



## **CREATIVE EUROPE**

### **MEDIA Sub-programme**

#### **SUPPORT TO THE INTERNATIONAL SALES AGENTS OF EUROPEAN CINEMATOGRAPHIC FILMS**

#### **THE "SALES AGENTS SCHEME"**

### **GUIDELINES**

**This version updates Section 3-Timetable, following the update (06/08/2018) of the calculation tables under the Automatic Distribution Call EACEA/05/2018 (*Amount per eligible admission and Maximum threshold of admissions*).**

**Please note** that the standard grant agreements/decisions of the Agency are currently under revision due to the entry into force of the new Financial Regulation and its Rules of Application in 2018. For this reason the draft grant agreement related to this call is sent as an example and consequently the Agency reserves the right to introduce changes or additional details subject to the adoption of the final text of the Financial Regulation and Rules of Application. In this case the Agency will announce the changes as soon as possible and at the latest before the signature of the grant agreements.

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Annexes:

All the annexes are available on the EACEA/MEDIA website:

[http://eacea.ec.europa.eu/creative-europe/actions/media\\_en](http://eacea.ec.europa.eu/creative-europe/actions/media_en)

## **1. INTRODUCTION – BACKGROUND**

These guidelines are based on Regulation No 1295/2013 of the European Parliament and of the Council of 11/12/2013 concerning the implementation of a programme of support for the European cultural and creative sector (CREATIVE EUROPE)<sup>1</sup> and its corrigendum of 27/06/2014<sup>2</sup>.

The European Commission is responsible for the implementation of the Creative Europe Programme and for the decision to grant individual European Union funds. The Education, Audiovisual and Culture Executive Agency hereafter "the Agency" manages the Culture and MEDIA Sub-programme on behalf and under the supervision of the European Commission.

General background information about the Creative Europe programme can be found on the following link: <http://ec.europa.eu/programmes/creative-europe/>

## **2. OBJECTIVES – THEMES – PRIORITIES**

### **2.1. Objectives**

Within the specific objective of promoting transnational circulation, one of the priorities of the MEDIA Sub-programme is the following:

- supporting theatrical distribution through transnational marketing, branding, distribution and exhibition of audiovisual works;

The MEDIA Sub-programme shall provide support for the following:

- establishing systems of support for the distribution of non-national European films through theatrical distribution and on other platforms as well as for international sales activities, in particular the subtitling, dubbing and audio-description of audiovisual works.

### **2.2. Targeted projects**

The aim of the "Sales Agents" scheme is to encourage and support the wider transnational distribution of recent European films by providing funds to sales agents, based upon their performance on the market, for further reinvestment in new non-national European films.

The scheme also aims to encourage the development of links between the production and distribution sectors thus improving the competitive position of non-national European films and the competitiveness of European companies.

The "Sales Agents scheme" works in two phases:

1. The generation of a potential fund which will be calculated according to the performance of the company on the European market during the reference period.

2. Reinvestment: the potential fund thus generated by each company must be reinvested in:

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<sup>1</sup> Published in the Official Journal of the European Union on 20/12/2013 (OJ L347/221).

<sup>2</sup> Published in the Official Journal of the European Union on 27/06/2014 (OJ L 189/260)

- minimum guarantees or advances paid for the international sales rights on eligible non-national European films;
- the promotion, marketing and advertising on the market of eligible non-national European films.

Based on the amount of the grant that the applicant has calculated (section 9 – award criteria), the applicant is requested to submit a strategy that includes investment in acquisition and/promotion, marketing and advertising of eligible films. This will constitute the project description that will be annexed to the grant agreement.

### 3. TIMETABLE

	<b>Stages</b>	<b>Date or indicative period</b>
a)	Publication of the call Corrigendum	July 2018 28 August 2018
b)	Deadline for submitting applications	<b>15 January 2019</b> - 12:00 (noon, Brussels Time)
c)	Evaluation period	January – April 2019
d)	Information to applicants	May 2019
e)	Signature of grant agreement	June 2019
f)	Starting date of the action / period of eligibility of costs	date of agreement <sup>3</sup>
g)	Duration of the action / period of eligibility of costs	24 months from the starting date of the action

Only those costs incurred by the beneficiary during the period of eligibility of costs will be eligible.

