

Q&A document on SCO related to the 2021-2027 period

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No	Question	Answer
SCO APPROVAL IN THE PROGRAMME		
1	Procedure of SCOs approval: Is there a possibility of a parallel procedure, so that approval of the Appendix of Annex V will not cause delays to the approval or amendment of the O.P.?	<p>There is no parallel approval procedure. SCOs in Annex V may only be submitted together with the programme or with a request for its amendment. However, COM will discuss the envisaged SCO schemes with national authorities in the framework of the adoption of the programme itself, and before the official submission of the programme to the Commission. Therefore, we consider that smooth adoption of appendix 1 will be facilitated and delays will be avoided.</p> <p>An amendment of a programme may also concern exclusively a SCO approval.</p>
2	Given that the adoption of the program implies the approval by the Commission of the SCOs included in appendix 1, does this imply that approved SCOs become mandatory? And that it would be no more possible to certify expenses in real costs in that operations? or MS can still choose to apply real cost?	<p>Yes, SCOs become mandatory for the declaration of expenditure of the relevant type of operations by the MA to the COM, as this way of reimbursement is requested by the MA itself and approved by the COM.</p> <p>Thus, as of the COM decision approving SCOs in the programme, certifying expenditure to the Commission on the basis of real costs for the types of operations described in the appendix is not possible.</p> <p>It should be noted that, when making use of SCOs approved under art 88 CPR, the MA may use a different form of support when reimbursing beneficiaries (art. 88.3). So, the use of the SCOs approved by COM is only mandatory for the declaration of expenditure by the MA to COM, as stated above.</p>
3	Would it be possible to treat the appendix as a separate document that can be evaluated by the Commission without any risk of delaying the approval of other parts of the programme?	<p>No, this is not possible. In line with Article 88, SCOs will be approved by a Commission decision as part of the programme or programme amendment.</p> <p>See also the reply to question 1 above.</p>

4	Is it possible for some operations simplified cost options methodologies to be developed after the adoption of the programmes? If yes would it be necessary to amend the programme.	<p>If a MS wishes to be reimbursed by the COM based on SCOs, it should submit appendix 1 of Annex V to the COM for approval (Art 88). COM decision on the programme would then adopt these SCOs. In appendix 1 the details of the methodologies developed need to be provided, as well as their assessment by the audit authority.</p> <p>This means that when appendix 1 is submitted, the methodologies should be already developed. If the Member State is not ready to submit detailed methodologies when the programme is submitted to the Commission, it may do so at a later stage by submitting a request for amendment of the programme.</p> <p>Submission of appendix 1 of Annex V is not needed if SCOs are applied at the beneficiary level in line with Article 48 and MS declare these amounts to the EC.</p>
EX ANTE ASSESSMENT		
5	The assessment of the audit authority will be based only on the checklist presented on the 5th meeting of the ERDF TN on SCOs? Since the assessment is made by the national audit authorities, is there a need to present methodological annexes?	<p>The assessment by the AA is a pre-condition for including SCOs in Appendix I. This means that if the Member States wishes to be reimbursed based on SCOs in line with Article 88 draft CPR, the assessment by the AA should be included in Appendix 1 that will be submitted as part of the programme (or programme amendment).</p> <p>The Commission audit services will discuss in the coming months with the audit authorities the approach for completing the audit part of Appendix I. In particular, the EC will provide the AAs with instructions on how to fill in the conclusion of the AA in Appendix I as well as post 2020 SCO checklist with clarifications on reporting.</p> <p>For SCOs implemented at national level in line with Article 48 without using Article 88 the ex-ante assessment by the audit authorities is not required but recommended. The checklist presented at the TN is a tool, which facilitates the work of national auditors and relates to the programming period 2014-2020. A similar checklist will be developed following the approval of the CPR for the period 2021-27.</p>
6	AA's ex-ante assessment: How should the ex-ante assessment be conducted? Shall it be a full audit report concluding to a formal opinion? Please note that in the current p.p., according to the approach in ESF, an ex-ante assessment leading to a positive result (acceptable methodology) is considered adequate.	<p>The assessment of the AA in table C of Appendix I is a regulatory requirement for the approval of the SCOs included in the programme.</p> <p>Therefore, the AA shall perform audit work, which allows it to conclude on the designed SCO methodology and amounts submitted in Annex V.</p> <p>See also reply to the question 5 above.</p>

