



Grant Funding Agreement – Terms and Conditions

1. Introduction

- 1.1 This document sets the Terms and Conditions of the Grant Funding Agreement and should be read in conjunction with the Grant Offer Letter and all relevant annexes.
- 1.2 This agreement does not give rise to contractual relations.
- 1.3 This agreement has been revised following wide consultation with Departmental strategic partners and is intended to replace any previous versions.

2. Definitions

- 2.1 For the purposes of the Grant Funding Agreement:

“Asset” means any item capable of being purchased for money or money’s worth which has a continuous useful life of one year or more, regardless of whether or not it is treated as such by Your accounting policy;

“Annex/es” means the annexes as set out in the Grant Offer Letter;

“Breach” means a failure to comply with any of these Terms and Conditions, and / or if any of the events set out in Annex F are not satisfied;

“Department” means the Department for Education;

“Eligible Expenditure” means payments made by you during the Funding Period as defined in condition 6;

“Exit plan” means the plan required allowing for the smooth closure or transfer of the grant funded activities as set out at condition 23;

“Financial year” means the 12 months from 1 April to 31 March;

“Funded activities” are those as set out in the Grant Offer Letter;

“Funding Period” means the total period for which the grant is allocated;

“Grant Funding Agreement” means these Terms and Conditions plus the Grant Offer letter and any relevant annexes and associated documents;

“Grant Manager” means the Department for Education staff responsible for day to day grant monitoring and management, and the single point of contact for the grant recipient;

“Grant offer” means the sum of money made available by the Department;

“Grant Offer Letter” means the signed and dated letter from the Department to the grant recipient confirming the award of the grant;

“Material breach” means any breach which is incapable of remedy and which, in the reasonable opinion of the other party, renders this grant agreement incapable of being performed; and

“Month” means calendar month;

“Secretary of State” means the Secretary of State for Education;

“Terms and Conditions” means the conditions as set out in this document;

“Us/we/our” means the Secretary of State and the Department for Education;

“You/your” means the grant recipient/organisation receiving the grant.

3. Grant Offer

3.1 Payment of the grant is subject to you complying with these Terms and Conditions together with Annex F of the Grant Offer Letter and to such further conditions and requirements that we may from time to time specify.

3.2 The grant will be paid only in respect of Eligible Expenditure incurred by you to deliver the funded activities. The grant must not be used to fund activities that may be party-political in intention, use or presentation, or to propagate a religion or belief.

4. Amount of Grant

4.1 The amount of the grant will be stipulated in the Grant Offer Letter; if subsequent years are to be funded we will send you a formal statement of the amount of grant funding approved for the subsequent years. The amount of grant to be paid in any financial year will be decided by us after considering your estimates of income and expenditure in respect of the grant funded activities as set out in Annex F. The detailed information of the grant allocations for the funding period is set out in Annex E.

5. Payment arrangements

5.1 Grant funding will normally be paid in instalments in arrears as stated in the Grant Offer Letter. Grant claims must be made on the standard form provided by us (Annex C or D), and must be certified by your Chief Financial Officer (or equivalent) or by such other person appointed for this purpose with our approval; claims must be sent to your principal contact in the Department.

5.2 Incomplete or incorrect claims (including claims without full supporting documentation) will be returned unpaid; late claims may not be paid.

5.3 Payment will normally be made by us within 10 days of the receipt of a satisfactory grant claim, in accordance with the agreed payment schedule at Annex H.

5.4 If you enter into a contract in connection with the activities relating to this Grant Funding Agreement, you must specify in any contract that all valid invoices issued by the contractor to you will be paid by you within 30 days of receipt. We will not pay invoices received from your contractors.

5.5 You shall take all reasonable steps to satisfy yourself that any third party which you engage with, in relation to the funding under this grant agreement, is suitable in all respects to perform the services required to deliver the funding activities as set out in the grant offer letter.

6. VAT and Eligible Expenditure

6.1 Eligible Expenditure consists of payments made by you for the purposes of the funded activities. All expenditure must be claimed net of any VAT that is recoverable from HM Revenue and Customs. Eligible Expenditure also includes:

- fees charged or to be charged to you by the external auditors/accountants for reporting/certifying that the grant paid was applied for its intended purposes (see Annex G); and
- retentions for building work where these are held by you until the work has been completed satisfactorily.