### 4. BUDGET AVAILABLE

The total budget earmarked for the co-financing of projects is estimated at EUR 2.6M.

This amount is subject to the availability of the funds after the adoption of the budget for 2019 by the budgetary authority.

The Agency reserves the right not to distribute all the funds available.

### 5. ADMISSIBILITY REQUIREMENTS

Applications shall comply with the following requirements:

- they must be sent no later than the deadline for submitting applications referred to in section 3 of the present guidelines;
- they must be submitted using the online application form (see section 14 of the present guidelines);

<sup>3</sup> The period of eligibility can start from the date of submission when justified and requested in the eForm. See section 11.2.

- they must be drafted in one of the EU official languages, preferably in English or French.

The application form must be accompanied by a balanced budget and all the other documents referred to in the application form.

Failure to comply with those requirements will lead to the rejection of the application.

In order to submit an application, applicants must provide their Participant Identification Code (PIC) in the application form. The PIC can be obtained by registering the organisation in the Unique Registration Facility (URF) hosted in the Education, Audiovisual, Culture, Citizenship and Volunteering Participant Portal. The Unique Registration Facility is a tool shared by other services of the European Commission. If an applicant already has a PIC that has been used for other programmes (for example the Research programmes), the same PIC is valid for the present call for proposals.

The Participant Portal allows applicants, to upload or update the information related to their legal status and attach the requested legal and financial documents (see section 14.2 for more information).

## **6. ELIGIBILITY CRITERIA**

Applications which comply with the following criteria will be subject to an in-depth evaluation.

### **6.1. Eligible applicants**

The applicant company must be a European Sales Agent.

#### European company:

Company owned, whether directly or by majority participation (i.e. majority of shares), by nationals of Member States of the European Union or nationals of the other European countries participating in the MEDIA Sub-Programme and registered in one of these countries.

Applications from legal entities established in one of the following countries are eligible as long as all conditions referred to in Article 8 of the Regulation establishing the Creative Europe Programme are met:

EU Member States and overseas countries and territories which are eligible to participate in the Programme pursuant to Article 58 of Council Decision 2001/822/EC;

Acceding countries, candidate countries and potential candidates benefiting from a pre-accession strategy, in accordance with the general principles and general terms and conditions for the participation of those countries in European Union programmes established in the respective Framework Agreements, Association Council Decisions or similar agreements;

EFTA countries which are members of the EEA, in accordance with the provisions of the EEA Agreement;

The Swiss Confederation, on the basis of a bilateral agreement to be concluded with that country;

Countries covered by the European Neighbourhood Policy in accordance with the procedures established with those countries following the framework agreements providing for their participation in European Union programmes.

The Programme shall also be open for bilateral or multilateral cooperation actions targeted at selected countries or regions on the basis of additional appropriations paid by, and specific arrangements to be agreed upon with, those countries or regions.

The Programme shall permit cooperation and joint actions with countries not participating in the Programme and with international organisations which are active in the cultural and creative sectors such as UNESCO, the Council of Europe, the Organisation for Economic Cooperation and Development or the World Intellectual Property Organisation on the basis of joint contributions for the realisation of the Programme's objectives.

The Agency may select proposals from applicants in non EU countries, provided that, on the date of the award decision, agreements have been signed setting out the arrangements for the participation of those countries in the programme established by the Regulation referred to above.

(Updated list of countries that fulfil the conditions referred to in Article 8 of the Regulation and that the Commission has started negotiations with can be found on the following link:

[http://eacea.ec.europa.eu/creative-europe/library/eligibility-organisations-non-eu-countries\\_en](http://eacea.ec.europa.eu/creative-europe/library/eligibility-organisations-non-eu-countries_en)

**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 II.16.2.1(a) of the grant agreement.

#### European sales agents:

A European company acting as an intermediary agent for the producer, who specialises in the commercial exploitation of a film by marketing and licensing a film to distributors or other purchasers for foreign countries.

The Sales Agent must be appointed by the Producer of the film by way of a written contract or agreement. A contract / agreement signed between a Sales Agent and a Producer will be considered as an international sales contract / agreement only if it provides for the right of the Sales Agent to sell the film in **at least 10 countries** participating in the MEDIA Sub-programme.

