier but decided not to proceed with one item of equipment, is it permissible to reallocate funding to the other items if costs have increased since the original quotation was received. Guidance would be greatly appreciated.	New cost elements of a project are aspects or items of a project that were not previously awarded grant aid by the LAG in its contract with the promoter. It depends on how prescriptive the application for support is. All items of expenditure grant aided must be included in the original quotes provided with the application for support. In relation to office equipment, depending on the level of detail included in the quote, office furniture tables, chairs, printers, computers, there may be flexibility on the number of individual items purchased. However, if the RFT was specific and quantified the number and types of items sought, then a new item such as a photocopier cannot be introduced later and qualify for funding. One of the key items to take note of when considering a reallocation request, is whether it would compromise the already completed procurement process. Funding may be reallocated across the various costs of a project, up to a maximum of 10%, provided that the original project, as approved for funding, will still be delivered and that the procurement process undertaken is not compromised.
15	**Limerick**	I have an application in from a promoter for a piece of equipment which he needs to import from Turkey. The promoter is not registered for VAT so will be	In the case of a non VAT registered promoter who pays VAT on project costs at the point of entry into the EU, they may include the VAT element in their LEADER

		paying VAT on the item in Ireland. He therefore wishes to include the VAT element of the cost.	grant claim. The VAT element will be supported by related documentation and receipts.