6.2 A payment is defined as taking place at the moment when money passes out of your control. This may take place when:

- legal tender is passed to a supplier (or, for wages, to an employee);
- a letter is posted to a supplier or employee containing a cheque; or
- an electronic instruction is sent to a bank to make a payment to a supplier or employee by direct credit or bank transfer.

6.3 You must not deliberately incur liabilities for Eligible Expenditure in advance of need; nor pay for Eligible Expenditure sooner than the due date for payment. The following costs must be excluded from Eligible Expenditure:

- Payments that support activity intended to influence or attempt to influence Parliament, Government or political parties, or attempting to influence the awarding or renewal of contracts and grants, or attempting to influence legislative or regulatory action;
- activities of a political or exclusively religious nature;
- goods or services that the grant recipient has a statutory duty to provide;
- payments reimbursed or to be reimbursed by other public or private sector grants;
- contributions in kind (i.e. a contribution in goods or services, as opposed to money);
- depreciation, amortisation or impairment of fixed assets owned by the grant recipient;
- the acquisition or improvement of fixed assets by the grant recipient (unless the grant is explicitly for capital use – this will be stipulated in the Grant Offer Letter);
- interest payments (including service charge payments for finance leases);
- gifts to individuals other than promotional items with a value of no more than £25 a year to any one individual;
- entertaining (entertaining for this purpose means anything that would be a taxable benefit to the person being entertained, according to current UK tax regulations);
- statutory fines, criminal fines or penalties; or
- liabilities incurred before the issue of this Funding Agreement unless agreed in writing by us.

6.4 You must seek prior written permission from us before purchasing any items not for the sole purpose of delivering the Funded Activities as included in this Grant Funding Agreement.

7. Progress reporting

7.1 You must provide a report on progress (Annex J) against agreed objectives as set out in the Grant Offer Letter. This report must also include details of any assets you have either acquired or improved using grant funding.

7.2 You must inform us immediately if you are experiencing any financial, administrative, managerial etc. difficulties that may hinder or prevent you from fulfilling your obligations under this Grant Funding Agreement. Key performance Indicators (KPIs) may be set by us prior to the commencement of the grant funding period. In the event that such KPIs are not agreed by that time, we reserve the right to terminate this grant funding agreement immediately. KPIs may be subject to change during the grant funding period, with agreement by both parties.

8. Income, fees and charges

8.1 You must consult with us if you wish to charge a fee to a third party for any grant-funded activity. Any charges you do make must be in accordance with HM Treasury guidelines on fees and charges.

8.2 You must notify us of any income or contributions generated by the grant funded activities, so that we can decide whether any or all of the grant, or income generated, should be retained by you or refunded to us.

9. Records to be kept and retention period

9.1 These will include details of grant money received and disbursed and any income generated from the funded activities. Accounting records, including original invoices, receipts, VAT records etc. must be kept.

9.2 You must make these available at any reasonable time for inspection by officials from the Department or their representatives or by the Comptroller and Auditor General of the National Audit Office, or his representatives.

9.3 You must retain all accounting records relating to the grant funded activities for at least seven years from the end date of the Grant Funding Agreement.

9.4 Where funding allows for capital spend, you must keep a register of fixed assets, including all land and building acquired or improved with grant funding, at a cost exceeding £2,500.

10. Disposal of assets and change of use

10.1 You must seek approval from us if you and/or any of your contractors wish to dispose of, transfer or change the use of any asset (with a market value exceeding £2,500) that was acquired or improved with the grant monies.

10.2 Assets should not be sold below market value without prior written permission from us, and any proceeds shall be surrendered to us.

10.3 We reserve the right to determine the outcome of any assets created as result of grant funded activities.

11. Procurement requirements, Value for Money and State Aid

11.1 Where you seek to procure the supply of any goods, works or services from a third party in connection with this Grant Funding Agreement you shall ensure that contracts or further distribution of the grant are procured on a basis that complies in all material aspects with all relevant European and UK legislation in the procurement of goods and services for which you receive grant so as to secure best value for money.

11.2 Where you reasonably consider that there is an objective justification for not complying with procurement rules and seek to rely on such a justification, you shall seek prior approval from the Department, setting out the reasons for non-compliance in a structured business case.

11.3 If you use a single tender procedure you must be able to provide evidence to justify doing so. In all other cases you should use a competitive tendering procedure as laid down by UK Regulations (see footnote ¹)

11.4 You shall not carry out any activities that could be constituted as state-aided, and nor shall you pay illegal state aid to any organisation or individual.

