



**An Roinn
Cultúir, Oidhreacht agus Gaeltachta**

**Department of
Culture, Heritage and the Gaeltacht**

Oifig an Ard-Rúnaí
Office of the Secretary General

Ms. Margaret Falsey
Committee Secretariat
Committee of Public Accounts
Houses of the Oireachtas
Leinster House
Dublin 2

6th November 2018

Ref: PAC 32-I-1137

Dear Margaret,

I refer to your letter of 30 October 2018 requesting a copy of the Performance Delivery Agreement between the Department of Culture, Heritage and the Gaeltacht and Galway 2020.

Enclosed is a copy of the Agreement for the information of the Committee. The list of projects under Galway 2020 allocated funding by the Department, which is appended to the Agreement, has been withheld pending their public announcement at a showcase event on 15 November. I will arrange for the Agreement, including the appendix, to be resent to the Committee once the projects are announced.

Yours sincerely,

Katherine Licken
Secretary General

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An Roinn Cultúir,
Oidhreacht agus Gaeltachta
Department of Culture,
Heritage and the Gaeltacht

PERFORMANCE DELIVERY AGREEMENT
Between
The Department of Culture, Heritage and the Gaeltacht
And
Galway Cultural Development and Activity Company Limited by Guarantee T/A
Galway 2020

1. Introduction

This Performance Delivery Agreement is a written statement between the Department of Culture, Heritage, and the Gaeltacht (hereafter referred to as the Department) & Galway Cultural Development and Activity Company Limited by Guarantee T/A Galway 2020 (hereinafter referred to as Galway 2020) to define the respective roles and responsibilities of the Department and Galway 2020 and ensure that resources are used in an effective and cost effective manner to deliver an agreed work programme by Galway 2020. The Performance Delivery Agreement sets out the key deliverables for Galway 2020 and outlines the Department's terms and conditions in relation to the provision of grant funding.

This agreement may only be amended by arrangement between the Department and Galway 2020. Any such amendment will be documented and shall then form part of the corpus of agreements underpinning the relationship between the parties.

2. Objectives of the Agreement

- a) To ensure a successful delivery of the European Capital of Culture 2020 programme.
- b) To put in place a clear understanding of the mutual roles of the Department and Galway 2020.
- c) To ensure that the structures and arrangements in both the Department and Galway 2020 are sufficient to ensure robust governance, appropriate oversight and timely support for the delivery of the project.

3. Governance

Galway 2020, the Company tasked with delivering the Galway European Capital of Culture 2020, is governed by a Board of Directors, comprising a range of expertise from the cultural, governance, audit, business, legal, marketing and communications, digital and language sectors. Galway 2020 is also accountable to a number of public funders and strategic partners, namely the Government of Ireland, Galway City and County Councils and the EU Expert Monitoring Panel, comprised of representatives from the key EU Institutions. This Performance Delivery Agreement addresses the governance arrangements between the Department of Culture, Heritage and the Gaeltacht and Galway 2020.

The objectives of the European Capital of Culture action, under the Creative Europe Programme, have been defined as follows: to safeguard and promote the diversity of cultures in Europe and to highlight the common features they share as well as to increase citizens' sense of belonging to a common cultural area, on the one hand, and to foster the contribution of culture to the long-term development of cities in accordance with their respective strategies and priorities, on the other hand.

The objectives of Galway 2020 are to: regenerate the cultural life of the city and county and spread its influence across Europe; re-open our eyes to the immense cultural landscape of Galway and of Europe; re-energise communities that have been undermined by economic decline and migration; and, re-instil a confidence in the power of culture to shape our lived environment.

Galway 2020 shall comply with the relevant national requirements, including: Department of Finance Circular 13/2014 *Management of and Accountability for Grants from Exchequer Funds*;

Public Financial Procedures; relevant provisions of the Companies Acts; the requirements of the Revenue Commissioners, the Charities Regulator, the Public Spending Code and the General Data Protection Regulations; and, all other enactments and regulations that are applicable and relevant. Galway 2020 shall also comply with the monitoring and reporting requirements of the EU Expert Panel on the Capital of Culture Programme.

4. Roles and Commitments

The Department's mission includes the promotion, nurturing and development of Ireland's arts, culture and heritage. This is achieved through its goal to support and develop engagement with, and in, arts, culture and creativity by individuals and communities, thereby enriching individual and community well-being; and to promote Ireland's arts and culture globally. The support of Galway 2020 will contribute to the achievement of this goal.