## **6.2 Eligible activities**

The Sales Agents scheme works in two phases:

1. The Generation of a potential fund, which will be calculated according to the international sales performance of the company on the European market in the reference period (2013-2017).
2. Reinvestment (eligible cost): the potential fund thus generated by each company are to be reinvested in
  - minimum guarantees or advances paid for the international sales rights on eligible non-national European films.
  - the promotion, marketing and advertising on the market of eligible non-national European films presented.

### International sales:

Any commercial activity designed to promote and sell the exploitation rights to a cinematographic film on the marketplace, in particular to cinema distributors. This activity includes, inter alia:

- the negotiation and execution of contracts licensing the rights to exploit or exhibit the film;
- the promotion and advertising of the film in markets or festivals (screenings, advertising, promotional events)
- the design and dissemination towards potential buyers of promotional material for the film (EPK, stills, slides, “making-of”, ...)
- the design and dissemination towards the press (trade press or other) and the potential audience of the film of promotional material and information (web site, ...).

### Cinema / Theatrical distribution:

Any commercial activity designed to bring to the attention of a wide audience a film for the purpose of exploitation in cinema theatres. Such activity may include aspects of the technical publishing of an audiovisual work (dubbing and subtitling, striking of prints, circulation of prints, etc.) as well as marketing and promotional activities (production of trailers and publicity material, the purchase of advertising space, the organisation of promotional events etc.).

The film must comply with the following criteria:

- it must be a work of fiction (including animated films) or documentary, with a minimum duration of 60 minutes;
- it must have its first copyright established in 2013 at the earliest;
- it must not consist of alternative content (operas, concerts, performances, etc.), advertising, pornographic or racist material or advocate violence;
- it must be majority produced by a producer or producers established in the countries participating in the MEDIA Sub-programme (see section 6.1). To be considered as the actual producers the production companies must be credited as such. Other elements such as copyright appearing on the rolling credits, creative control, ownership of exploitation rights and share of profits may also be taken into account to determine who the actual producer is; and
- it must be produced with the significant participation of professionals who are nationals/residents of countries participating in the MEDIA Sub-programme (see section 6.1).

	Points
Director	3
Scriptwriter	3
Composer	1
Actor 1	2
Actor 2	2
Actor 3	2
Production Design	1
Director of Photography	1
Editor	1
Sound	1
Shooting location	1
Post Production location	1
<b>Total</b>	<b>19</b>

Significant participation' is defined as having more than 50% of the points on the basis of the table below, e.g. having 10 or more points in the case of a work of fiction or the biggest share of points if the total is less than 19 as is normally the case for documentaries or animation films where all of the categories are not usually included in the credits.

if the film has been produced, it must have an interoperable standard identifier, such as ISAN or EIDR. This interoperable standard identifier must be indicated in the eReport.

National / Non-national European film:

Countries participating in the MEDIA Sub-Programme are defined under section 6.1.

European films will be considered as "national" in that country participating in the MEDIA Sub-programme whose nationals/residents have participated in the highest proportion in the making of the film, on the basis of the points table shown above. They will be considered as "non-national" in all the other countries.

In the event of a tie (i.e. where the points are equal for a given nationality) the nationality of the director (or the following talent in the above list) shall be decisive.

Only applications that fulfil the eligibility criteria will be considered for a grant. If an application is deemed ineligible, a letter indicating the reasons will be sent to the applicant.

The beneficiary will have 24 months to carry out the project. However, if after the signing of the agreement and the start of the action it becomes impossible for the beneficiary, for fully justified reasons beyond his control, to complete the action within the scheduled period, an extension to the eligibility period may be granted. A maximum extension of 6 additional months may be granted if requested before the deadline specified in the agreement.