12. Forecast of expenditure in the forthcoming financial year

12.1 For grants lasting more than one financial year, you must provide the following details each year to us:

- a schedule of the programme of activities and estimates of income and expenditure for the next financial year, together with forecast outturn for the current year;
- a statement setting out the total grant agreed for the year;
- details of income other than the grant and how it is to be spent;
- the level of balances held at the end of the financial year; and
- revised forecasts of income and expenditure when required.

12.2 You shall provide revised forecasts of income and expenditure when these change significantly or when requested to do so by us.

13. Financial Management

13.1 You must have a sound system of internal financial controls to safeguard against fraud and theft, and shall require that the internal/external auditors report on the adequacy or otherwise of that system. All cases of fraud or theft (whether proven or suspected) relating to the funded activities must be referred to us.

¹ <http://www.cabinetoffice.gov.uk/resource-library/policy-and-standards-framework-best-practice-guidance>

13.2 You should be able to demonstrate that the systems of financial and manpower control, management and organisation will enable you to meet the Funded Activities and objectives of this Grant Funding Agreement.

13.3 You must comply with the recommendations of the Public Accounts Committee and any other expenditure controls specified by Government.

13.4 You must inform us immediately if you are experiencing any financial difficulties or any delays which could impact on your ability to deliver the funded activities set out in the Grant Funding Agreement.

14. Internal Audit

14.1 Your Chief Executive (or equivalent) should ensure that the systems governing the grant funding are subject to independent review.

14.2 The systems in place should be appropriate to the size of your organisation, the level of grant, risk to the public funds provided and cost of the review.

14.3 These arrangements may be reviewed by us in line with HM Treasury's Public Sector Internal Audit Standards (see footnote ²).

15. Borrowing

15.1 You must obtain prior written consent from us before:

- borrowing or lending money from any source;
- charging any asset or security; and
- giving any guarantees, indemnities or letters of comfort

that relate to any of the conditions of this Grant Funding Agreement, or have any impact on your ability to deliver the funded activities set out in the Grant Funding Agreement.

16. Losses, Gifts and Special payments

16.1 In connection with this Grant Funding Agreement, you must obtain prior written consent from us before:

- writing-off any debts or liabilities;
- offering to make any special payments; and
- giving any gifts.

16.2 A record of gifts both given and received must be kept.

² <https://www.gov.uk/government/publications/public-sector-internal-audit-standards>

17. Spending Controls - marketing, advertising, communications and consultancy

17.1 As part of the Government's Efficiency and Reform programme, public funding for advertising, marketing, communications and consultancy is controlled. You must seek permission from us prior to any proposed expenditure in these areas either in connection with or using funding provided under this Grant Funding Agreement. For a complete list of exactly what is caught by the Controls you should read the advertising, marketing and communications, and consultancy sections of the Cabinet Office controls guidance. (see Footnote ³)

17.2 You should provide evidence that any advertising, marketing and communications, and consultancy expenditure carried out in connection with, or using funding provided under, this Grant Funding Agreement shall deliver measureable outcomes that meet government objectives and can secure value for money.

17.3 Publicity material for your grant funded activities must refer to the programme under which the grant was awarded and must feature our logo.

17.4 We will only endorse the funded programme/project of work and not the organisation. If a third party wishes to use our logo, you must first seek permission from our Corporate Branding Team at branding.mailbox@education.gsi.gov.uk.

18. Copyright, Intellectual Property Rights and sharing good practice

18.1 You and/or your contractors will retain all Intellectual Property Rights (IPR) that are either:

- vested in, used, or controlled by you or your contractors prior to this grant award; or
- developed during the period of the grant but outside of the grant arrangements.

18.2 The Crown will retain:

- any IPR controlled by us prior to the grant award; and
- copyright in all reports, materials and other documents produced in whole or in part using funding provided under this Grant Funding Agreement.

18.3 Any materials produced using funding provided under this Grant Funding Agreement will be made available to you for use in accordance with the Open Government Licence ⁴ (see footnote 4). The Open Government Licence (OGL) is a simple set of terms and conditions under which information providers in the public sector can license the use and re-use of their information. Provided that you comply with the terms you have permission to use information anywhere in the world. The licence is also non-exclusive which means that you will not be the only person able to make use of it. The Open Government Licence enables you to use information for both commercial and non-commercial purposes.

