



# The Marches LEP

## Growth Deal 3 – Expression of Interest

### GUIDANCE for Capital Development Projects

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#### 1.0 Introduction

1.1 Capital development projects have been included in the Marches LEP's (the LEP's) [Strategic Economic Plan](#) (SEP) with funding through Government's Local Growth Fund. The current round of funding is called Growth Deal 3.

1.2 In anticipation of Growth Deal 3 funds becoming available the LEP is seeking Expressions of Interests to outline potential investment opportunities. Expression of Interests are welcomed from public, private or third sector organisations.

1.3 The Call is seeking to identify projects in the Marches LEP area that are 'shovel ready'\*. The Call is for capital projects with a minimum Growth Deal funding allocation of £2 million. The LEP wishes to have a refreshed pipeline of capital projects that can be worked into full business cases.

1.4 This document provides guidance on the submission of Growth Deal 3 Expression of Interest applications.

#### 2.0 Project Eligibility Criteria

2.1 Capital Growth Deal support is **only available** for costs incurred up to **31 March 2021**. We will not pay any Growth Deal funding for costs incurred after **31 March 2021**. All funded activity **must be complete by 1 April 2021 or earlier depending on the individual project**.

2.2 Funding will be awarded based on a maximum 70% intervention rate of total eligible costs with a minimum contribution of 30% match funding. The Call is for capital projects with minimum Growth Deal funding of £2 million.

\* 'Shovel ready' refers to projects that are able to defray Growth Deal funding by 31 March 2021 and claim all match funding and outputs by March 2025 (with the exception of 'New Roads' that can be claimed up to March 2032)

2.3 Expression of Interests must include the following activities:

- Construction (purchase of land, materials, design fees, design development, preliminaries etc)
- Capital Development (includes refurbishment, remodelling, new-build projects, equipment)

2.4 If funding is awarded, but the profiled spend as at 31 March 2021 is not met for the existing scheme, then the funding may be withdrawn.

2.5 In all cases, applicants must procure consultants and contractors and purchase equipment in accordance with European Commission (EC) Procurement Directives.

2.6 All purchased equipment which receives Growth Deal Funding is to be used solely or mainly for the delivery of the project.

2.7 The Marches LEP is committed to ensuring Social Value through its funding programmes, recognising its responsibilities pursuant to the Social Value Act 2012. Applicants should provide details on how projects add economic, social or environmental benefits within the local area.

2.8 All applicants need to take steps to satisfy themselves that any Growth Deal funding does not amount to unlawful State Aid. Further guidance is provided in Section 6.0.

2.9 Organisations will need to provide outputs by March 2025 (with the exception of 'New Roads' that can be claimed up to March 2032). During delivery stage the organisation will need to provide evidence for each output that has been achieved. Organisations will need to keep records of all outputs for monitoring purposes.

Outputs and definitions are provided below:

### **1. New Jobs Created (FTE)**

The total number of newly created permanent full-time equivalent jobs as a direct result of the intervention at predetermined employment sites.

Employment sites include:

- Occupied newly developed commercial premises
- The premises of supported enterprises
- Any FE space directly improved or constructed by the intervention.

Created jobs exclude those created solely to deliver the intervention (e.g. construction). A job is deemed as permanent if it lasts at least a year

### **2. New Homes Built (Number)**

At the impact site, the number of completed housing units. Complete refers to physical completion of the individual unit, or, in the case of flats, on physical

completion of the block. Housing unit refers to one discrete housing unit (e.g. house, flat, live/work), regardless of size.

**3. Employment Land (hectares)**

Area of Employment Land (hectares) created. The identified land must be for business and economic activities.

**4. Area of new/improved training floorspace (m2)**

Area of 'new build' learning/training floorspace completed.

**5. New Learners (Numbers of Students Enrolled)**

Number of new learners assisted as a direct result of the intervention, in courses leading to a full qualification.

**6. Total Length of New Road (km)**

Length of road (km) for which works have been completed and now open for public use.

2.10 Outputs must be directly attributable to the project for which funding is being requested and must not result from:

- Natural growth of the organisation;
- Figures being displaced/double counted from Growth Deal 1 and 3 contracts.