General mutual commitments

Under this agreement both parties will

- a) Commit to proactive co-operation and timely communication.
- b) Provide prompt and timely responses to correspondence, information requests and related matters.
- c) Keep each other fully informed and updated on all relevant issues.
- d) Adhere to the Public Spending Code, public financial procedures, procurement legislation and all other legislative, policy and reporting requirements.

Commitments by the Department

- a) The Department will provide grant funding of no more than €15,000,000 to Galway 2020 for the delivery of the programme 'Making Waves', on the basis of the agreed key performance indicators and schedule, and subject to the relevant legislative, policy, financial and reporting requirements referenced elsewhere in this document.
- b) Subject to the terms of this agreement and to the agreed key performance indicators being met, the Department will provide this funding according to a mutually agreed

schedule in respect of eligible expenditure incurred, including qualifying administration costs.

- c) The Department will appoint a representative of the Minister to serve on the Board of Galway 2020. The role of the Minister's representative is complementary to this agreement.
- d) Representatives of the Department will attend both bi-lateral monitoring meetings with Galway 2020 and separate meetings with Galway 2020 and the other public funders at least quarterly as outlined in Section 8 (Monitoring and Reporting).

Commitments by Galway 2020

- a) Galway 2020 will deliver an effective programme for the European Capital of Culture 2020 according to an agreed schedule and in line with 'Making Waves'.
- b) Galway 2020 will establish an evaluation and monitoring programme with the National University of Ireland Galway (NUIG) in consultation with the Department.
- c) Galway 2020 will deliver a Legacy Programme arising from the European Capital of Culture Programme.
- d) Galway 2020 will comply with the requirements set out in Section 5 (Grant Drawdown Requirements).
- e) Galway 2020 will comply with the requirements set out in Section 8 (Monitoring and Reporting).
- f) Galway 2020 will, as far as practicable, comply with recommendations of the EU Expert Panel for the European Capital of Culture.
- g) Galway 2020 will develop, implement and monitor programmes, including communications, volunteers, business, tourism and branding.
- h) Representatives of Galway 2020 will attend both bi-lateral monitoring meetings with the representatives of the Department and separate meetings with the Department and the other public funders at least quarterly as outlined in Section 8 (Monitoring and Reporting).

5. Grant Drawdown Requirements

To draw down Departmental funding, Galway 2020 will on quarterly basis:

- (a) Apply in writing for each drawdown of the grant;
- (b) Ensure each request for payment is accompanied by:
 - i) an up to date Management report outlining progress against milestones under the key performance indicators outlined in the Schedule to this Agreement, as well as details of upcoming expenditure on programming and priorities for the subsequent six-month period;
 - ii) an updated cash-flow statement;
 - iii) a quarterly independent Auditor's report which must confirm:
 - i. that best practices in transparency, accountability and securing value for money have been followed in respect of the qualifying programme expenditure for which funds are being drawn down;
 - ii. where required due to payment levels, valid Tax Clearance Certificates and certification that payees, are tax compliant;
 - iii. categorisation of expenditure into agreed headings.

6. Terms and Conditions

Galway 2020 will undertake to

- (a) Provide confirmation that Codes of Conduct for the Board and employees of Galway 2020 Limited have been put in place and are adhered to.
- (b) Provide statistical material, briefing material and other information on Galway 2020 as European Capital of Culture as required from time to time by the Department in the lead in years to 2020 and through an arrangement with Galway City Council for a period of six years thereafter.
- (c) Provide material to the Department for written responses to any correspondence sent to the Minister about processes and procedures regarding the expenditure of the €15,000,000 grant as required from time to time by the Department during the time frame of 2017-2020 and through an arrangement with Galway City Council for a period of six years thereafter.

