

Requests for Clarification No. 2

1st Call for Proposals under the IPA CBC Programme Serbia-Montenegro

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Q30: It was mentioned that EC contribution may be from 50% to 85%. In what situation contribution can be 50% and in what can it be 85%?

A30: It is up to the free decision of the applicants and their partners to establish the most appropriate mix of Community contribution and co-financing (within the minimum and maximum thresholds, as stipulated in the Section 1.3 of the Guidelines for Applicants).

Q31: Does an institution have to hire a certified Project manager for the project, or someone from the institution can perform this duty?

A31: The applicant is free to appoint any of its staff members to discharge the functions of Project Manager or, as deemed fit, hire a professional project manager for the purpose.

It is up to the applicant to assess the capacities of the person in charge to actually manage the project in a successfully way: please refer also to second paragraph of art. 1.2 of Annex II "General Conditions applicable to European Community-financed grant contracts for external actions".

Q32: Is it necessary for a public institution that is financed from the state budget and is an eligible applicant to have funds required for project co-financing prepared in advance?

A32: No, it is not necessary. Please see also the answer 14 of the Clarifications No. 1.

Q33: Can we engage someone from an NGO for the project writing purpose without prior permission?

A33: Activities carried out by the applicants before submitting their application under this Call for Proposal are not the object of the Call itself. Costs sustained in this stage are not eligible for EU financing. The applicants are therefore free to adopt the most appropriate approach to the preparation of their application.

Q34: Can an international organisation that operates in Montenegro be a partner on a project? Does an international organization, that is partner to municipal authorities on the project, have the right to subcontract companies the same way applicants can?

A34: Yes, an international organization can be a partner as well.

Applicant's partners participate in designing and implementing the action, and the costs they incur are eligible in the same way as those incurred by the lead partner, as indicated in the Section 2.1.2 of the Guidelines.

Thus, subcontracting undertaken by the partners shall follow the requirements of Annex IV "Contract Award Procedures" to the Standard Grant Contract, in the same way as for the Applicant.

Q35: Could you explain us the issue of project eligibility in terms of profit creation. If as result of the project some concrete tourism product is produced that can be used later, is it considered as a profit?

A35: The Grants may not in any case have the purpose or effect of producing a profit for the beneficiary.

A profit means a surplus of actual receipts over the actual costs of the Action in question when the request is made for payment of the balance, as stipulated in the Article 17.3 of the General Conditions to the Standard Grant Contract.

To ensure that this rule has been observed, when examining the request for final payment, the Contracting Authorities will require a summary statement of all the actual costs and receipts (both eligible and non-eligible) with regards to the implemented Action.

Furthermore the Contracting Authorities will take account of all revenues which, on the date when the request for payment of the balance is submitted, are established (i.e. have been collected and entered in the accounts), generated or confirmed (i.e. have not yet been collected but which have been generated or for which the beneficiary has a commitment or written confirmation).

On the basis of this, the Contracting Authorities will be in a position to identify any surplus or deficit of receipts, in relation to the actual costs of the action:

- where there is a deficit of receipts, the action has not generated a profit and the theoretical Community grant is maintained;
- where there is a surplus of receipts, by applying the no-profit rule the Community grant must be revised downwards in order to balance all revenue and expenditure of the action.

Q36: If we developed the project for Measure 1.1, and there is situation that one of the activities fits in the list of possible activities listed under the Measure 1.2 in the GfA, can this activity still stay in our proposal under Measure 1.1?

A36: At the moment of submitting the application, the Applicant has to indicate the measure under which the proposal is presented. It cannot be excluded that an application might have some elements that match eligible actions under the other measure.

Q37: If more municipalities benefit from the project, does this bring additional points in comparison to the situation where only one municipality benefits from the project?

A37: As stated in Section 2.1.3 of the Guidelines for Applicants, actions and their activities must take place in the programming area and must have as final beneficiaries the population of the programming area.