### **3.0 Expression of Interest Process**

3.1 Guidance on how to complete the Expression of Interest is also included within the form itself. Incorporate all information into the form. Limited time is available to carry out the assessment process and applicants are therefore required to keep answers brief – the Expression of Interest contains guidance for length of responses (word limits apply to help keep the process manageable).

**We will assess Expression of Interests only on the information submitted in the required format. We cannot guarantee that we will consider any additional information that applicants provide at the assessment stage.**

3.2 Applicants must submit the Expression of Interest and Appendix 1 (Milestones) Appendix 2 (Expenditure) and Appendix 3 (Outputs) by 5pm Friday 6 December 2019.

3.3 For any questions or queries relating to the Expression of Interest Process please contact either Nicholas Alamanos ([Nicholas.Alamanos@marcheslep.org.uk](mailto:Nicholas.Alamanos@marcheslep.org.uk)) or Lisa Ashby ([Lisa.Ashby@marcheslep.org.uk](mailto:Lisa.Ashby@marcheslep.org.uk)).

3.4 Please return **one** electronic copy of the signed and completed Expression of Interest and the required supporting information to The Marches LEP at

[enquiries@marcheslep.org.uk](mailto:enquiries@marcheslep.org.uk). (Please compress files to less than 5Mb or send several emails).

## **4.0 Assessment Criteria**

4.1 Expression of Interests will be assessed against the following core criteria:

- Ability to defray Growth Deal funding within the stated timescales
- Ability to bring in match funding within the stated timescales
- Project readiness to get started
- Eligibility of proposed capital development works
- Usage of funding and how it meets SEP priorities
- Project outputs and impact on economic growth

## **5.0 Growth Deal Funding Contractual Obligations**

5.1 Applicants will receive a letter from the LEP to advise on whether their Expression of Interest has been successful or not. Letters to successful applicants will set out the conditions of the approval and timescales in relation to the submission of the Full Business Case.

5.2 The LEP reserves the right to withdraw the approval of the Expression of Interest in the event that following approval the project is considerably changed and/or project costs are increased or decreased without proven justification.

## **6.0 State Aid**

6.1 The applicant must provide information in Section A8 of the Expression of Interest to enable the LEP to verify that the applicant's assessment as to whether capital funding payable under this scheme is compliant with the EU State Aid rules. Further information will be requested at Full Application stage.

6.2 The applicant should note that the LEP may be obliged under any subsequent funding agreement and/or the EU State Aid Rules to require all or part of any grants to be repaid (plus interest) if any information given or representation made in respect of the State Aid information provided in the Expression of Interest is found to be materially incorrect. Appendix A provides an overview of State Aid and Appendix B provides rules on the General Block Exemption Regulation (GBER).

## Appendix A: State Aid - Overview

1.0 The applicant must note that the information contained concerning State aid in this document is provided for background information only. Such information is provided in order to assist the applicant make its own assessment as to whether the funding requested is compliant with the EU State aid rules. Whilst the LEP has suggested solutions which would appear to be of most relevance to potential applicants, State aid is a complex area of law. The consequences of receiving unlawful State aid include repayment of monies together with interest. Therefore, where applicants are in any doubt concerning whether they meet the requisite eligibility criteria in relation to any of the exemption mechanisms described below, specialist legal advice should be sought.

2.0 The LEP may take steps to verify that the State aid solution proposed, and any corresponding analysis appear to satisfy the EU State aid rules. However, the LEP shall be under no obligation to confirm the solution proposed is compliant with the EU State aid rules and/or provide State aid legal advice to applicants.

3.0 All successful non-FE colleges will be required to complete and return a State Aid Deed to the LEP.

4.0 Applicants should ensure that if successful, the receipt of the funding requested will be deemed compliant with the EU State aid rules. State aid can be a very complex area of law and legal advice should be sought where appropriate. Briefly, State aid can occur whenever state resources are used to provide assistance that gives an organisation an advantage over others, which it would not receive in the ordinary course of business. The European Commission takes the view that this can distort competition, which is harmful to consumers and companies within the EU. State aid is unlawful if granted without first either:

- being notified to, and approved by, the Commission; or
- meeting the criteria of an existing approval or exemption.

5.0 **Using an exemption.** Notification to the European Commission is rarely required as many aid measures will either potentially meet the criteria of an existing exemption. Commonly-used exemptions include the 'de-minimis' Regulation<sup>1</sup> and the General Block Exemption Regulation (GBER)<sup>2</sup>.