- (d) Ensure compliance with best financial management practice including adherence to public financial procedures, legal requirements and Financial Reporting Standards in respect of the expenditure of, reporting on and accounting for these funds.
- (e) Comply with the requirements of Circular 13/2014 including adherence to public financial procedures and the provision of vouched expenditure receipts in advance of release of each tranche of funding, as per the Schedule to this Agreement.
- (f) Ensure that there is transparency in the allocation of funding and monies disbursed from the Department's funding.
- (g) Acknowledge the funding in all Galway 2020 publicity and reports/publications by inclusion of the Government of Ireland logo and a written acknowledgment of the fact that it is supported by the Government of Ireland under the National Development Plan 2040 through the Department of Culture, Heritage and the Gaeltacht.
- (h) Surrender any balance of the grant that remains unspent at the completion of the project on a pro-rata basis with respect to other funding bodies.
- (i) Undertake to provide an audited account to the Department on or before 31 March 2022 giving a detailed breakdown of the expenditure of this grant and of income, expenditure and the asset situation for the entire Programme.
- (j) If following the preparation and presentation of the audited accounts, it becomes apparent that all grant monies drawn down from the Department were not spent in accordance with this agreement, then such funds will be repaid to the Department. These funds shall be deemed a contract debt, recoverable in any Court of competent jurisdiction.
- (k) All paid invoices on which this grant is expended should be retained together for a period of at least six years and be made available for inspection by officials of the Department. Inspections by officials of the Department will be arranged in advance in agreement with Galway 2020 or Galway City Council, as applicable.
- (l) As the Department reports on all of its expenditure to the Public Accounts Committee and the Department's account is audited by the Comptroller and Auditor General, this agreement reserves the right and entitlement of the Comptroller and Auditor General to examine, query or audit the documentation of the expenditure of these funds at any time up to or after 2021.

(m) Galway 2020 shall bear responsibility in respect of any and all claims howsoever arising from or in connection with the execution of the programme assisted under the terms of this agreement, and shall indemnify and hold harmless the Department in respect of such claims.

The Department will not be liable in respect of any claim by or on behalf of any adviser, manager, volunteer, expert employee, servant, or agent of Galway 2020 or by or on behalf of any other person who may have a claim against Galway 2020 arising out of the implementation of this Performance Delivery Agreement.

7. Performance Levels and Performance Measurement

The funding and key performance indicators agreed between the Department and Galway 2020 are set out in the Schedule to this Agreement.

The provisions set out in the Schedule may be reviewed and amended by mutual agreement.

Continued provision of funding by the Department to Galway 2020 is contingent on Galway 2020's ability to provide quarterly Management and Auditor's reports demonstrating that: 1) the agreed milestones attached to the key performance indicators are being met; and, 2) an independent auditor has confirmed that best practice has been applied to the qualifying programme expenditure for which funds are being drawn down.

8. Monitoring and Reporting

Galway 2020 will hold a quarterly reporting meeting with all public funders of Galway 2020 and a separate bi-lateral meeting with the Department on progress against milestones under this Agreement.

At least one week in advance of each such meeting, Galway 2020 will provide a Management report to the Department on progress on meeting agreed milestones under the key performance indicators, to include the following sections:

- Overview of progress on delivery of the programme;
- Updates on governance arrangements, risk management and staffing;

- Budget V. expenditure;
- Progress on Partnership Programmes; and
- Progress on the monitoring and evaluation, and Legacy programmes.

The Management report will be accompanied by an independent Auditor's report confirming that best financial practice has been applied in respect of the expenditure for which funds are being drawn down.

9. Freedom of Information

Information provided to the Department may be disclosed in response to a request under the Freedom of Information Act. The Company should identify any information considered commercially sensitive and specify the reason for its sensitivity before the Department makes a decision on any Freedom of Information request.

10. Duration of the Agreement

This Performance Delivery Agreement shall commence from the date of signing and covers the period from that date until 1st July 2021.

This Performance Delivery Agreement may be terminated before this date by either party if the commitments and terms of the Agreement are not being met.

11. Review of Agreement

The Agreement and attached Schedule will be subject to annual review at the relevant quarterly review meeting with the Department.

12. Signatories to the Agreement

*Signed on behalf of Galway Cultural Development and Activity Company Limited by Guarantee
T/A Galway 2020*

Patricia Philbin 6/11/18

Patricia Philbin
Chief Executive Officer
Galway Cultural Development and Activity Company Limited by Guarantee
T/A Galway 2020

Signed on behalf of the Department of Culture, Heritage and the Gaeltacht

Christine Sisk 6/11/18

Christine Sisk
Department of Culture, Heritage and the Gaeltacht

Schedule
Funding and Key Performance Indicators for Galway 2020

Funding allocation

In 2017, the Department provided a first tranche of funding of €250,000 to Galway 2020 towards certified expenditure. The Department will provide funding of €6 million to Galway 2020 in 2019. Funding will be provided at intervals of three months during the year, and subject to Galway 2020 meeting the criteria for the release of funds, as set out in condition 5 of this Agreement above and in compliance with the Key Performance Indicators below.

The allocation of funding in other years will be determined in line with budgetary planning and allocations for the years concerned.