## **7. EXCLUSION CRITERIA**

### **7.1. Exclusion from participation**

The authorising officer shall exclude an applicant from participating in call for proposals procedures where:

(a) the applicant is bankrupt, subject to insolvency or winding-up procedures, where its assets are being administered by a liquidator or by a court, where it is in an arrangement with creditors, where its business activities are suspended, or where it is in any analogous situation arising from a similar procedure provided for under national laws or regulations;

(b) it has been established by a final judgment or a final administrative decision that the applicant is in breach of its obligations relating to the payment of taxes or social security contributions in accordance with the law of the country in which it is established, with those of the country in which the authorising officer is located or those of the country of the performance of the contract;

(c) it has been established by a final judgment or a final administrative decision that the applicant is guilty of grave professional misconduct by having violated applicable laws or regulations or ethical standards of the profession to which the applicant belongs, or by having engaged in any wrongful conduct which has an impact on its professional credibility where such conduct denotes wrongful intent or gross negligence, including, in particular, any of the following:

- (i) fraudulently or negligently misrepresenting information required for the verification of the absence of grounds for exclusion or the fulfilment of selection criteria or in the performance of a contract, a grant agreement or a grant decision;
- (ii) entering into agreement with other applicants with the aim of distorting competition;
- (iii) violating intellectual property rights;
- (iv) attempting to influence the decision-making process of the Agency during the award procedure;
- (v) attempting to obtain confidential information that may confer upon it undue advantages in the award procedure;

(d) it has been established by a final judgment that the applicant is guilty of any of the following:

- (i) fraud, within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests, drawn up by the Council Act of 26 July 1995;
- (ii) corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, drawn up by the Council Act of 26 May 1997, and in Article 2(1) of Council Framework Decision 2003/568/JHA, as well as corruption as defined in the law of the country where the contracting authority is located, the country in which the applicant is established or the country of the performance of the contract;
- (iii) participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA;
- (iv) money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council;
- (v) terrorist-related offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA, respectively, or inciting, aiding, abetting or attempting to commit such offences, as referred to in Article 4 of that Decision;
- (vi) child labour or other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council;

(e) the applicant has shown significant deficiencies in complying with main obligations in the performance of a contract, a grant agreement or a grant decision financed by the Union's budget, which has led to its early termination or to the application of liquidated damages or other contractual penalties, or which has been discovered following checks, audits or investigations by an authorising officer, OLAF or the Court of Auditors;

(f) it has been established by a final judgment or final administrative decision that the applicant has committed an irregularity within the meaning of Article 1(2) of Council Regulation (EC, Euratom) No 2988/95.

(g) for the situations of grave professional misconduct, fraud, corruption, other criminal offences, significant deficiencies in the performance of the contract or irregularity, the applicant is subject to:

- (i) facts established in the context of audits or investigations carried out by the Court of Auditors, OLAF or internal audit, or any other check, audit or control performed under the responsibility of an authorising officer of an EU institution, of a European office or of an EU agency or body;
- (ii) non-final administrative decisions which may include disciplinary measures taken by the competent supervisory body responsible for the verification of the application of standards of professional ethics;
- (iii) decisions of the ECB, the EIB, the European Investment Fund or international organisations;
- (iv) decisions of the Commission relating to the infringement of the Union's competition rules or of a national competent authority relating to the infringement of Union or national competition law.
- (v) decisions of exclusion by an authorising officer of an EU institution, of a European office or of an EU agency or body.

(h) a person who is a member of the administrative, management or supervisory body of the applicant, or who has powers of representation, decision or control with regard to that applicant (this covers the company directors, members of the management or supervisory bodies, and cases where one person holds a majority of shares), is in one or more of the situations referred to in points (c) to (f) above.

(i) a natural or legal person that assumes unlimited liability for the debts of that applicant is in one or more of the situations referred to in point (a) or (b) above.

If an applicant is in one of the situations of exclusion listed above, it should indicate the measures it has taken to remedy the exclusion situation, thus demonstrating its reliability. They may include e.g. technical, organisational and personnel measures to prevent further occurrence, compensation of damage or payment of fines. The relevant documentary evidence which illustrates the remedial measures taken must be provided in annex to the declaration. This does not apply for the situations referred in point (d) of this section.

In the cases provided in (c) to (f) above, in the absence of a final judgement or where applicable a final administrative decision, the Agency may exclude an applicant provisionally from participating in a call for proposals where their participation would constitute a serious and imminent threat to the Union's financial interests.

## **7.2. Rejection from the award procedure**

The authorising officer shall not award a grant to an applicant who:

- (a) is in an exclusion situation established in accordance with the above section 7.1;

(b) has misrepresented the information required as a condition for participating in the procedure or has failed to supply that information;

(c) was previously involved in the preparation of a call for proposals where this entails a distortion of competition that cannot be remedied otherwise..