6.0 **'De-Minimis' aid.** The Commission takes the view that small amounts of aid are unlikely to distort competition. Therefore, the De-Minimis Regulation allows small amounts of aid – less than €200,000 over 3 rolling years – to be given to an undertaking for a wide range of purposes.

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<sup>1</sup> [Commission Regulation \(EU\) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid](#)

<sup>2</sup> [Regulation 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty](#)

Use of the De-Minimis mechanism does not require notification or approval, but records of aid granted must be kept and all the rules of the De-Minimis Regulation must be followed. Briefly, the criteria for use of the De-Minimis Regulation are as follows:

- the applicant's receipt of the funding outlined in its Application Form, when added to any other 'De-Minimis aid' previously granted from all sources, will not exceed €200,000 (£140,200 at the European Commission's exchange rate as at August 2015) over any period of three fiscal years;
- there is no reason why the applicant would fail to qualify for De-Minimis assistance (for example, the applicant operates in the road freight transport sector (where De-Minimis aid is limited to €100,000) or undertakes certain activities in the Agriculture sector – see paragraph 9.0 below).

**7.0 GBER.** The GBER is a useful mechanism as it provides a simple way of providing assistance for a range of aid measures which are exempt from notification to the Commission. There are 43 separate exemptions listed within the GBER and applicants should consider which exemption may be most relevant to its receipt of the funding, if successful. By way of a starting point, the LEP has suggested some potential options in summary form below.

Applicants should however be aware that each exemption has its own notification threshold (i.e. the maximum amount of aid that can be granted under the exemption), its own aid intensity (i.e. the percentage of aid (i.e. public sector monies) that can be provided in relation to the total 'eligible costs' for the project) and may list further eligibility criteria applicable to the exemption concerned than is noted below.

In addition to the conditions of each individual exemption, there is a set of 'general' rules which apply to any measure granted under GBER (the Rules of General Application – see Appendix 2).

## **8.0 Relevant GBER exemptions**

The LEP considers that where an applicant may be unable to use the De-Minimis Regulation, the applicability of the following GBER exemptions may be worth considering:

- **Article 26 (Investment aid for research infrastructures)** – this exemption will only be applicable to applicants which undertake scientific research and meet the definition of a 'research infrastructure' as follows:

*"facilities, resources and related services that are used by the scientific community to conduct research in their respective fields and covers scientific equipment or sets of instruments, knowledge-based resources such as collections, archives or structured scientific information, enabling information and communication technology-based infrastructures such as grid, computing, software and communication, or any other entity of a unique nature essential to conduct research. Such infrastructures may be 'single-sited' or 'distributed' (an organised network of resources) in accordance with Article 2(a) of Council Regulation (EC) No 723/2009 of 25 June 2009 on the Community legal framework for a European Research Infrastructure Consortium".*

<b>Types of project that will qualify</b>	Aid for the construction or upgrade of research infrastructures that perform economic activities, where the price charged for operation or use of the infrastructure corresponds to market price.
<b>Eligible costs</b>	The costs of investment in 'tangible assets' (assets consisting of land, buildings and plant, machinery and equipment) or 'intangible assets' (assets that do not have a physical or financial embodiment such as patents, licences, know-how or other intellectual property).
<b>Aid Intensity</b>	50% of the eligible costs.
<b>Notification threshold</b>	€20 million per infrastructure
<b>Further eligibility criteria</b>	<ul style="list-style-type: none"> <li>• Where a research infrastructure pursues both economic and non-economic activities, the financing, costs and revenues of each type of activity shall be accounted for separately on the basis of consistently applied and objectively justifiable cost accounting principles; and</li> <li>• Where a research infrastructure receives public funding for both economic and non-economic activities, a monitoring and claw-back mechanism may be inserted into the funding agreement in order to ensure that the applicable aid intensity is not exceeded as a result of an increase in the share of economic activities compared to the situation envisaged at the time of awarding the aid.</li> </ul>

- **Article 29 (Aid for process and organisational innovation)** – this exemption allows support for changes to new organisational methods of business practice or the implementation of new or significantly improved production or delivery methods.