³ <http://www.cabinetoffice.gov.uk/resource-library/cabinet-office-controls-guidance>

⁴ <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/>

18.4 We may freely share any information, know-how, system or process developed during the period of the grant funded activities to support similar projects.

19. Third party software and other Intellectual Property Rights

19.1 Ownership of third party software or other IPR to deliver services shall remain with the relevant third party.

19.2 You must ensure that you have obtained the relevant agreement from us before any additions or variations are made to the standard 'off-the-shelf' versions of any third party software and other IPR. You will obtain and maintain all appropriate licences to use the third party software.

20. Insurance

20.1 You shall take out whatever insurance you see fit or are advised, however, in the event of you receiving more than 50 per cent of your total income from public funds, you shall notify us and we will review the nature of the control of your organisation to determine any resulting requirement for reclassification which may change the need for insurance.

21. Accounts

21.1 Each year, on the date agreed within the Grant Offer Letter, you must supply us with a full set of financial accounts/income and expenditure statement (dependant on the requirements for your organisation and audited where appropriate to the size and nature of your organisation) that includes details of any income and expenditure not covered by funds provided by the Secretary of State.

21.2 You must also submit a yearly report to us summarising the work carried out under the grant during the funding period, quantifying what has been achieved by reference to the funded activities' targets and, where appropriate, showing the progress made to date in the Exit plan as per (Annex I).

22. Annual Certification of Expenditure Arrangements

22.1 You must present the payment schedule (Annex H) and the annual certification of expenditure form (Annex G) to your external auditors / accountants to certify.

22.2 You must return the certified form to your main contact in the Department. The external auditors/accountants' report should say whether, in their opinion, grant paid, was applied in accordance with the Grant Funding Agreement.

22.3 Officials of the Department, and of the National Audit Office or their nominees, will be permitted, at reasonable notice, to visit your premises to inspect your books of account and other financial documents relevant to the Grant Funding Agreement.

22.4 The Comptroller and Auditor General of the National Audit Office may also investigate how efficiently you have used your resources in discharging your' grant funded activities.

23. Exit plan

23.1 You should prepare an exit plan within the first three months of the agreement to allow the smooth closure or transfer of the grant funded activities. A sample exit plan is provided at Annex I.

23.2 As part of the exit plan, we shall jointly agree a plan for communicating with all partners and employees during the exit period, in a way that avoids any detrimental impact on our respective business resulting from the closure or transfer, and shares responsibilities between the two parties.

24. Changes to the Department's requirements

24.1 We will notify you of any changes to our activities which are supported by the grant.

24.2 You will try to accommodate any changes to our needs and requirements under this Grant Funding Agreement.

25. Amendment or variation or termination of the grant

25.1 No amendment or variation to this Grant Funding Agreement shall be effective unless it is in writing, agreed and signed by those authorised to do so on behalf of each of the parties.

25.2 This Grant Funding Agreement may be terminated by either party giving at least 3 months' notice in writing.

25.3 In the event of any material breach of the Grant Funding Agreement, we may serve a notice on you requiring remedial action to be taken within a specified period, to allow a remedial plan to be agreed in writing by both parties. If the breach has not been remedied as per the remedial plan, this Grant Funding Agreement will be terminated with immediate effect on receipt of notice in writing.

25.4 In the event of a change of Government or in policy direction, this Grant Funding Agreement may be terminated by us with immediate effect by notice in writing (such notice period as will be reasonable in all the circumstances), in accordance with the above and subject to condition 27.

26. Transfer of Responsibility on Expiry or Termination of the Grant

26.1 You should provide the Department with whatever support it needs (e.g. delivery of relevant documents and data) to ensure a smooth transfer of responsibility prior to early termination or transfer of the grant funded activities.

26.2 A plan detailing arrangements for the transfer of any work in progress should be delivered six months prior to expiry, or within one month of the service of notice of termination.

27. Consequences of termination and support for transfer of responsibility

27.1 Nothing in this Grant Funding Agreement shall affect any provision of this Grant which is expressly or by implication intended to apply or continue to apply upon termination of this Grant Funding Agreement, for any reason.

27.2 If we terminate this Grant Funding Agreement in accordance with clause 25, we will pay reasonable costs incurred in respect of the delivery of Funded Activities performed prior to the date of termination.

27.3 Reasonable costs will be identified and agreed by the two parties as soon as possible. You should efficiently assess, and seek to mitigate these costs.