Rejection from this procedure and administrative sanctions (exclusion or financial penalty) may be imposed on applicants or affiliated entities where applicable, if any of the declarations or information provided as a condition for participating in this procedure prove to be false.

The applicants should be informed that the Agency may publish on its internet site the following information related to the exclusion and, where applicable, the financial penalty in the cases referred to in points (c), (d), (e) and (f) of the section 7.1<sup>4</sup>:

(a) the name of the applicant concerned;

(b) the exclusion situation;

(c) the duration of the exclusion and/or the amount of the financial penalty.

In case of a preliminary classification in law (i.e. absence of a final judgment or a final administrative decision), the publication shall indicate that there is no final judgment or final administrative decision. In those cases, information about any appeals by the applicant, their status and their outcome, as well as any revised decision of the authorised officer, shall be published without delay. Where a financial penalty has been imposed, the publication shall also indicate whether that penalty has been paid.

The decision to publish the information is taken by the Agency either following the relevant final judgment, final administrative decision or preliminary classification in law, as the case may be. That decision shall take effect three months after its notification to the economic operator.

The information published shall be removed as soon as the exclusion has come to an end. In the case of a financial penalty, the publication shall be removed six months after payment of that penalty. In accordance with Regulation (EC) No 45/2001, where personal data is concerned, the Agency shall inform the applicant of its rights under the applicable data protection rules and of the procedures available for exercising those rights.

### **7.3. Supporting documents**

In order to assess the applicants' eligibility, the following supporting documents are requested:

**private entity:** extract from the official journal, copy of articles of association, extract of trade or association register, certificate of liability to VAT (if, as in certain countries, the trade register number and VAT number are identical, only one of these documents is required),

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<sup>4</sup> This information shall not be published in any of the following circumstances:

(a) where it is necessary to preserve the confidentiality of an investigation or of national judicial proceedings;

(b) where publication would cause disproportionate damage to the applicant concerned or would otherwise be disproportionate on the basis of the proportionality criteria and to the amount of the financial penalty;

(c) where a natural person is concerned, unless the publication of personal data is exceptionally justified, inter alia, by the seriousness of the conduct or its impact on the Union's financial interests. In such cases, the decision to publish the information shall duly take into consideration the right to privacy and other rights provided for in Regulation (EC) No 45/2001.

**public entity:** copy of the resolution or decision establishing the public company, or other official document establishing the public-law entity.

Applicants must sign a declaration on their honour certifying that they are not in one of the situations referred to in the above sections 7.1. and 7.2, filling in the relevant form attached to the application form accompanying the call for proposals. If applicable, the relevant documentary evidence which appropriately illustrates any remedial measures taken should be provided in annex to this declaration. The declaration is available at: [http://eacea.ec.europa.eu/creative-europe/funding\\_en](http://eacea.ec.europa.eu/creative-europe/funding_en)

## **8. SELECTION CRITERIA**

Applicants must submit a declaration on their honour, completed and signed, attesting to their status as a legal person and to their financial and operational capacity to complete the proposed activities.

### **8.1. Financial capacity**

Applicants must have stable and sufficient sources of funding to maintain their activity throughout the period during which the action is being carried out or the year for which the grant is awarded and to participate in its funding. The applicants' financial capacity will be assessed on the basis of the following supporting documents that will be requested from selected applicants:

Low value grants ( $\leq$  EUR 60 000):

- a declaration on their honour.

Grants  $>$  EUR 60 000:

- a declaration on their honour and
- the profit and loss account as well as the balance sheet for the last financial year for which the accounts were closed;
- for newly created entities: the business plan might replace the above documents;

Grants for an action  $>$  EUR 750 000, in addition to the above:

- an audit report produced by an approved external auditor certifying the accounts for the last financial year available.

On the basis of the documents submitted, if the Responsible Authorizing Officer (hereinafter "RAO") considers that financial capacity is not satisfactory, he may:

- request further information;
- propose a grant agreement without pre-financing;
- propose a grant agreement with a pre-financing paid in instalments;
- propose a grant agreement with a pre-financing covered by a bank guarantee (see section 11.4 below);
- where applicable, require the joint and several financial liability of all the co-beneficiaries;
- reject the application.