<b>Types of project that will qualify</b>	The changes supported <u>must not</u> be routine or reactive changes, for example as a result of changes ceasing to use a process, simple capital replacement or extension, changes resulting purely from changes in factor prices, customisation, localisation, regular, seasonal and other cyclical changes and trading of new or significantly improved products.
<b>Eligible costs</b>	The range of eligible costs covered includes costs of instruments, equipment, building and land to the extent and for the period used for the project.
<b>Aid Intensity</b>	15% of the eligible costs for large companies  50% of the eligible costs for SMEs.
<b>Notification threshold</b>	€7.5 million per undertaking, per project.

<b>Further eligibility criteria</b>	Large companies <sup>3</sup> are only eligible for grants as part of collaborative projects with SMEs and in such circumstances, the SME must bear at least 30% of project costs.
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- **Article 56 (Investment aid for local infrastructures)** – note that this exemption will only be applicable where no other exemption is applicable under the GBER.

<b>Types of project that will qualify</b>	<ul style="list-style-type: none"> <li>• applicable to the construction or upgrade of local infrastructures which concerns infrastructure that contribute at a local level to improving the business and consumer environment and modernising and developing the industrial base; and</li> <li>• where the infrastructure is to be made available to interested users on an open, transparent and non-discriminatory basis and the price charged for the use or the sale of the infrastructure shall correspond to market price.</li> </ul>
<b>Eligible costs</b>	The costs of investment in 'tangible assets' (assets consisting of land, buildings and plant, machinery and equipment) or 'intangible assets' (assets that do not have a physical or financial embodiment such as patents, licences, know-how or other intellectual property).
<b>Aid Intensity</b>	There is no prescribed aid intensity, however the amount of the grant may not exceed the difference between the total eligible costs and the operating profit of the Applicant. The Applicant should calculate the level of operating profit which needs to be deducted from the eligible costs (on the basis of reasonable projections). The LEP may incorporate claw-back mechanisms within the funding agreement to ensure that the relevant threshold is respected.
<b>Notification threshold</b>	€10 million per infrastructure.
<b>Further eligibility criteria</b>	This exemption will not apply to 'dedicated infrastructures' (i.e. infrastructure that is dedicated to the benefit of one commercial undertaking, rather than being available for general use, benefitting no user in particular).

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<sup>3</sup> Namely, companies that do not meet the EU definition of a SME  
[https://ec.europa.eu/regional\\_policy/sources/conferences/state-aid/sme/smedefinitionguide\\_en.pdf](https://ec.europa.eu/regional_policy/sources/conferences/state-aid/sme/smedefinitionguide_en.pdf)



## 9.0 Applicants operating in the Agricultural sector

Certain agricultural activities are not exempted under GBER. This is because such activities may qualify for more limited exemptions under alternative State aid instruments. The LEP deems it is unlikely that any potential recipients of Growth Deal funding will fall within this category, however for certainty, applicants should be aware that GBER may not offer a solution for the following aid measures:

- aid granted in the fishery and aquaculture sector (namely, aid covered by Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, with the exception of training aid, aid for SMEs' access to finance, aid in the field of research and development, innovation aid for SMEs and aid for disadvantaged workers and workers with disabilities);
- aid granted in the primary agricultural production sector (defined as "*production of products of the soil and of stock farming, listed in Annex I to the Treaty<sup>4</sup>, without performing any further operation changing the nature of such products*");
- aid granted in the sector of processing<sup>5</sup> and marketing<sup>6</sup> of agricultural products, **only** in the following cases:
  - (i) where the amount of the aid is fixed on the basis of the price or quantity of such products purchased from primary producers or put on the market by the undertakings concerned; or
  - (ii) where the aid is conditional on being partly or entirely passed on to primary producers.

Further guidance on State aid, including detailed and introductory guides, can be found online at <https://www.gov.uk/state-aid>. Before applicants receive any grant they may be required to provide the LEP with a further State aid declaration to evidence that the provision of the grant would be compatible the EU State aid rules.

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<sup>4</sup> Namely, the [Treaty on the Functioning of the European Union](#).

<sup>5</sup> Defined as "any operation on an agricultural product resulting in a product which is also an agricultural product, except on-farm activities necessary for preparing an animal or plant product for the first sale". 'Agricultural products' are products which are listed in Annex I to the Treaty (see n4 above), except fishery and aquaculture products listed in Annex I to Regulation (EU) No 1379/2013 of 11 December 2013).