There is no criterion per se in the evaluation grid linking a larger number of municipalities with a higher score during evaluation of the proposals.

However, please note that the criterion 5.1 of the evaluation grid will measure the effectiveness of your application and will be subject to a lower or a higher score depending on how effectively the expected results will be met.

Q38: If a fair is organized outside of the programme area, but entrepreneurs from the programme area can benefit from participating in it in order to appear on new markets, can their participation on the fair be financed from the project budget?

A38: In order to be eligible, an action must take place in the eligible programme area, as defined in the Section 2.1.3 of the Guidelines for applicants.

Exceptionally, an action can take place in the eligible adjacent areas in Montenegro – please see the same Section 2.1.3, subsection “Actions in “Adjacent Areas” in Montenegro”.

All the actions must fulfil the other eligibility criteria stipulated in the same Section 2.1.3 (e.g. they have effect both in the Serbian and Montenegrin parts of the programming area).

Q39: PADOR – We heard that an institution was rejected in some Call for Proposals because it wasn't registered in PADOR. Is this used for registration of direct or indirect beneficiaries?

A39: For this Call for Proposals, registration of applicants and partners in PADOR is not obligatory, as stipulated in the Section 2.2 of the Guidelines for Applicants.

Applicants have the possibility and are invited to register their organization in PADOR, also because other EU-funded Calls for Proposals already established such registration as obligatory, but this is not yet the case for CBC Programmes' Calls.

Q40: When do we define the percentage of own contribution? Once the project is approved, or we must define that in advance?

A40: The share of co-financing from the applicants' or partners' own resources, or from sources other than the European Community budget, must be established in advance and it should be explicitly stated in the Application Form – indicating both the total project value and the amount requested from the EU.

One of the evaluation criteria in the step 1 evaluation is whether the proposal respects the minimum and maximum thresholds for co-financing.

Q41: Do we submit one joint project to the Joint Technical Secretariat, and sign two contracts for both sides of the border? There is no need to write two projects?

A41: Each proposal is to be submitted on a single Application Form, indicating both (lead) Applicants and all their partners. Among other parts, the application will consist of one joint budget and of two separate budget sheets for each of the two applicants along with their respective partners. This approach will result in the conclusion of two contracts: one between the EC Delegation to the Republic of Serbia in Belgrade and the applicant requesting funding from the IPA allocation earmarked for Serbia, and another one between the EC Delegation to Montenegro in Podgorica and the applicant under the allocation bestowed upon Montenegro.

Q42 : EU financial contribution is 50% - 85%. Can there be the case that EU may require re-allocating the proportion of the EU participation after the proposal has been approved?

A42: Following the award of the grant to a specific proposal, before signing the grant contracts (one with each applicant), the Contracting Authorities may enter into a budget clarification process with the applicants. This course of action is only aimed at clarifying specific ambiguous items in the budget or to eliminate unrealistic costs and other ineligible costs.

However the Contracting Authorities may not increase the percentage of requested contribution, and they may also not increase the total amount of grant to be provided by the EC.

Q43: If the same activities are implemented in both countries, is it allowed to predict in the budget to find one subcontractor from one country to provide services in both countries?

A43: Yes it is, and it strictly responds to the EC principle of sound financial management.

It is, however, a direct responsibility of the applicants to take into account possible restrictions posed by applicable national legislation restricting the transfer of funds for the implementation of actions across the border, which remain in force at any time.

Q44: What is the maximum amount that does not require using tendering procedure for procurement? What if we purchase the software, for example? Should this be done in accordance with the local legislation?

A44: If the implementation of an Action requires procurement by the Applicant or its partners, the contract must be awarded in compliance with the requirements described in the Annex IV "Contract Award Procedures" to the Standard Grant Contract.

Please note that the Commission will carry out ex post checks to assess the compliance with the mentioned requirements. In the event of failure to comply with the mentioned rules, expenditure on the operations in question will be considered not eligible for Community financing.