7	<p>Will this audit authority assessment be mandatory? Will the absence of this evaluation prevent the submission of the program proposal? Or it could be presented till the approval of the programme?</p>	<p>Yes, the assessment by the audit authorities of SCOs to be submitted in line with Article 88 draft CPR is mandatory. It should be included in Appendix 1 that will be submitted together with the programme or programme amendment.</p> <p>This means that if it is not submitted at the same time as the rest of the documents, the approval of the programme will be delayed.</p>
8	<p>Simplified cost options are possibility to ex ante assess costs of operation without a need to verify real costs of that operation. Article 63, point 2 mentions: „Member States shall ensure the legality and regularity of expenditure included in the accounts ...“.</p> <p>Does that mean, that member state shall control costs actually incurred by a beneficiary also in cases when grants are provided through simplified costs options?</p>	<p>No. The scope of management verifications and audits on the expenditure for reimbursement based on a SCO will cover outputs/deliverables for unit costs and lump sums, and basis costs in case of the flat rate financing. Management verifications and audits should not cover the individual invoices underlying the expenditure actually incurred by beneficiaries (real costs) for categories of costs reimbursed on the basis of simplified cost options.</p> <p>As a consequence, these underlying financial documents should not be requested with a view to checking the expenditure actually incurred and paid by the beneficiary (the “real” costs).</p>
MANAGEMENT VERIFICATIONS & AUDIT OF SCOs		
9	<p>Article 88 (3) states: Commission or Member States audits and Member States’ management verifications shall exclusively aim at verifying that the conditions for reimbursement by the Commission have been fulfilled”.</p> <p>Does it mean that auditors will not examine the related documentation of public procurement?</p>	<p>Yes, this is what the provision means. For each SCO scheme, the fulfilment of the conditions for reimbursement by the Commission will be exclusively verified/audited, i.e. the elements included in Appendix I to Annexes V and VI to CPR, as approved by the Commission decision at programme approval or amendment.</p> <p>The auditors will not examine the related documentation of public procurement for amounts declared under SCOs. Public procurement documentation will only be checked in relation to the basis costs (declared as real costs) in the case of flat rates.</p>
10	<p>According to the point 3 of the Article 88 and 89, “Commission or Member States audits shall exclusively aim at verifying that the conditions for reimbursement by the Commission have been fulfilled.” How deep should AA verify the cost eligibility? If the scheme of Annex V is used, does it mean that AA should only ensure that the result is achieved and does not look deeper, it means that AA only checks the justification of the results</p>	<p>Please see reply no 8 above. Furthermore, the management verifications and audits will depend on the type of SCO:</p> <ul style="list-style-type: none"> • In the case of unit costs and lump sums, the verification will cover the compliance with the conditions for reimbursement by the Commission set in Annex V (i.e. eligible operations, beneficiaries, etc.) and the provision of deliverables/results (i.e. the declared number of units were in fact delivered/milestones achieved). • In the case of flat rates, the verification will cover the eligibility of the basis costs (real costs): the eligibility of the real costs forming the basis for application of the flat rate directly impacts the eligibility of the amounts calculated under the flat rate.

11	<p>Can the Commission confirm that where SCOs are included in annex V to an operational programme, the limitations of scope of management verifications and audits in Article 88 extend to the relationship between the managing authority and beneficiaries?</p> <p>In other words, please confirm that the limitation of scope (to exclusively verifying the conditions for reimbursement) applies at this lower level, irrespective of whether SCOs or real costs are used at this lower level.</p>	<p>Yes, your understanding is confirmed.</p> <p>Where SCOs are included in Annex V to a programme and approved by COM decision, the limitation of scope regarding management verifications and audits extends to the relationship between the MA and beneficiaries and irrespective of the mode of reimbursement of beneficiaries.</p> <p>Please also see replies 9 and 10 above.</p>
12	<p>When we use article 88 there is no audit of the amount paid to beneficiaries: how can you verify article 87. (Payment of the commission “shall not exceed support from the funds paid to beneficiaries”)?</p>	<p>Article 87(5) point (b) requires that the support from the Funds to a priority in the payment of the balance of the final accounting year shall not exceed support from the Funds paid to beneficiaries. Article 88(3) 2nd subparagraph states that “MS shall reimburse beneficiaries for the purposes of this Article” and the exact same wording is there in Article 89(3) 1st subparagraph.</p> <p>Irrespective of the limitation of scope of management verifications and audits provided in Article 88, the basic principle that EU support needs to reach beneficiaries is not questioned: this requirement is not exempted for SCOs or FNLTC in Article 87(5). Thus, MS should ensure compliance until the accounts of the final accounting year (cumulatively at closure).</p> <p>We also recall that the audit trail specific to COM-MS level SCOs (annex XI, section 3) and COM-MS level FNLTC (annex XI, section 4) requires proof of payment of the public contribution to the beneficiary and its date. This means that the Commission may check after the submission of accounts of the final accounting year the audit trail or require information if there is information that points in the opposite direction, thus potentially breaching the horizontal obligation on Member States set out in Article 87(5).</p>
13	<p>Where SCOs are used between a managing authority and a beneficiary or in an operation, but there is no corresponding SCO as part of the OP, how can managing authorities get assurance?</p> <p>Will there be ex ante national audits or joint audits with the Commission to verify ex ante the methodology before it is applied?</p>	<p>When SCOs are not approved by the COM in the decision stated in Article 88(1) draft CPR and SCOs are implemented at national level based on Art.48-51 draft CPR, there is no requirement in the draft CPR for ex ante assessment. However, the MA can discuss with the AA the possibility to include ex-ante assessment of the methodology in its audit plan.</p> <p>The COM does not envisage at this stage to carry out joint audits.</p>