<sup>6</sup> Defined as "holding or display with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers shall be considered to be marketing if it takes place in separate premises reserved for that purpose".

## Appendix 2: General Block Exemption Regulation (GBER) – Rules of General Application

The individual exemption categories under the GBER each have their own specific rules. There are, however, a number of general conditions that must be complied with at all times, and in respect of every individual exemption (the "**GBER Common Provisions**")<sup>7</sup>. Below is a list of the rules which may be most relevant to applicants applying for Growth Deal funding.

### 1. Transparency

- 1.1 Only "transparent aid" may be exempted under the GBER. "Transparent aid" is defined as "aid in respect of which it is possible to calculate precisely the gross grant equivalent of the aid *ex ante* without any need to undertake a risk assessment."<sup>8</sup> Relevant examples of transparent aid for the present purposes include aid comprised in loans, where the gross grant equivalent has been calculated on the basis of the reference rate prevailing at the time of the grant.

### 2. Incentive effect

- 2.1 The aid must have an incentive effect.<sup>9</sup> That is, it must essentially bring about improvements to the market that would not have been achieved but for the aid measure, whether:

2.1.1 in the form of a material increase in the scope of a project/activity due to the aid;

2.1.2 in the form of a material increase in the total amount spent by the beneficiary on the project/activity due to the aid; or

2.1.3 in the form of a material increase in the speed of completion of the project/activity concerned.<sup>10</sup>

- 2.2 The application form should set out why the project/investment would not be viable without support from Growth Deal funding. Article 6(3) of the GBER requires that ad hoc aid will be considered to have incentive effect if i) the beneficiary has submitted a written application for the aid 'before work on the project or activity starts'<sup>11</sup>, which must contain certain specified information; and ii) that there is:

2.2.1 a material increase in the scope of the project/activity due to the aid;

2.2.2 a material increase in the total amount spend by the beneficiary on the project/activity due to the aid; or

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<sup>7</sup> GBER, Chapter I: Common Provisions

<sup>8</sup> GBER, Article 5(1)

<sup>9</sup> GBER, Article 6

<sup>10</sup> GBER, Article 6(3)

<sup>11</sup> GBER, Article 6(2)

2.2.3 a material increase in the speed of completion of the project/activity concerned.

### 3. **Eligible costs, aid intensity and notification thresholds**

3.1 Funding under GBER can only be made in respect of “eligible costs” (specified costs particular to each individual exemption) not exceeding the value of the relevant notification threshold (a specified amount particular to each individual exemption).<sup>12</sup> If the value of the measure exceeds the relevant notification threshold, the measure will cease to be exempt. Notification to the European Commission for full assessment as to whether the measure constitutes State aid will then become necessary.

3.2 When calculating the value of an "aid" measure, regard must be had to the rules on cumulation of aid.<sup>13</sup> These require full account to be taken of the total amount of public support measures granted to the beneficiary undertaking in respect of the overall activity. The cumulation assessment is broken down by the category of eligible costs to which a specific measure relates. What constitutes an “eligible cost” will vary for each specific measure.

3.3 The GBER provides specific rules on the cumulation of aid. These must be carefully considered. In very general terms:

3.3.1 The value of aids relating to different eligible costs may straightforwardly aggregated so as to be subject to a more advantageous aggregate threshold;<sup>14</sup> and

3.3.2 Where two aid measures relate to the same eligible costs (overlapping each other partially or fully), cumulation remains possible but the position is more complex and specific advice should be sought.<sup>15</sup>

3.4 In this context it should be borne in mind that the GBER contains specific warning that applicable thresholds "shall not be circumvented by artificially splitting up the aid schemes or aid projects."<sup>16</sup> We would therefore recommend that Applicants calculate the entire 'aid' which would be provided to the project for the purpose of complying with the cumulation rules.

### 4. **Monitoring and reporting requirements**

4.1 Applicants should retain all documentation in respect of the use of Growth Deal funds in accordance with the terms and conditions of any subsequent grant offer.

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<sup>12</sup> GBER, Article 7

<sup>13</sup> GBER, Article 8

<sup>14</sup> GBER, Article 8(3)(a)

<sup>15</sup> GBER, Article 8(3)(b)

<sup>16</sup> GBER, Article 4(2)