Moreover, Article 1.3 of Annex II “General Conditions applicable to European Community-financed grant contracts for external actions” reads:

"The Beneficiary [...] may subcontract a limited portion of the Action. The bulk of the Action must, however, be undertaken by the Beneficiary and, where applicable, his partners".

Q45: What would happen if two similar projects under the same Measure are submitted, and for the first one the applicant requests 85% of EU co-financing, and for the second one the applicant is requesting 70% of EU co-financing? Would the applicant that requests less (70%) of EU co-financing have an advantage?

A45: No. The amount of co-financing requested from the EU is not a criterion for the selection of applications.

The percentage of co-financing is one of the evaluation criteria in the step 1 evaluation - whether the proposal respects the indicated minimum and maximum.

Q46: Is it allowed for public companies to implement EU rules, regardless of local legislation?

A46: No, it is not. Please refer to art. 3.2 of Annex II “General Conditions applicable to European Community-financed grant contracts for external actions” to the Standard Grant Contract, according to which *“The Beneficiary shall assume sole liability towards third parties [and] shall discharge the Contracting Authority of all liability arising from any claim or action brought as a result of an infringement by the Beneficiary or the Beneficiary's employees or individuals for whom those employees are responsible of rules or regulations, or as a result of violation of a third party's rights.”*

Whenever the Beneficiary believes a derogation from national legislation can be granted in favour of EU rules, it will be its own responsibility to obtain the authorisation directly from the Administration in charge, following the rules in force in its country of origin, as well as the ones of the country where the action takes place.

Q47: Can VAT be exempt for the part of own contribution funds?

A47: Taxes, including VAT, are not eligible costs under this Call.

However, the VAT may be exceptionally eligible for financing under this Call, if the following conditions are fulfilled:

- The VAT is not recoverable by any means;
 - It is established that the VAT is borne by the applicant/partner; and
 - The VAT is clearly identified in the project proposal.
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Q48: When should VAT exemption procedure be initiated?

A48: The procedure for tax exemption differs from country to country - this implies that the two partners receiving funding from a different Delegation might have to follow different procedures.

Should the need be, the contracting authority may provide assistance to the applicants that will sign grant contracts. This also includes an estimate of the

delays to be expected before receiving the authorisation to proceed to a VAT-exempt purchase.

Q49: Exemption from customs duties?

A49: The beneficiary governments agreed upon specific procedures to be followed by the Grant beneficiaries to gain exemption from customs duties. Such procedures may vary from country to country. The Contracting Authority may provide assistance to the applicants that will sign grant contracts, should the need arise.

Q50: Can an NGO from Pljevlja (MNE) cooperate on the project with an NGO from Kraljevo (SRB)?

A50: Please see the Section 2.1.1 "Eligibility of applicants: who may apply?" of the Guidelines for applicants. All the organisations participating in this Call must originate from the eligible countries indicated in the mentioned Section. Please see also the Section 2.1.2 "Partnerships and eligibility of partners".

Q51: What happens if obligations defined in the grant contract are not fulfilled by an applicant fully? What does ECD do in such situation?

A51: As stipulated in the Article 12(2) of the General conditions, the Contracting Authority may terminate the Contract, without giving notice and without paying compensation of any kind where the Beneficiary fails, without justification, to fulfill any of the obligations incumbent on it and, after being given notice by letter to comply with those obligations, still fails to do so or to furnish a satisfactory explanation within 30 days of sending of the letter.

In the event of termination the Beneficiary shall be entitled to payment of the grant only for the part of the Action carried out, excluding costs connected with current commitments that would be implemented after termination.

Any amounts paid in excess will be recovered from the Beneficiary.

This Beneficiary may be excluded from all EC financed contracts for a maximum of five years (possible extension up to 10 years).

Q52: Is a budget for an applicant for funds from Serbian Contracting Authority made in RSD, or in EUR?

