



EUROPEAN UNION

Delegation of the European Union to Bosnia and Herzegovina

Sarajevo, June 2018

Clarification No.1

Call for Proposal Title: EU Support to Civil Protection in Bosnia and Herzegovina

Publication reference: EuropeAid/159654/DD/ACT/BA

Disclaimer:

To ensure equal treatment of applicants, the Contracting Authority cannot give a prior opinion on the eligibility of lead applicants, co-applicants, affiliated entity(ies), an action or specific activities.

Question 1: Regarding criteria related to two additional eligible categories for co-applicants, top of page 12 of the Guidelines, which specifies:

"In addition to the categories referred to in section 2.1.1, the following are however also eligible:

- Regional or local level institutions, authority or administration responsible for civil protection and / or emergency disaster management from eligible countries, **and***
- Non-Governmental Organisations (NGOs) from eligible countries conducting activities in civil protection and / or emergency disaster relief services"*

How should we interpret "**and**" indicated between the two bullet points?

Answer 1: It should be read as two additional categories of eligible bodies to apply as co-applicant.

Question 2: With reference to above mentioned call for proposals EU Support to Civil Protection in Bosnia and Herzegovina, please provide following clarification: is there a minimum (number of partners in consortium) the partnership should include, in order to be eligible for a grant?

Answer 2: As indicated in section 2.1.1(2) - Eligibility of applicants (i.e. lead applicant and co-applicant(s)) of the Guidelines for grant applicants, **the lead applicant may act individually or with co-applicant(s)**. There is therefore no minimum or maximum number of partners for the Action.

Question 3: We would appreciate it if you kindly provide us further clarifications on the eligibility criteria for the co-applicants: we are non-governmental organization with the established cooperation with Ministry of Security BiH by Memorandum of understanding and cooperation between Association for xxx and Ministry of Security BiH.

Can you please confirm our eligibility as co-applicant in this project?

Answer 3: Please see the disclaimer in the heading of this clarification 1. As indicated in section 2.2.4 of the Guidelines for grant applicants, to ensure equal treatment of applicants, the Contracting Authority cannot give a prior opinion on the eligibility of lead applicants, co-applicants, affiliated entity(ies), an action or specific activities.

Section "2.1.1 Eligibility of applicants (i.e. lead applicant and co-applicant(s))" of the Guidelines for grant applicants details the eligibility requirements for co-applicants as follows:

"[...] *Co-applicants must satisfy the eligibility criteria as applicable to the lead applicant.*

In addition to the categories referred to in section 2.1.1, the following are however also eligible:

- *Regional or local level institutions, authority or administration responsible for civil protection and / or emergency disaster management from eligible countries and*
- *Non-Governmental Organisations (NGOs) from eligible countries conducting activities in civil protection and / or emergency disaster relief services"*

Question 4: We hereby intend to request confirmation on the eligibility of xxx Foundation for the call for tender EuropeAid/159654/DD/ACT/BA EU support for civil protection in Bosnia and Herzegovina.

xxx Foundation [...] whose founding members and members of the Board of Directors are public bodies: - Presidency of the Council of Ministries of country xyz, National Department of Civil Protection; University of xxx and two local authorities.

The recent xxx Civil Protection Code [...] establishes [...] that the "centers of competence" are operational structures of the National Civil Protection Service. xxx Foundation has been identified with DPCM (Decree of the Prime Minister Council) as National Center of Competence of the Civil Protection System in the fields of [...] both at the national and international level.

In our opinion, therefore, the xxx Foundation has the necessary qualifications to participate as lead applicant, as it meets the eligibility requirements (2.1.1 Guidelines) as "national level institutions, authorities or administration of the EU Member States responsible of civil protection and / or emergency disaster management ". Indeed xxx is part of the xxx Civil Protection System defined by the Civil Protection Code.

We therefore ask you to confirm whether our interpretation of the obligation to participate is correct and that therefore the xxx Foundation can participate in this call for applications.

Answer 4: Please see the disclaimer in the heading of this clarification 1. As indicated in section 2.2.4 of the Guidelines for grant applicants, to ensure equal treatment of applicants, the Contracting Authority cannot give a prior opinion on the eligibility of lead applicants, co-applicants, affiliated entity(ies), an action or specific activities.