*In the course of the procedure applicants may be requested to register and provide a Participant Identification Code (PIC, 9-digit number), serving as the unique identifier of their organisation in the Participant Register. Applicant(s) will receive instructions on how to create a PIC in due time.*

*Upon communication of the applicant's PIC, the EU Validation Services (Research Executive Agency Validation Services) will contact the applicant (via the messaging system embedded in the Participant Register) and request the latter to provide the supporting documents necessary to prove the legal existence and status and the financial capacity of the organisation. All necessary details and instructions will be provided via this separate notification.*

## **8.2 Operational capacity**

Applicants must have the professional competencies as well as appropriate qualifications necessary to complete the proposed action. In this respect, applicants have to submit a declaration on their honour, and, for those applying for a grant above EUR 60.000 the following supporting documents:

- the curriculum vitae of the legal representative of the company and
- the curriculum vitae of the Head of International Sales (if they are not the same person);

## **9. AWARD CRITERIA**

A potential fund will be attributed to eligible European Sales Agents on the basis of their performance on the European markets (i.e. countries participating in the MEDIA Sub-programme) in the reference period (2013-2017).

The support will take the form of a potential fund (the "Fund") available to Sales Agents for further investments in eligible non-national European films.

Within the limit of the budgetary resources available, the amount of potential Fund available for each Sales Agent will be calculated on the following basis:

### A. Step 1.

The applicant sales agent shall provide evidence of its activity as a sales agent for European cinematographic films. To this end, the sales agent shall prove that:

- it was, between 01/01/2013 and 31/12/2017, the appointed sales agent of **at least 8 eligible European films (of which at least 1 non-national film)**, for which the agreement with the producer provided the right to sell the film in at least 10 countries participating in the MEDIA Sub-programme; the mandate must be signed and take effect within the reference period,
- **and** that, **during the same period**, for **at least 3 of these films in at least 3 countries** participating in the MEDIA Sub-programme, outside the country of origin of the films there was a theatrical release as evidenced by distributor declarations to the Automatic scheme of the MEDIA Sub-programme.

In exceptional circumstances where the national theatrical release has not been reported to the Automatic scheme, the declaration of the applicant Sales Agent may be accepted in

the event that it is accompanied by independent proof which can reasonably be verified by the Agency.

If this first step is successfully completed, the sales agent shall be entitled to a potential support of **EUR 20.000,00**.

## B. Step 2.

If (and only if) the applicant Sales Agent has completed successfully the conditions set out for the first step, an additional potential Fund may be available. This Fund will be calculated according to the following principle:

As a percentage of **the total potential fund generated in the framework of the automatic scheme for theatrical distribution** by the non-national films:

- 20 % for films from countries with a high production capacity (DE, ES, FR, IT, UK);
- 30 % for films coming from other countries with low production capacity

The amounts indicated above are provisional and may be subject to modification depending upon the budgetary resources available.

The generation stage is a method to calculate a maximum potential Fund to be reinvested in new projects. The notification to the Sales Agent of the potential Fund generated does not constitute a claim on the European Commission/EACEA.

Shall the sum of generated funds exceed the budget available, each potential Fund will be reduced proportionally.

## **10. LEGAL COMMITMENTS**

In the event of a grant awarded by the Agency, a grant agreement drawn up in euro and detailing the conditions and level of funding, will be sent to the beneficiary, as well as the procedure in view to formalise the obligations of the parties.

The 2 copies of the original agreement must be signed first by the beneficiary and returned to the Agency immediately. The Agency will sign them last.

The award of a grant does not establish an entitlement for subsequent years.

## **11. FINANCIAL PROVISIONS**

### **11.1. General Principles**

#### a) Non-cumulative award

An action may only receive one grant from the EU budget.

In no circumstances shall the same costs be financed twice by the Union budget. To ensure this, applicants shall indicate in the application form the sources and amounts of Union funding received or applied for the same action or part of the action or for its functioning during the same financial year as well as any other funding received or applied for the same action.

Subsidised actions may not benefit from Eurimages funding for the same activity.

Reinvestment in promotion, marketing and advertising costs cannot be cumulated with a support under the MEDIA Sub-programme Selective Scheme for the same film

b) Non-retroactivity

No grant may be awarded retrospectively for actions already completed.