Key Performance Indicators

The Key Performance Indicators below address the following themes: the Galway 2020 Cultural Programme; governance and risk: finance and audit; partnership programmes; the Monitoring and Evaluation programme; and the Legacy Programme. KPIs are set out under each theme, with milestones and the timeframe for delivery of the each milestone.

Key Performance Indicator	Milestones	Timeframe
1. Cultural Programme		
Artistic and cultural programme in place and projects under the programme meeting the terms of individual contracts. (List of projects and associated costs that Department grant funding is allocated to is appended to this Agreement.)	Quarterly report to Department to provide update on projects' progress relative to contract requirements. Evidence of payment to producers for milestones met under contract provided to the Department with request for drawdown of funds.	Quarterly report and monitoring meeting between Galway 2020 and the Department.
European dimension incorporated into the artistic and cultural, as well as	Department updated on initiatives with other European cities, artists and organisations, as well as level	Quarterly report and monitoring meeting between Galway 2020 and the Department.

audience development programmes.	of engagement by the public in these initiatives.	
Audience development programme in place and monitored for effectiveness	Department updated on progress and effectiveness of programme.	Quarterly report and monitoring meeting between Galway 2020 and the Department.
2. Governance and Risk		
Compliance with regulatory and administrative requirements, namely, provisions of the Companies Act and Charities Regulator, tax clearance, child protection, GDPR, Grant Circular 13/2014, the Public Spending Code and public procurement.	<p>Submission of annual report to CRO and Charities Regulator and copy provided to Department.</p> <p>Internal systems in place to ensure compliance with tax, child protection, the Public Spending Code and public procurement requirements. Policies published on Galway 2020 website, where applicable. Any breaches of systems notified to the Department immediately.</p>	<p>Annually</p> <p>Ongoing and reviewed at regular monitoring meeting between Galway 2020 and Department.</p>
Board and Audit Committee meetings regularly held and any items of significance arising brought to the attention of the Department.	<p>Dates of Board and Audit Committee meetings held notified to the Department by the Finance and Operations Director.</p> <p>Any items of significance arising and the measures to address them notified to the Department.</p>	Quarterly report and monitoring meeting between Galway 2020 and the Department.
Management control systems in place and any breaches brought to the attention of the Department.	<p>Management control systems developed and monitored by Galway 2020 Executive Team.</p> <p>Any breaches are swiftly addressed and brought to the attention of the Department.</p>	<p>Quarterly report and monitoring meeting between Galway 2020 and the Department.</p> <p>Breaches notified immediately to the Department.</p>

Risk Management Policy and risk register in place.	Risk register reviewed, as prescribed, and actions taken where necessary to mitigate risks. Latest risk register provided to Department in advance of monitoring meeting.	Quarterly report and monitoring meeting between Galway 2020 and the Department.
3. Finance and Audit		
Financial control systems in place and any breaches brought to the attention of the Department.	Financial control systems developed and monitored by Galway 2020 Executive Team. Any breaches are swiftly addressed and brought to the attention of the Department.	Quarterly report and monitoring meeting between Galway 2020 and the Department.
Expenditure by Galway 2020 reviewed and verified by independent accounting practice.	Vouched expenditure examined and verified by independent auditor in advance of submission to Department for drawdown of each tranche of grant funding.	Quarterly, two weeks in advance of drawdown date for each tranche of grant funding from Department.
4. Partnership Programmes		
The following partnership programmes are developed, implemented and monitored for effectiveness: communications; volunteer; business; tourism; branding.	Programmes developed and communicated to Department. Department updated on progress and effectiveness of programmes. Any matters of significance arising are addressed in a timely manner based on evidence from ongoing monitoring of performance.	2018 Quarterly report and monitoring meeting between Galway 2020 and the Department. As required.
5. Monitoring and Evaluation Programme		
ECOC Monitoring and Evaluation Programme with NUIG developed and implemented in consultation with the Department.	Agreement between Galway 2020 and NUIG signed. Milestones under the Agreement communicated to	Quarterly Quarterly report and monitoring meeting between

	the Department and progress in achieving milestones reviewed as part of on-going monitoring between Department and Galway 2020.	Galway 2020 and the Department.
6. Legacy Programme		
Themes resulting from Legacy Conference developed as part of the overall programme for Galway 2020.	Themes in report from Legacy Conference developed and met according to agreed prescribed milestones.	Quarterly report and monitoring meeting between Galway 2020 and the Department.