SCOs AND PUBLIC PROCUREMENT

14	When operation is realised as whole through public procurement also simplified cost options can be applied. Does it mean, that nor the Managing Authority, nor the Audit Authority, nor the EC audit is controlling / auditing procedures of public procurement?	<ul style="list-style-type: none"> • Please, refer to replies 8&9. • The scope of management verifications and audits on the expenditure for reimbursement based on a SCO methodology will cover outputs/deliverables for unit costs and lump sums, and basis costs in case of flat rate financing. Management verifications and audits will not cover the individual invoices and specific public procurement procedures underlying the expenditure reimbursed on the basis of simplified cost options. As a consequence, these underlying financial or procurement documents shall not be requested with a view to check the amounts (expenditure) incurred and paid by the beneficiary. It concerns both SCOs subject to Article 88 and also SCOs applied at beneficiary level on the basis of Article 48 (outside the framework of Article 88). It is reminded however that public procurement rules should be respected in any case.
15	Public Procurement and SCOs: same rules as in Omnibus regulation/in period 2014-2020?	<p>There are two changes in the 2021-2027 period as compared to the 2014-2020 regarding the use of public procurement in SCO operations:</p> <p>In 2021-2027, operations fully procured may be implemented with the use of SCOs.</p> <p>Where the direct costs of the project include public works contracts or supply or service contracts, which exceed in value the thresholds set out in PP Directives, the CPR proposal limits the possibility to use the off-the-shelf (without methodology) flat rate of up to 20 % provided for in Article 50(1) CPR to calculate the direct staff costs of that operation.</p>
16	Could you please clarify the relationship between SCO and public procurement; what exactly needs to be submitted by the beneficiary and what exactly needs to be controlled/audited when a project is implemented (partially or completely) through public procurement and SCO.	Please see replies to questions 8, 9 and 14 above.
17	Using SCOs under Article 48(1) is obligatory. Does this obligation go for all projects, even for those ones where the eligible costs are subject to public procurement? What about public procurement in projects where the total costs of operation exceed the 200 000 EUR, yet the SCOs are planned to be used?	Compared to 2014-2020, there is no more restriction to use SCOs in fully procured operations. However, for operations with total costs below EUR 200 000 the use of SCOs is mandatory. This means that these operations must use SCOs whether fully procured or not.
18	According to article 48, it seems that it will be possible to adopt a SCO also for operations implemented exclusively through public procurement. Is it correct?	Yes. See replies 15 & 17 above.

COMBINATION OF SCOs

19	CPR, Art. 48, 1: where the total cost does not exceed EUR 200 000 – is a combination of actual costs and SCOs only possible in case of flat rates?	<p>Yes, in case of application of mandatory use of SCOs, in line with Article 48(1) draft CPR, the only possibility to combine real costs and simplified cost options is when flat rate financing is used. In which case only the categories of costs to which the flat-rate applies may be reimbursed in accordance with point (a) of the first sub-paragraph of Article 48(1).</p> <p>As provided for in this article, also allowances and salaries paid to participants may be reimbursed in accordance with point (a) of the first sub-paragraph of Article 48(1) in addition to the SCO scheme. (see also Article 51 CPR).</p>
20	Could you combine lump sum and flat rate for indirect costs in the same project?	Yes, provided that the different types of SCOs cover different categories of costs or where they are used for different projects forming a part of an operation or for successive phases of an operation (Article 48(1)(e)) and that no double-financing takes place, i.e: the methodology to calculate the lump sum may not contain indirect costs of the operation.