A grant may be awarded for an action which has already begun only where the applicant can demonstrate the need to start the action before the grant agreement is signed.

In such cases, costs eligible for financing may not have been incurred prior to the date of submission of the grant application.

c) Co-financing

Co-financing means that the resources which are necessary to carry out the action may not be entirely provided by the EU grant.

Co-financing of the action may take the form of:

- the beneficiary's own resources;
- income generated by the action;
- financial contributions from third parties.

d) Balanced budget

The estimated budget of the action is to be attached to the application form. It must have revenue and expenditure in balance, including the requested MEDIA grant.

The budget must be drawn up in euros.

Applicants who foresee that costs will not be incurred in euros shall use the exchange rate published on the Infor-euro website available at:

[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/inforeuro/inforeuro\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm) and applicable on the month of the submission.

When drafting their budget, applicants must assess the amount of the potential grant based on the parameters and thresholds set out under section 9 – award criteria. The final grant is subject to the availability of the budget. If necessary, applicants will be required to correct their budget.

e) Implementation contracts/subcontracting

Where the implementation of the action requires the award of procurement contracts (implementation contracts), the beneficiary must award the contract to the bid offering best value for money or the lowest price (as appropriate), avoiding conflicts of interests and retain the documentation for the event of an audit.

Entities acting in their capacity of contracting authorities in the meaning of Directive 2014/24/EU<sup>5</sup> or contracting entities in the meaning of Directive 2014/25/EU<sup>6</sup> shall abide by the applicable national public procurement rules.

Sub-contracting, i.e. the externalisation of specific tasks or activities which form part of the action as described in the proposal and which cannot be performed by the beneficiary itself must satisfy the conditions applicable to any implementation contract (as specified above) and in addition to them the following conditions:

- a) subcontracting does not cover core tasks of the action;
- b) recourse to subcontracting is justified because of the nature of the action and what is necessary for its implementation;
- c) the estimated costs of the subcontracting are clearly identifiable in the estimated budget;
- d) any recourse to subcontracting, if not provided for in description of the action, is communicated by the beneficiary and approved by the Agency. The Agency may grant approval:
  - (i) before any recourse to subcontracting, if the beneficiaries requests an amendment
  - (ii) after recourse to subcontracting if the subcontracting:
    - is specifically justified in the interim or final technical report and
    - does not entail changes to the grant agreement which would call into question the decision awarding the grant or be contrary to the equal treatment of applicants;
- e) the beneficiaries ensure that certain conditions applicable to beneficiaries, enumerated in the grant agreement (e.g. visibility, confidentiality, etc.), are also applicable to the subcontractors.

f) Financial support to third parties

The applications may not envisage provision of financial support to third parties.

g) Special condition applying to the MEDIA Sub-programme

Any support from the MEDIA Sub-programme shall remain the exclusive property of the beneficiary and cannot be considered as a revenue for the film or be used to reduce recoupable costs.

## 11.2 Funding forms

The grants financed through reimbursement of eligible costs in combination with flat rate covering overheads are calculated on the basis of a detailed estimated budget, indicating clearly the costs that are eligible for EU funding.

➤ **Maximum amount requested**

The EU grant is limited to a maximum co-financing rate of 60% of the eligible costs.

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<sup>5</sup> Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC.

<sup>6</sup> Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC



Consequently, part of the total eligible expenses entered in the estimated budget must be financed from sources other than the Union grant.

The grant amount may neither exceed the eligible costs nor the amount requested. Amounts are indicated in euros.

Acceptance of an application by the Executive Agency does not constitute an undertaking to award a grant equal to the amount requested by the beneficiary.

### ➤ **Eligible costs**

Eligible costs are costs actually incurred by the beneficiary of a grant which meet the following criteria:

- they are incurred during the duration of the action as specified in the grant agreement, with the exception of costs relating to final reports and certificates.

The period of eligibility of costs will start as specified in the grant agreement.

If a beneficiary can demonstrate the need to start the action before the agreement is signed, expenditure may be authorised before the grant is awarded. Under no circumstances can the eligibility period start before the date of submission of the grant application (see section 11.1b).

