EUROPEAN UNION

Delegation of the European Union to Bosnia and Herzegovina

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CLARIFICATION No. 1

European Instrument for Democracy and Human Rights (EIDHR)

Country Based Support Scheme 2010

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Tender No: EC/BIH/CFP/10/003

Disclaimer:

Applicants will find below a series of questions which have been sent to Delegation-BIH-Procurement@ec.europa.eu mailbox since the launch of the above-mentioned Call for Proposals.

In accordance with Guidelines for Applicants of the relevant Call for Proposals and its article 2.2.4 Further information for Concept Note:
"…**In the interest of equal treatment of applicants, the European Commission cannot give a prior opinion on the eligibility of an applicant, a partner, an action or specific activities**.

All eligibility related criteria are specified in **Sections 2.1.1 and 2.1.2** of the Guidelines for Grant Applicants.

In reference to **eligibility of an action**, please refer to Section 2.1.3. "Eligible actions: actions for which an application may be made" of the Guidelines for Grant Applicants, which clearly states all actions that could be considered eligible or ineligible.

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Question 1:

It is written that organization has to prove that cannot reclaim taxes. How should we prove this? Please give us an example. If we would get the project approved, what are the mechanisms for get taxes back (is there a contract between EC and Council of Minister that regulates these issues that we can refer to when claiming reimbursement of taxes)?
Our organization was told by respective tax authorities that we need the original contract sign by BiH Council of Ministers and donor, in order to become eligible for tax exemption.

Answer 1:

There is no need to prove inability to claim taxes (VAT costs) as EU Delegation is aware of existing procedures that allow it and EIDHR is not included in those procedures. VAT costs under the EIDHR funded projects therefore could be covered by project matching funds (co-financing).

Question 2:

If we cannot get taxes reimbursement, what are the implications to the budget creation?
Attached section (in blue) is not totally understandable.
Does this mean that all the taxes will have to be separated from net amounts to be paid and presented in "heading taxes" as different budget line?
If this is the case, will EC accept and reimburse these taxes as project cost?

Answer 2:

The budget template that should be submitted in application process clearly states under the heading 12.Taxes, total amount of taxes including VAT.

These taxes should not be mixed with other obligations as the social contributions as the latter are eligible costs.

Although not eligible for EU funding, the taxes under budget heading 12 are considered costs of the project and accepted to be covered by the matching/co-financing funds.

Question 3:

Do we have to plan audit cost for the end of the project or EC will send internal auditor?

Answer 3:

If EU contribution requested exceeds 100.000,00 Euro, external audit is obligatory and this expense should be planned under heading 5.3 Expenditure verification. For more info please see Article 15.6 of the Annex II to the Contract.

Question 4:

According to the REGULATION (EC) No 1889/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 December 2006 Article 13, paragraph 6 says: "Community assistance shall not be used for paying taxes, duties or charges
in beneficiary countries."
Who is going to pay taxes then?

Answer 4:

Please see answers 1 and 2 above.

Question 5:

One of the questions in the concept note is following:
„**Describe which particular expected results mentioned in the guidelines of the call will be addressed“.**
Unfortunately, nowhere in the guidelines of the call, I can find section „Expected results“. Can you please help me and list me what are expected results for this specific call for proposal?

Answer 5:

Please refer to sections 1.2 "Objectives of the programme and priority issues" and 2.1.3. "Eligible actions: actions for which an application may be made" paragraph Sector or themes of the Guidelines for Grant Applicants.

Question 6:

Ref. to paragraph 1.3 Financial allocation provided by the Contracting Authority
Please confirm if we understood correctly - the total amount of required matching fund (apart from the EU contribution) could be from 0 Euro (no matching fund required), to 50%. Is our interpretation in this regard correct, so that in principle no matching fund is required?

Answer 6:

No, your interpretation is NOT correct. The matching fund is obligatory. EU grant is limited to 95% of the total accepted costs. Please see footnote 5 in point 1.3 of guidelines.

Question 7:

Ref. to the same paragraph as above; more precisely to the sentence "Any grant awarded under this Call for Proposal must be limited to 95% of the estimated total accepted costs".
Is it correct to understand this sentence the following way (and also having in mind the issue addressed in Question #6): In principle, no matching fund (apart from EU-contribution) is required. However, we can include matching fund for the purpose of covering VAT-costs, up to 5% of the estimated total accepted cost. Please advise whether our interpretation is correct.