SETUP OF METHODOLOGIES

21	For art 48 point 2 (a) (i) please provide examples of "other objective information". The opinion of internal staff of a managing authority can be considerate" an expert judgment"?	<p>This needs to be assessed on a case-by-case basis.</p> <p>The MA would need to demonstrate for any expert chosen his/her expertise in the relevant field as well as his/her independence. An expert judgement is an additional possibility to establish SCOs and especially useful if no other means are available.</p>
22	It seems that the flat rates established according to article 49(c) "up to 25%" would be the only rates that should demonstrate its calculations provided that the rate is calculated in accordance with a fair, equitable and verifiable calculation method. Is that right?	<p>Yes, where a flat rate is used to cover indirect costs of an operation only flat rates with a maximum of 25% of eligible direct costs established according to Article 49(c) require supporting calculations.</p> <p>The flat rates of up to 7% and 15% listed in this article under points a) and b) do not require calculation (so-called 'off-the-shelf', directly acceptable as per CPR).</p>
23	Shall it be possible that a SCO methodology - supported by a model applied under schemes for grants funded entirely by the member State for a similar type of operation – that has been approved by COM on 2007-2013, and then also applied in the 2014-2020 programming period (methodologies and modalities to cover more than one programming periods), be included in appendix 1?	Yes, SCOs funded by such national schemes may be included in Annex V; attention should be paid however to provide adequate explanation in the relevant fields of the Appendix on how the resulting amounts correspond to updated data/amounts where the methodologies were established long ago.

APPLICATION OF 40% FLAT RATE

<p>24</p>	<p>Article 51(2) in the draft CPR- Additional eligible costs not included in the up to 40 % flat rate. A flat rate of up to 40 % of eligible direct staff costs in order to cover the remaining eligible costs is a clear simplification. But for operations with a high real proportion of external expertise or investments it's unlikely that the beneficiary will get a fair financial coverage with such a model. Some investment or consultant intensive ERDF operations have a real cost budget with a medium high proportion of staff costs. Would it be possible to allow big cost items over a specified threshold to be added on top of the flat rate? In a similar way as salaries and allowances paid to participants shall be considered additional eligible costs not included in the flat rate.</p> <p>A hypothetical example of real cost budget: Direct staff costs EUR 1 000 000; Other eligible costs EUR 1 350 000, of which EUR 900 000 is a big investment. Total costs EUR 2 350 000. With a possibility to exclude the investment from the flat rate calculation a simplified budget would be: Direct staff costs EUR 1 000 000. Flat rate 40 % EUR 400 000, to cover all other eligible costs except the investment. Investment EUR 900 000. Total costs EUR 2 300 000 If all costs except staff costs is to be covered by the flat rate the total budget will be EUR 1 400 000. That would make the 40 % flat rate unacceptable for the beneficiary.</p>	<p>No. This is not possible under Article 51(2) which does not except the cases of investments. However, the MA may define their own specific flat rate in line with Art. 48(2)(a) CPR based on one of the methodologies listed in Art. 48(2)a CPR to cover the relevant categories of costs for this example, excluding the item "investment"; investment could then be defined as additional eligible category of costs.</p>
<p>25</p>	<p>Are there going to be any of the shelf solutions in the legislation for the SCOs?</p>	<p>For the MA/beneficiary level, there are flat rates provided in the draft CPR in Articles 49, 50, 51.</p> <p>Concerning COM/MS level, Article 88(4) empowers COM to adopt a delegated act to supplement Article 88 by defining EU-level SCOs. COM are currently looking into this possibility.</p> <p>For the ESF, the existing EU-level SCOs defined in a delegated act (Delegated Regulation(EU)2015/2195 – see DG EMPL page on SCOs here) on education, training of unemployed persons, counselling services and training of employees will be rolled over into a new delegated act. They can be applied directly for all ESF+ programmes.</p>

26	<p>What is the precise definition of direct staff costs (e.g. Article 50 and 51)? Could you, please, provide the definition of what “direct” means in this relation? As it was mentioned above can the direct staff cost be defined differently for each article, e.g. Article 49 and 50?</p> <p>E.g. for the flat rate applied in accordance with the Article 49 (a) the personal management costs will be a part of the indirect costs and the beneficiary will not be able to submit this type of the costs as a direct type. But when applying the flat rate in accordance with the Article 50 the personal costs of the management will not be a part of the indirect costs and the beneficiary will be able to submit this type of the costs as direct staff costs.</p>	<p>It is up to the managing authority to define the categories of costs for each type of operation in a clear, uniform, consistent and transparent, non-discriminatory way. The described approach is not acceptable; the attribution of a type of costs to the category “indirect” or “direct costs” does not depend on the form or reimbursement chosen but on the link of such costs with the activity at stake.</p> <p>You may also refer to the GN on SCOs for the 2014-2020 period where the Commission provided guidance on the definition of direct /indirect costs.</p>
27	<p>In case the MA uses a SCO defined in other EU policies or by the Member State, should the MA be limited to verify that it is applied to similar types of operations and not also to the beneficiary?</p>	<p>Yes, in line with Article 48(2)(c) &(d) draft CPR, it should only be verified that the SCO defined in other EU policy is applied to similar operations. This is a simplification compared to 14-20 legislation.</p>