

ANEX A:

Rules for this call for proposals

These guidelines set out the rules for the submission, selection and implementation of the actions financed under this call, in conformity with the Practical Guide, which is applicable to the present call (available at <http://ec.europa.eu/europeaid/prag/document.do?locale=en>)¹.

1.1 Eligibility criteria

There are three sets of eligibility criteria, relating to:

(1) the actors:

- The lead **applicant**, i.e. the entity submitting the concept note and the full application form (2.1.1),
- if any, its **co-applicant(s)** (where it is not specified otherwise the lead applicant and its co-applicant(s) are hereinafter jointly referred as the "*applicants*") (2.1.1),
- and, if any, **affiliated entity(ies)** to the lead applicant and/or to a co-applicant(s). (2.1.2);

(2) the actions:

- Actions for which a grant may be awarded (2.1.4);

(3) the costs:

- types of cost that may be taken into account in setting the amount of the grant (2.1.5).

1.1.1 Eligibility of applicants (i.e. lead applicant and co-applicant(s))

Lead applicant

(1) In order to be eligible for a grant, the lead applicant must:

- be a legal person **and**
- be non-profit-making **and** be a specific type of organisation such as: non-governmental organisation, international organisation as defined by Article 43 of the Rules of application of the EU Financial Regulation².

¹ Note that a lead applicant (i.e. a Coordinator) whose pillars have been positively assessed by the European Commission and who is awarded a grant will not sign the standard grant contract published with these guidelines but a PA Grant Agreement based on the PAGoDA template. All references in these guidelines and other documents related to this call to the standard grant contract shall in this case be understood as referring to the relevant provisions of the PAGoDA template.

² International organisations are international public-sector organisations set up by intergovernmental agreements as well as specialised agencies set up by them; the International Committee of the Red Cross (ICRC) and the International Federation of National Red Cross and Red Crescent Societies are also recognised as international organisations. According to the article 6.10 of the Practical Guide for Applicants, national organisations of the Red Cross or Red Crescent are not regarded as international organisations.

- be established in³ a Member State of the European Union or Montenegro⁴, or the countries covered by Article 10 of CIR of IPA II Regulation⁵. This obligation does not apply to international organisations, **and**
- if the applicant is a national of an eligible country other than Montenegro, they must have at least one Montenegrin co-applicant, **and**
- be directly responsible for the preparation and management of the action with the co-applicant(s) and affiliated entity(ies), not acting as an intermediary **and**
- have at least 3 years of experience in implementing and supporting projects facilitating the integration of RE in Eastern Europe and/or the Balkans

(2) Potential applicants may not participate in calls for proposals or be awarded grants if they are in any of the situations listed in section 2.3.3 of the Practical Guide;

In Annex A.2, section 5 ('declaration by the lead applicant'), the lead applicant must declare that the lead applicant himself, the co-applicant(s) and affiliated entity(ies) are not in any of these situations.

The lead applicant may act individually or with co-applicant(s).

If awarded the grant contract, the lead applicant will become the beneficiary identified as the Coordinator in Annex E3h1 (Special Conditions). The Coordinator is the main interlocutor of the Contracting Authority. It represents and acts on behalf of any other co-beneficiary (if any) and coordinate the design and implementation of the action.

³ To be determined on the basis of the organisation's statutes that should demonstrate that it has been established by an instrument governed by the national law of the country concerned and that its head office is located in an eligible country. In this respect, any legal entity whose statutes have been established in another country cannot be considered an eligible local organisation, even if the statutes are registered locally or a 'Memorandum of Understanding' has been concluded.

⁴ Registered under the Law of Non-governmental Organisations (Official Gazette of Montenegro 39/11)

⁵ Downloadable from

<http://ec.europa.eu/europeaid/prag/document.do;jsessionid=2S36PkmM1450KKWpvdRCVwhF9sbhbZX8BWNwXC Rvsb6n7R9SDX8Q!419991758?keyword=Rule+on+origin+of+supplies+and+material&locale=en> Annex A2a: Austria, Belgium, Bulgaria, Czech Republic, Croatia, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom, Albania, Bosnia and Herzegovina, Kosovo*(this designation is without prejudice to positions on status and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence), Montenegro, Serbia, Turkey, the former Yugoslav Republic of Macedonia, Iceland, Lichtenstein, Norway.