A52: In Euro.

Q53: Is VAT paid from the project's account, or from some other account?

A53: Please see the answer 47 above.

Q54: Can applicants contact JTS for help during the preparation of the project proposal?

A54: One of the main tasks of the JTS is a task of technical assistance to the potential applicants. JTS is the point of contact for potential applicants and all the questions they might have during preparation of their applications can be addressed to the JTS. However, while the call is open, JTS is not allowed to answer to phone and/or spoken queries. All the questions must be submitted in writing (fax, e-mail, post) to the JTS and the answers concerning all the potential

applicants will be provided after respective Contracting Authority approves them. This way equal treatment of all potential applicants will be provided and they will be protected from possible misinterpretations of the information contained in the documents from the Application Package.

Q55: Civil servants cannot be paid from the grant and funds from a grant cannot be used as a support to an institution's budget (e.g. general budget of a municipality). How can a mayor sign the grant contract then?

A55: The contracts must always be signed by a person authorised to represent the Beneficiary.

Salaries of the civil servants or other public employees may be financed from the EC grant. They can also be presented as co-financing contribution.

As stipulated in the Section 2.1.4 of the Guidelines, civil servants or other public employees of central or local administrations which participate under this call for proposals may not receive fees for their contribution to the action other than their salaries in the respective institution”.

Q56: There is a section in the Application Form where Applicants should describe their Experience in similar actions. Do we need to present similar projects that we implemented with partners from the EU, or all the similar projects that we implemented with any partner? What should be presented there: purpose, results, activities, sustainability, period of implementation...?

A56: In the relevant table, experience in similar actions of applicants and partners need to be indicated.

The nationality of partners from the past projects is not important.

It is up to applicants/partners to decide which references to indicate, however all the indicated fields in the table must be adequately filled in.

This information will be used to assess whether you have sufficient and stable experience of managing actions in the same sector and of a comparable scale to the one for which a grant is being requested.

Q57: If we want to hire an international expert as a member of project team, do we plan in the budget his salary according to the fees normal for this kind of expertise in Serbia and Montenegro, or to those normal in his country of origin?

A57:a) In case an expert is permanently or temporarily employed (i.e. on a labour contract) by the Beneficiary or partner, his salary and costs must not exceed those normally borne by the Beneficiary or its partners, as the case may be, unless it is justified by showing that it is essential to carry out the action.

b) In case an expert is external (i.e. working on a service contract), his engagement shall be subject to subcontracting, meaning it shall follow the procurement rules stipulated in the Annex IV to the standard grant contract.

If hired in accordance with the mentioned Annex IV, and if in accordance with provisions for eligibility of the direct costs (Section 2.1.4 of the Guidelines for applicants), the external expert's fees may be eligible for financing.

Please note that one of the criteria for eligibility of costs is that they must be reasonable, justified and comply with the requirements of sound financial management, in particular regarding economy and efficiency.

Moreover, the Contracting Authority may impose modifications or reductions of costs that are not in accordance with the principle of sound financial management.

Q58: If an organization itself is young (founded not that long ago) can relevant experience of its manager be taken into account when evaluating administrative and financial capacity of the organization?

A58: No, this is related to the experience of institution itself, not to the experience of individuals within the institution. When applying for a grant, institution can rely on individual experience team members might have had, but the description of institution's relevant experience, as described in the Application form, relates to the institution's own relevant experience and not to that of individuals within the institution.

Q59: If there is an associate in the action that is an individual (not an institution) that has an expertise useful for the action, are there obstacles for paying his salary from the project?

A59: The individuals are not eligible to participate in this Call, not even as associates. That comes also from the wording of the Section 2.1.2 of the Guidelines for applicants, indicating that "other organisations may be involved in the action" as associates.

The only funding the associates can get from the grant are per diem or travel costs.

For hiring an expert for the action, please see the answer 57 above.