Section "2.1.1 Eligibility of applicants (i.e. lead applicant and co-applicant(s))" of the Guidelines for Grant Applicants details the eligibility requirements for Lead applicants as follows:

"In order to be eligible for a grant, the lead applicant must:

- *be a legal person and*
- *be non-profit-making and*
- *be national level institutions, authorities or administration of the Member States of the European Union responsible for civil protection and / or emergency disaster management and*
- *For British applicants: Please be aware that eligibility criteria must be complied with for the entire duration of the grant. If the United Kingdom withdraws from the EU during the grant period without concluding an agreement with the EU ensuring in particular that British applicants continue to be eligible, you will cease to receive EU funding (while continuing, where possible to participate) or be required to leave the project on the basis of Article 12.2 of the General Conditions¹ to the grant agreement'.*
- *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."*

Question 5: Can the lead applicant form an Implementation unit in the Project implementation territory, for the purpose of simpler and more efficient application of the fiscal and monetary policy, and the national legislation of the territory of the project implementation?

(Tasks of the Implementation unit: centralized administrative and financial management of the Project, managing the use of budget and monitoring Project expenditures; managing contractual issues related to Project staff; timely processing invoices submitted by the Parties/experts/suppliers; implementing procurement procedures for services/equipment in compliance with applicable award procedures; maintaining accounting records and supporting documents in compliance with the provisions of the General Conditions to the Grant Contract; drafting Project financial reports; assisting with external audits.)

Answer 5: Please see the disclaimer in the heading of this clarification 1. As indicated in section 2.2.4 of the Guidelines, the Contracting Authority cannot give a prior opinion on eligibility of specific activities.

Article 1 of the General Conditions applicable to European Union-financed grant contracts for external actions which are published as a part of the Call for Proposals Dossier, *inter alia* specifies the general obligations, role of the beneficiary(ies) and the role of the Coordinator. In particular:

- 1.5 (a) which specifies that all Beneficiaries are jointly responsible to ensure that the Action is carried out in accordance with the Description of the Action in Annex I and the terms and conditions of the Contract (operational responsibility). However, vis-à-vis the Contracting Authority, the **financial responsibility** for the implementation of the entire Action including the parts implemented by co-Beneficiaries and affiliated entities **rests with the Coordinator (see Article 1.6 g)**.
- 1.5 (e) which details that the division of labor between several Beneficiaries is an internal arrangement between the Beneficiaries, and as such do not need to be submitted to the Contracting Authority.

Please also refer to section **6.1.2** of the **PRAG** (Procurement And Grants for European Union external actions – A Practical Guide) which provides detailed description of all "Actors involved" in grants.

Question 6: Will this Implementation Unit, established by the Lead Applicant, be able to independently manage the budget, in the name and for the account, of the Lead Applicant? (Note: Administrative and financial reports will be certified and delivered to the Contracting authority exclusively by the lead applicant).

Answer 6: Please refer to the answer given to question n°5.

In addition, please refer to article 1.6 (c) of the General Conditions details that the Coordinator is the sole interlocutor of the Contracting Authority and is responsible for collecting all the necessary information for drawing up consolidated reports. The Coordinator is therefore responsible for obtaining, verifying and consolidating this information before passing it on to the Contracting Authority. All Beneficiaries agree that any information given, as well as any request made by the Coordinator to the Contracting Authority, shall be deemed in agreement with all Beneficiaries. The Coordinator may not justify shortcomings in reporting by invoking mistakes of co-Beneficiaries and has full responsibility for the reports or information submitted to the Contracting Authority.

As detailed under section 2.1.1 "Eligibility of applicants" of the Guidelines for grant applicants, in order to be eligible for a grant the lead applicant must **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.**

Question 7: Is it possible to contract external experts, who would execute this financial task for the Lead Applicant?

Answer 7: As stated under article 14.2 of the General Conditions ("Eligible direct costs"):

"Subject to Article 14.1 and, where relevant, to the provisions of Annex IV being respected, the following direct costs of the Beneficiary(ies) shall be eligible:

a) the cost of staff assigned to the Action, corresponding to actual gross salaries including social security charges and other remuneration-related costs; salaries and costs shall not exceed those normally borne by the Beneficiary(ies), unless it is justified by showing that it is essential to carry out the Action [...]"