Co-applicant(s)

Co-applicants participate in designing and implementing the action, and the costs they incur are eligible in the same way as those incurred by the lead applicant.

Co-applicants must satisfy the eligibility criteria as applicable to the lead applicant.

Co-applicants must sign the mandate in Annex A.2., section 4.

If awarded the grant contract, the co-applicant(s)(if any) will become beneficiary(ies) in the action (together with the Coordinator).

1.1.2 Affiliated entities

Affiliated entity(ies)

The lead applicant and its co-applicant(s) may act with affiliated entity(ies)

Only the following entities may be considered as affiliated entities to the lead applicant and/or to co-applicant(s):

Only entities having a structural link with the applicants (i.e. the lead applicant or a co-applicant), in particular a legal or capital link.

This structural link encompasses mainly two notions:

(i) Control, as defined in Directive 2013/34/EU on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings:

Entities affiliated to applicant may hence be:

- Entities directly or indirectly controlled by an applicant (daughter companies or first-tier subsidiaries). They may also be entities controlled by an entity controlled by an applicant (granddaughter companies or second-tier subsidiaries) and the same applies to further tiers of control;
- Entities directly or indirectly controlling the applicant (parent companies). Likewise, they may be entities controlling an entity controlling the applicant;
- Entities under the same direct or indirect control as the applicant (sister companies).

(ii) Membership, i.e. the applicant is legally defined as a e.g. network, federation, association in which the proposed affiliated entities also participate or the applicant participates in the same entity (e.g. network, federation, association) as the proposed affiliated entities.

The structural link shall as a general rule be neither limited to the action nor established for the sole purpose of its implementation. This means that the link would exist independently of the award of the grant; it should exist before the call for proposals and remain valid after the end of the action.

By way of exception, an entity may be considered as affiliated to an applicant even if it has a structural link specifically established for the sole purpose of the implementation of the action in the case of so-called "sole applicants" or "sole beneficiaries". A sole applicant or a sole beneficiary is a legal entity formed by several entities (a group of entities) which together comply with the criteria for being awarded the grant. For example, an association is formed by its members.

What is not an affiliated entity?

The following are not considered entities affiliated to an applicant:

- Entities that have entered into a (procurement) contract or subcontract with an applicant, act as concessionaires or delegates for public services for an applicant,
- Entities that receive financial support from an applicant,
- Entities that cooperate on a regular basis with an applicant on the basis of a memorandum of understanding or share some assets,
- Entities that have signed a consortium agreement under the grant contract (unless this consortium agreement leads to the creation of a "sole applicant" as described above).

How to verify the existence of the required link with an applicant?

The affiliation resulting from control may in particular be proved on the basis of the consolidated accounts of the group of entities the applicant and its proposed affiliates belong to.

The affiliation resulting from membership may in particular be proved on the basis of the statutes or equivalent act establishing the entity (network, federation, association) which the applicant constitutes or in which the applicant participates.

If the applicants are awarded a grant contract, their affiliated entity(ies) will not become beneficiary(ies) of the action and signatory(ies) of the grant contract. However, they will participate in the design and in the implementation of the action and the costs they incur (including those incurred for implementation contracts and financial support to third parties) may be accepted as eligible costs, provided they comply with all the relevant rules already applicable to the beneficiary(ies) under the grant contract.

Affiliated entity(ies) must satisfy the same eligibility criteria as the lead applicant and the co-applicant(s). They must sign the affiliated entity(ies) statement in Annex A.2., section 5.

1.1.3 Associates and Contractors

The following entities are not applicants nor affiliated entities and do not have to sign the "mandate for co-applicant(s)" or "affiliated entities' statement":

- Associates

Other organisations or individuals may be involved in the action. Such associates play a real role in the action but may not receive funding from the grant, with the exception of per diem or travel costs.

Associates do not have to meet the eligibility criteria referred to in section 2.1.1. Associates must be mentioned in Annex A.2., section 4 — ‘Associates participating in the action’.

- Contractors

The beneficiaries and their affiliated entities are permitted to award contracts. Associates or affiliated entity(ies) cannot be also contractors in the project. Contractors are subject to the procurement rules set out in Annex IV to the standard grant contract.