27.4 We will not be liable to pay any of your costs or those of any contractor related to any transfer or termination of the employment of any employees engaged in the provision of the funded activities prior to the date of termination.

27.5 Upon receiving notice of termination, you will review the agreed exit plan with us.

28. Staffing

28.1 You will seek our prior written approval before upgrading posts or creating new posts in the provision of services for the funded activities relating to this Grant Funding Agreement.

29. Liability

29.1 We make no commitment to renewing or continuing funding after the term of this Grant Funding Agreement.

29.2 You must not assume that funding will continue beyond the period stated in the Grant Offer Letter or that we will be liable for any additional cost, such as to cover the costs of redundancies, pension etc. at the conclusion of this Grant Funding Agreement. You must therefore, try to minimise your dependence by obtaining funding from other sources.

30. Conflicts of interest and financial or other irregularities

30.1 You must set up formal procedures that require your officers, members and employees to declare any personal or financial interest in any matter concerning the grant funded activities and to be excluded from any discussion or decision-making relating to the matter concerned.

30.2 You must inform us immediately if there are any grounds for suspecting financial irregularity in the use of the grant, explain what steps are being taken to investigate the irregularity and keep us informed about the progress of the investigation. For these purposes “financial irregularity” includes fraud or other impropriety, mismanagement, and the use of grant for any purpose other than those stipulated in this Grant Funding Agreement.

31. Information

31.1 If requested by us you will promptly provide any information required about the organisation, operation and financial control of your affairs including any correspondence with your auditors. In particular, any information (issues/concerns) relating to the grant funded activities.

32. Management surveys

32.1 You will permit and comply with any surveys of management controls and systems, including internal audit reviews, as may be required by us.

33. Recovery of grant

33.1 If you do not comply with any of the conditions and requirements of the Grant Funding Agreement, we may require all or part of the grant to be repaid.

33.2 You may not retain any portion of the grant that has not been used by the end of the financial year in the Grant period without our written permission. Any grant which remains unspent at the end of the financial year or as a result of termination or breach of this Grant Funding Agreement must be returned to us and not carried forward for use in the following financial year.

33.3 Any monies which we do not agree to be retained must be repaid to us within 30 days of a request by us to do so. If any amount repayable in accordance with this clause is not repaid within 30 days of a request for repayment, we reserve the right to unilaterally deduct that amount from any other sum which is due or which may later become due to you under this agreement or any other agreement or contract you may have with us.

33.4 If you are wound up or go into liquidation, administration, receivership, or bankruptcy, or enter into any compromise or other arrangement of your debts with your creditors, then we will be entitled to recover any grant money that has not been spent and withhold any further payments. If any of the money is held by your contractors, you must attempt to recover it.

34. Revision

34.1 This Grant Funding Agreement will be reviewed as agreed in the Grant Offer Letter.

34.2 After consultation with you, we may revise or revoke any of the terms of this agreement. You may yourself make representation to us for revision or revocation.

35. Statutory Obligations

35.1 It is agreed that statutory and other constraints on the exchange of information will be fully respected, including the requirements of the Data Protection Act 1998, the Freedom of Information Act 2000 and the Human Rights Act 1998 and any amendments or successors to these Acts.

36. Transparency

36.1 We and you acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act and the Data Protection Act, the content of the Grant Funding Agreement is not confidential information.

36.2 We shall be responsible for determining, at our absolute discretion, whether any of the content of the Grant Funding Agreement is exempt from disclosure in accordance with the provisions of the Freedom of Information Act. We may make any redactions we consider appropriate.

36.3 Subject to condition 34, with the support of you, we may publish the Grant Funding Agreement in its entirety, including any agreed changes to the general public.

37. Interpretation and Resolution of Disputes

37.1 Questions arising on the interpretation of the arrangements in this Grant Funding Agreement shall be resolved by both parties.

37.2 Both parties shall use all reasonable endeavours to negotiate in good faith, and settle amicably, any dispute that arises during the continuance of this Grant Funding Agreement.

37.3 In the event that a dispute arises as a result of this grant funding, the dispute shall be referred in the first instance to you and our respective Grant Managers.

37.4 If the dispute cannot be resolved by these representatives within a maximum of 30 days, then the matter must be escalated and put to a formal meeting at official level between both parties; to the Accounting Officer of the Department and your Chief Executive; and ultimately shall be resolved by the Secretary of State.

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