As a general rule, tasks performed by consultants, experts and/or other service providers (e.g. accountants, lawyers, translators, external IT staff, etc...) are to be considered as resulting from implementation contracts (Article 10 of the General Conditions). Consequently, Beneficiaries must award these contracts in accordance with Annex IV. The corresponding costs are thus not considered as human resources (budget heading 1) but as other costs/services (notably budget heading 5 or 6). As detailed under point 6.9.1 "Award of contracts" of the PRAG, procurement for services **may only cover a limited portion of the action.**

However, as an exception to the rule, these costs may be considered as personnel costs regardless of whether the consultants are self-employed or employed by a third party if - as in a traditional labour contract - there is a de facto situation of subordination. This is to be evaluated by the Contracting Authority on a case by case basis.

Question 8: Is it possible to make lump sum transfers between consortium partners for financing certain events? For instance, the Consortium lead partner transfers a lump sum to partner no1 for organizing an event – renting facilities, paying transport and meals, covering miscellaneous expenses. If so, what are the guiding terms for this transaction?

Answer 8: As detailed under section "2.1.1 Eligibility of applicants (i.e. lead applicant and co-applicant)" of the Guidelines for applicants, *"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"*.

Internal division of labor between several Beneficiaries or the payments provided for in the Contract (i.e. the payments by the Coordinator to co-Beneficiaries or affiliated entities or payments to contractors or recipients of financial support) is an internal agreement between the Beneficiaries.

Article 14 of the General Conditions details the cost eligibility criteria, in particular 14.1, point a) i) which details that *"[...] Cash transfers between the Coordinator and/or the other Beneficiary(ies) and/or affiliated entity(ies) may not be considered as costs incurred"*.

As far as "lump sums" related to the activities of the Action are concerned (such as organizing and event): please refer to article 14.3 to 14.5 of the General Conditions which detail the **simplified cost options**, as well as "**Annex K – Guidelines and Check list for assessing action budget and simplified cost options for Union financed grant contracts**". Any cost that is not budgeted as a simplified cost option, must be identifiable and verifiable as per article 14.1 d) of the General Conditions.

Question 9: I am writing to you on behalf of the Department xxx, part of the xxx Ministry of Internal Affairs. We intend to apply for the tender organized on the EU Support to Civil Protection in Bosnia and Herzegovina having the deadline on 26 June 2018.

Taking into account that our Department is fully supported by a NGO xxx with all its activity centered on increasing the efficiency of emergency interventions and civil protection, we were wondering if it's possible that the main applicant can be the xxx Foundation with us, the Department, as institutional partner.

Answer 9: Please see the disclaimer in the heading of this clarification 1. As indicated in section 2.2.4 of the Guidelines for grant applicants, to ensure equal treatment of applicants, the Contracting Authority cannot give a prior opinion on the eligibility of lead applicants, co-applicants, affiliated entity(ies), an action or specific activities.

Please refer to the answer given to question n°3 and n°4.

Question 10: We are interested if there is a possibility for a private company (works for profit) from the country xxx to be engaged by the Lead Applicant from the country xxx to assist with its knowledge and engagement in coordinating all activities, actors and processes among all involved organizations and experts in project? Is it possible that the Lead Applicant from the country xxx which is selected for the project implementation in this tender engage the private company to assist in the most effective implementation of the project?

Answer 10:

The Lead Applicant (and co-beneficiaries and affiliated entities) can engage contractors (including private for-profit companies and non-profit organisations) to provide services. These services must be procured in accordance with the rules set out in annex IV (Procurement by grant Beneficiaries in the context of European Union external actions) **and**, as stated under point 6.9.1 "Award of contracts" of the PRAG, procurement for services may only cover a limited portion of the action. The description of the activities to be undertaken by the private company in question 10 suggests that the activities would cover the main part of the implementation of the action, which would not be acceptable.

Question 11: Is it feasible that the non-governmental organization (non-profit organization) from the country xxx could be engaged by the Lead Applicant from the country xxx to assist with its knowledge and engagement in coordinating all activities, actors and processes among all involved organizations and experts in the project?

Answer 11:

Please refer to the answer given to question n°10; the engagement of for-profit organisations and of non-profit organisations is treated in the same way.

Non-governmental organizations (Non-profit organisations) can be proposed as co-applicants and as such can implement part of the action, as detailed in the Guidelines for grant applicants, section 2.1.1.

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