Answer 7:

Please see answer 6. The co-financing must be at least 5% of the total accepted costs. In case total accepted costs equals total eligible costs, EU grant is still limited to 95%.

Question 8:

Ref. to 2.1.4 Eligibility of costs /Ineligible costs ("- Taxes, including VAT, nevertheless, these may be considered as part of the estimated total accepted costs of the action for the purpose of co-financing where the Beneficiary can prove it cannot reclaim them".)

What is being considered (and accepted) as the proof that the Beneficiary cannot reclaim the costs, having in mind obvious and well-known fact that in BH there is no procedure in place for reclaiming taxes under EIDHR program?

Answer 8:

As Contracting Authority is well aware on existing procedures in regard to VAT reclaim there is no need to provide any proof. (Answer 1)

Question 9:

Having in mind issue addressed in Question #6, please advice if it is eligible that the Amount requested from the Contracted Authority (B) is equal to the Estimated total eligible cost of the Action (A)? (No "usual" matching fund)

Answer 9:

As stated before, a minimum of 5% co-financing is obligatory. B can be equal to A but never more than 95% of A+C. If C=0 than B can not exceed 95% of A

Question 10:

Having in mind the above, if we put certain amount C (estimated taxes), is this amount explicitly understood and considered as a "usual" matching fund obtained, which apart for its different purpose (for covering VAT) brings other opportunities and obligations to us? For example, can we present in public the amount C as usual matching fund provided from the respective source, not stating for which purpose it is provided and presented simply as a general co-financing to the project?

Answer 10:

Yes, you can present amount planned under C, as project co-financing. To be noted that the budget of the action is only an estimate. The final amount of financing from the contracting authority is determined according to Article 17 of the General Conditions applicable to European Union-financed grant contracts for external actions.

Question 11:

If we put certain amount (C) in the proposal format (as estimated amount) and the budget, what happens - is it allowed - if by the end of the project implementation (= stated in the final report) it occurs that this amount actually is

(a) lower than originally proposed;
(b) higher than originally proposed (within the 5% space)?

Answer 11:

In both cases described above, contracted percentages of Total Eligible and Total Accepted Costs will be applied on occurred expenditures.

Question 11a:
how "firm" is the amount of total accepted cost of the action (A + C), and the respective percentage (B/(A + C)x100)?

Answer 11a:
A+C is an estimation while the respective percentage of the total accepted costs of the action is fixed.

Question 11b:
If for example the actual amount is lower than the one placed in the budget (i.e 5,000.00 Euro instead of initially planned 6,000.00?), do we still need to raise the total amount of 6,000.00 Euro of matching fund?
Answer 11b: Matching funds will be contracted in terms of percentages, not nominal values.
Question 11c:
Are there any negative reflections if this amount changes comparing with the one proposed in the project budget and narrative format?

Answer 11c:
No, as percentages will be applied.

Question 11d:
Does this change needs to be addressed through a request for addendum, or this could be simply reported and presented in the final report?

Answer 6d:
Percentages of financing are fixed and not subject to change.

Question 11e:
Are the budget-line variation rules (+-15%) also applicable to the budget line 12. Taxes?

Answer 11e:
No, it is not. To be noted that budget line 12 refers to VAT paid while purchasing products or services budgeted (the net value being eligible costs) in other budget sections. Therefore budget line 12 is totally dependant on related budget lines of eligible costs.

Question 12:

Are there any differences in the final financial report, in the the case we (a) have certain amount (C), (b) do not have any amount (C), except of course the fact that there are no amounts listed under budget line 12. Taxes?

Answer 12:

There is single final financial report form that is annexed within Call for Proposal documents. Reporting obligations can be found in the Article 2 of the General Conditions applicable to European Union-financed grant contracts for external actions.

Question 13:

Does the institution of Ombudsperson for Children of RS can be a **partner or associates** in this project?

Answer 13:

Please see Section 2.1.2 "Partnerships and eligibility of partners" of the Guidelines for Grant Applicants.

Question 14:

We have read your announcement for the EIDHR CBSS with great interest. We would be especially interested in proposing an action in the field of theme 1 “The pursuit of common agendas for human rights and democratic reform”. My Centre has been a leading institute in democratic reform of the security sector since 1993 and has worked amongst others in BiH. Our idea for this EIDHR call for proposals was to propose an action which has at it starting point the concept of human security and puts this in the context of BiH’s SSR process…
...The proposed action would be relevant to many of the EIDHR objectives, also under your call. However, when I look at the specified types of action under theme 1, there is no mentioning of any theme that deals with human security or SSR. I understand the list is not exhaustive, but I would like to ask whether a proposal along the lines of what I have mentioned above would be something the Delegation would consider important under this specific call for proposals.

Answer 14:

Please see the above disclaimer.
Further, your conclusion that the list is not exhaustive is correct.

Question 15:

With reference to public announcement for procurement - EIDHR CBSS 2010, I would appreciate your clarification if UN agencies are eligible to apply.

Answer 15:

Please see the above disclaimer.

Question 16:

Our organization is intending to apply for the above-mentioned Call for Proposals. We have two questions.
(1) First, on the application form, what are Lot X and Lot Y and how do they apply to a non-governmental organization such as ours?
Second, we are a bit in a quandary as to which addresses to use as our address and our contact address. We are a Dutch-registered organization with our official address in The Netherlands. We are registered as a foreign organization in Bosnia-Herzegovina and in Croatia. The primary people currently preparing this application are in Vukovar, Croatia. The action, of course, will be carried out from our Bosnian office. We do not wish to be disqualified simply on the basis of the address, but wish to work as efficiently as possible.

Answer 16(1):
Lot X and Lot Y are applicable only for Calls where division into Lots has been applied. This Call is launched without such division.

Answer 16(2):
The legal address of the institution applying for the grant should be provided as it is with this institution the contract will be signed.
The applicant must meet the eligibility criteria set in 2.1.1 of the Guidelines, in particular being directly responsible for preparation and management of the action with their partners.

Question 17:

Co-financing: Is there a document/agreement for VAT exumption for EC funded projects or this respective EIDHR call for proposal?

Answer 17:

No, the existing agreement for VAT exemption does not cover EIDHR funds.

Question 18:

Are we obliged to provide our own source for VAT financing or co-financing by third party?

Answer 18:

Yes, you are. The balance must be financed from the applicants or partners own resources or from source other than the EU budget or the European Development Fund,
Please see also Article 14 of the General Conditions applicable to European Union-financed grant contracts for external actions. For costs to be eligible they must be identifiable and verifiable, in particular being recorded in the accounting records. As this is applicable to

co-financing as well, financial contributions from 3rd parties should be recorded in the accountancy of the applicant or the partners.

Question 19:

Under list of Ineligible activities: If the project is located in Bosnia and Herzegovina but one activity takes place abroad (e.g. Study trip to Italy) – is this considered as ineligible activity?

Answer 19:

Please see the above disclaimer.

Also, please refer to section 2.1.3 "Eligible actions: actions for which an application may be made", the "Location" sub-heading of the Call for Proposals' Guidelines for Grant Applicants. Please note that under this Call for Proposals, eligibility and location of the action also applies to individual activity.

Question 20:

Under Section 1.3. Financial Allocation provided by the Contracting Authority,

- Maximum percentage: 100% of the total eligible costs of the action

Does the above mean that we have to co-finance a minimum of 5% out of the total of 100% eligible costs regarding VAT that cannot be claimed?. Do we need to provide an estimate for the VAT amount if it exceedes 5% and do we need to find resources to finance it?

Answer 20:

The applicant has to provide minimum 5% out of total accepted costs. Yes you have to provide an estimate of VAT costs if such will be included in budget.

Question 21:

On the first page of the Grant Application Form, does the "number and title of lot" refer to the reference Europe Aid/130-892/L/ACT/BA and EC/BIH/CFP/10/003?

Answer 21:

There are no lots in this Call for Proposals.

Question 22:

Does the applicant bear financial responsibility for his partners in the project in case the partners don't fulfil their duties as agreed?

Answer 22:

Yes, the applicant is contractual side and bears full responsibility for the contract fulfilment.

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