Q60: Does section 4. of the Application Form (Experience in similar actions) relate only to the projects where the Organization had been the Lead Applicant, or should the projects where the Organization had been only a partner should be listed, too? How does the fact about organization being Lead applicant, or just a partner on a project affect evaluation of the proposal?

A60: The table in the Application Form (The Action, Section 4) where Experience in similar actions is to be described contains a column where you state whether you were a Lead manager or partner in the project.

Consequently, both types of involvements in projects may be relevant, whether being lead manager or partner.

Q61: What are criteria for determining how strong is cross-border effect of the proposal, how does the scoring scale look like and what principles are used for determining this?

A61: Section 1 of the Evaluation Grid for Step 2 (evaluation of the concept note) and Section 2 of the Evaluation Grid for the Step 3 (evaluation of the full application) deal with Relevance of the proposed action.

The questions concerning the relevance are indicated in the mentioned sections

of the grids and those are the criteria that will be used during the evaluation. There is no exact method for determining quality of cross-border effect of the proposal itself. This should be explained in the Project proposal, facts given and proofs provided.

Q62: Can two proposals that are similar, but still separated be submitted and financed under this Call? Must both of them be submitted?

A62: (The question is understood as one applicant submitting two similar proposals).

Each application under this Call shall clearly indicate under which measure it is submitted.

If two proposals are similar, they will most likely be submitted under the same measure. If this will be the case, please note that only one of them could be financed, the one with higher score, subject to being among projects recommended for the award of the contract.

Section 2.1.3 of the Guidelines for applicants stipulates that "*An applicant may not be awarded more than two grants under this call for proposals, limited to a maximum of one grant per measure*".

If you submit two projects that vary in nature and therefore are submitted under different measures, it can occur that both proposals are selected for financing, still subject to being among projects recommended for the award of the contract.

Q63: If our project proposal is from sector of tourism, but the activities on the Serbian side differ from those on Montenegrin side, could this be considered to be a joint project?

A63: The activities may differ between the Applicants, but they must contribute to the achievement of the same objective of the project.

Q64: National park Tara (Serbia) and National Park Durmitor (Montenegro) have a joint project idea. They are non-profit making organisation, and they could apply as such, is that right? Those organizations are partially financed from the state budgets, and partially from selling tickets to visitors, they have their income. Even the proposal itself would provide financial benefit after its period of implementation. Is this allowed?

A64: All criteria for the eligibility of applicants (and also partners) is given under "2.1.1 – Eligibility of applicants: who may apply" of the Guidelines for Applicants.

In the interest of equal treatment of applicants, the Contracting Authorities cannot give a prior opinion on the eligibility of an applicant, a partner, an action or specific activities.

Concerning the no-profit rule, please see the answer 35 above.

Q65: National park Tara (Serbia) and National Park Durmitor (Montenegro) have project idea that foresees adaptation and reconstruction of buildings in two national parks. This includes small works, no large-scale infrastructure. Could this be financed within the project in this Call?

A65: For the eligibility of actions, please refer to the Section 2.1.3 of the Guidelines for Applicants.

In the interest of equal treatment of applicants, the Contracting Authorities cannot give a prior opinion on the eligibility of an applicant, a partner, an action or specific activities.

Q66: This project between two National parks foresees strong connections between two National Parks, joint promotion of two Parks, exchange of structures between parks, etc. Will this be seen as sufficient cross-border effect?

A66: Please see the answer 61 above.

Q67: What does 80% pre-financing rule mean exactly?

A67: Pre-financing is a payment that the Beneficiary will receive from the Contracting Authority in advance, enabling it to start with implementation of the action.

The Contracting Authority will pay the first pre-financing to the Beneficiary within 45 days from the date of reception of the countersigned contract.

Depending on the option of payments (please see the payments table on page 8 of the Guidelines for Applicants, following the Article 15.1 of the General Conditions to the standard grant contract), the Beneficiary can obtain a (single) pre-financing in the amount of 80% of the Contracting Authority's maximum contribution, or (first) pre-financing in the amount of 80% of the estimated budget for the first 12 months.