- they are indicated in the estimated overall budget of the action;
- they are incurred in connexion with the action which is the subject of the grant and are necessary for the implementation of the action;
- they are identifiable and verifiable, in particular being recorded in the accounting records of the beneficiary and determined according to the applicable accounting standards of the country where the beneficiary is established and according to the usual cost-accounting practices of the beneficiary;
- they comply with the requirements of applicable tax and social legislation;
- they are reasonable, justified, and comply with the requirements of sound financial management, in particular regarding economy and efficiency.

The beneficiary's internal accounting and auditing procedures must permit direct reconciliation of the costs and revenues declared in respect of the action with the corresponding accounting statements and supporting documents.

#### Eligible direct costs:

The eligible direct costs for the action are those costs which, with due regard for the conditions of eligibility set out above, are identifiable as specific costs directly linked to the performance of the action and which can therefore be booked to it directly.

The reinvestment can be made on a maximum of 5 different eligible non-national films. Reinvestment on the same film in different categories of costs is allowed.

## **- Heading 1: Film financing**

- **Sub-Heading 1: investment in minimum guarantee**

Only the costs of the Minimum Guarantee or Advance set out in the international sales contract/agreement signed between the sales agent and the producer of the film will be eligible.

A contract/agreement signed between a sales agent and a producer will be considered as an international sales contract/agreement only if it provides for the right of the sales agent to sell the film in at least 10 countries participating to the MEDIA Sub-programme.

## **- Heading 2: Promotion, Marketing and Advertising costs.**

- **Sub-Heading 1: Promotion, Marketing and Advertising costs**

- Costs related to publicity material, publicity space, promotion material, website, PR and other promotion activities (these costs will have to be detailed in the project description).

- **Sub-Heading 2: Optical and Digital costs**

Costs related to print costs (these costs will have to be detailed in the project description).

## **- Heading 3: Other Costs**

- **Audit Fees:**

In the framework of the execution of a possible eventual financial support, the Agency requires the beneficiary to produce a statement of the final costs of the action in case a grant for an action of more than EUR 60.000. This document must be certified by an independent approved auditor external to the company on the basis of justifying documents and the accountancy records of the beneficiary. Therefore the costs of this certification are the only costs eligible beyond the eligibility period..

- Non deductible VAT is eligible unless it is related to activities of the public authorities in the Member States.

### ***Eligible indirect costs (administrative costs)***

A flat-rate amount, equal to 7% of the eligible direct costs of the action is eligible under indirect costs, representing the beneficiary's general administrative costs which can be regarded as chargeable to the action (i.e. rent of company offices, insurance, maintenance costs, telecommunications, postal charges, heating, lighting, water, electricity, office supplies, rental of stands on markets and festivals).

Indirect costs may not include costs entered under another budget heading.

Applicants' attention is drawn to the fact that in the case of organisations receiving an operating grant, indirect costs are no longer eligible under the specific actions.

➤ **Ineligible costs**

The following costs shall not be considered eligible:

- return on capital;
- debt and debt service charges;
- provisions for losses or debts;
- interest owed;
- doubtful debts;
- exchange losses;
- costs of transfer from the Agency charged by the bank of the beneficiary;
- costs declared by the beneficiary and covered by another action receiving a European Union grant. In particular, indirect costs shall not be eligible under a grant for an action awarded to the beneficiary who already receives an operating grant financed from the Union budget during the period in question;
- contributions in kind
- excessive or reckless expenditure
- personnel costs
- travel and subsistence of staff
- purchase of equipment

➤ **Calculation of the final grant amount – Supporting documents**

The final amount of the grant to be awarded to the beneficiary is established after completion of the action, upon approval of the request for payment containing the following documents:

- a final report providing details of the implementation and results of the action;
- the final financial statement of costs actually incurred,
- the international sales agreement with the producer, with a hand written statement "Copy certified as true" signed by the legal representative of the company;
- the financing plan and film information signed and dated by the lead producer (if the film is not qualified in the MEDIA film database)

and

- **Option 1**

In case of grants for an action of less than or equal to EUR 60.000, the beneficiary is required to submit, in support of the final payment, a copy of the following underlying documents:

Heading 1 – Sub-heading 1:

The invoices and a copy of the proofs of payments: bank debit statement(s) and where applicable, proofs of withholding tax payment(s) and proofs of compensation.

Heading 2:

Upon request by the Agency, a breakdown of all costs and relevant invoice.

## **- