

Making transfers of qualifying contributions to another Environmental Body (EB) and changes to ENTRUST on-line (EOL)

July 2013

1. Introduction

- 1.1 In October 2012 we issued guidance to Environmental Bodies (EBs) clarifying that under the Landfill Tax Regulations 1996 (Regulations), any movement of qualifying contributions between EBs must be regarded as a transfer of qualifying contributions and reported to us on Form 7 (Transfer of money to another EB) within seven calendar days of the transfer taking place. We updated this guidance in March 2013 to advise how cases should be recorded and reported where a funding EB wished to retain the project approval for projects delivered by another EB.
- 1.2 The Regulations do not set out which EB must hold the project approval. Following discussions and agreement with a number of EBs, we have updated ENTRUST on-line (EOL) to enable a funding EB to, if it wishes, retain the project approval. The EB, or EBs receiving funding through a transfer and delivering a project can now record expenditure against that project approval on their Annual Return (Form 4).
- 1.3 This guidance document supersedes all previous guidance on accounting for transfers of qualifying contributions between EBs and does not change the Regulations, but clarifies their application. In order to comply with the Regulations, EBs must follow the procedures outlined in the document.

2. Application of guidance

- 2.1 Application of this guidance is immediate and retrospective to 01 April 2013. Any EB who made a transfer to another EB after 01 April 2013, and did not report this on a Form 7, must now complete and submit the Form 7 to us, irrespective of the date a project was approved.
- 2.2 We require all Form 7s for transfers made between 01 April 2013 and 29 July 2013 to be submitted by no later than 01 October 2013. Failure to submit completed forms by this date will result in enforcement action being taken.

3. Regulations

- 3.1 The aim of this guidance is to set out the circumstances where an EB must complete a Form 7 and submit it to ENTRUST in accordance with the Regulations. The relevant paragraphs of the Regulations can be found in Appendix A.
- 3.2 The Regulations set out the following requirements when there is a transfer of qualifying contributions between EBs:

- An EB is taken to have spent a qualifying contribution in the course, or furtherance of its approved objects where it transfers the contribution to another enrolled EB (Regulation 30(2)(d)(i));
 - Where a qualifying contribution is transferred, the EBs receiving the funding shall be treated as receiving the contribution from the original Landfill Operator (LO); (Regulation 32(3)(b)); and
 - Where one EBs is transferring money to another, this must be reported to ENTRUST within seven calendar days of the transfer (Regulation 33A(1)(f)).
- 3.3 The Regulatory requirement to complete a Form 7 for every EB-to-EB transfer applies to all EBs effective from 01 April 2013.
- 3.4 The requirement applies to all EB-to EB-transfers from 01 April 2013 including those for projects approved prior to 1 April 2013.

4. Reporting requirements

- 4.1 We have identified three main options that EBs can use to fund projects which will be delivered by other EBs. These are:
- Transferring qualifying contributions to an EB which holds the project approval;
 - Making payments to non-EB contractors; and
 - Transferring qualifying contributions to an EB where the funding EB holds the project approval.
- 4.2 These options are not mutually exclusive and an EB may choose the most appropriate option to adopt on a project by project basis.
- 4.3 The following paragraphs explain the actions EBs are required to take to record and report transfers of qualifying contributions in each of the three scenarios.
- 4.4 Transferring qualifying contributions to an EB which holds the project approval**
- 4.4.1 When a funding EB transfers a qualifying contribution to another EB holding the approval for a project, a Form 7 must be completed. The receiving EB would report the expenditure on the project against the project approval on their Form 4. Project expenditure information is captured in the same way as previous Form 4 reporting requirements.
- 4.5 Making Payments to non-EB contractors**
- 4.5.1 When a funding EB pays non-EB contractors directly for works that have been undertaken on a project, there is no transfer of LCF funds between EBs and so no Form 7 is required. The funding EB would report the expenditure on the project against the project approval on their Form 4.

4.6 Transferring qualifying contributions to an EB where the funding EB holds the project approval

- 4.6.1 When the funding EB applies for project approval, and the project is to be delivered by another EB, the funding EB must specify on the project application Form 2 the allocation of this project to another EB and provide the receiving EB's ENTRUST enrolment number.
- 4.6.2 In order to allow the receiving EB to enter expenditure against the project, they will need to record their expenditure against the funding EB's project approval. The funding EB must ensure that details of the approved project are passed to the receiving EB who will record expenditure against the project, including details of the funding EB's enrolment number and project number.
- 4.6.3 The funding EB must submit a Form 7 to us within seven days of transferring the qualifying contribution to the receiving EB.
- 4.6.4 When completing the Form 4, the funding EB will be responsible for entering the first spend and last spend dates against the project. They are also able to enter any expenditure that they have spent directly (not by way of a transfer) on the project. This information is captured in the same way as previous Form 4 reporting requirements.
- 4.6.5 The Form 4 for 2013/2014, will include an additional and separate project expenditure data entry field to record expenditure on projects where another EB holds the project approval. EBs who have been allocated projects by another EB will see these projects listed on an additional project expenditure breakdown sheet on their Form 4. Any receiving EBs entering data into this new field must also complete this second project breakdown sheet.
- 4.6.6 Similar to the process already in place for completion of Form 4s, only projects that are 'open' will be shown in the project breakdown sheet.
- 4.6.7 EBs should be aware that they will need to complete separate project expenditure details for projects where they hold the project approval and for projects allocated to it by another EB. EBs will need to ensure that they complete the relevant project expenditure boxes and project breakdown sheets for all relevant projects.

5. Further Information

- 5.1 If you have any questions in relation to this guidance please do not hesitate to contact **the compliance team on 01926 488 311.**

Appendix A

Regulation 30(2)(d)(i)

A body shall only be taken to spend a qualifying contribution in the course or furtherance of its approved objects—

- (d) where--
 - (i) it transfers any qualifying contribution or income derived therefrom to another approved body, and

Regulation 32(3)(b)

For the purposes of this Part where any qualifying contribution or income derived therefrom is transferred to a body as described in regulation 30(2)(d)—

- (b) that body shall be treated as having received those qualifying contributions from the registered person or persons who originally paid them (but this shall not give rise to any further entitlement to credit in respect of those contributions).

Regulation 33A(1)(f):

An approved body shall notify the regulatory body within seven days of any transfer by that approved body of qualifying contributions or of income derived therefrom of—

- (i) the date of the transfer;
- (ii) the enrolment number of the approved body by which the transfer was made;
- (iii) the amount transferred;
- (iii) the name and registration number of the person who made the qualifying contribution;
- (iv) the name and address of any contributing third party in relation to the contribution; and
- (v) the approved objects to which the transferred funds are to be applied.