Q68: In what way salaries of Government officials could be calculated as participation in the project? Having in mind that Government officials are receiving salaries from the institutions that are employing them, in what way these resources can be shown as participation of the NGO? (For example, employees of Municipality or tourist organization if they would be partners of NGO and if they would participate in the project realization).

A68: For eligibility of the costs for the proposed action, please read carefully the Section 2.1.4 of the Guidelines for Applicants.

The salaries of the civil servants or other public employees may be financed from the EC grant. They can also be presented as co-financing contribution of the applicant/partner.

However, civil servants or other public employees of central or local administrations which participate under this Call for Proposals may not receive fees for their contribution to the action other than their salaries in the respective institution.

In addition, costs must relate to activities which the relevant public authority would not carry out if it did not undertake the project concerned.

Q69: We intend to name an organization from Serbia to be the Functional lead applicant in our project proposal. Can a functional lead applicant be an organisation that is not registered in the programme eligible area, but has a partner organisation that is registered in the eligible area? To be precise, in our case, can Functional lead applicant be Business start-up centre from Kragujevac with partner Regional centre for development of small and

medium enterprises Kraljevo and with other Applicant being Employers' Union of Montenegro?

A69: The eligibility of applicants and partners for this Call for proposals is described in detail in sections 2.1.1 and 2.1.2 of the Guidelines for Applicants. These rules allow for a wide range of possible combinations between applicants and partners: as long as the rules are met, the project proposal is valid and will be taken into consideration.

However, all the actions proposed in the application shall take place in eligible location/area, as indicated in the Section 2.1.3 of the Guidelines, otherwise the application will be rejected.

Q70: As far as 15% co-financing rule is concerned, can those funds be provided from another donation. In our case that would be donation of Kingdom of the Netherlands?

A70: Yes, that is possible.

The co-financing contribution means that, since the EC grant does not cover entirely the eligible costs of the proposed action, the balance must be financed from the applicant's or partners' own resources, or from sources other than the European Community budget or the European Development Fund (see Section 1.3 of the Guidelines).

Q71: Does 15% of co-financing have to be provided by all the partners equally, or can it be covered by a single partner/applicant?

A71: The exact division of co-financing is not stipulated, but it must come from the applicant's or partners' own resources, or from sources other than the European Community budget or the European Development Fund.

It is important that the level of co-financing respects the minimum and maximum percentage, as stipulated in the Section 1.3 of the Guidelines for Applicants.

Please note that national legislation restricting the possibility to transfer funds across the borders remains applicable at all times, and may reduce the possibility for an Applicant to provide funds covering the co-financing of its cross-border partner applicant.

Q72: On page 13, regarding IDENTITY section, is it under “Official address of registration” meant the institution (or its address) in which our enterprise is registered or is it the address of the enterprise under which it is registered in that institution?

A72: Official address of registration means the address as indicated in the official registration documents of the organisation in question (documents from official registers, Statute, etc).

The official registration address serves to identify the location where the organisation concerned is established, and it must be verifiable by the official registration documents.

Q73: On page 24, in Applicant 1 section, is it under “Net earnings or equivalent” of the enterprise meant the sum of financial resources before its taxation, or the sum which is left after taxation?

A73: "Net earnings" is what is left of the sum earned by Organisation after all the taxes, interest, depreciation and other expenses are paid.

Q74: On page 24, 3.3.2, Applicant 1, Does the state budget as a financial resource belong to option – "Third Countries Public Bodies", or that way of financing belong to option – "Other resources"?

A74: If Applicant 1 is partially or completely financed from the state budget (Republic of Serbia, or Montenegro, or any other country that is eligible for the Call), as Financing Source in the mentioned table "Other (please specify)" should be ticked and specified "State budget of(country in question)" and percentage of financing from this source should be provided.
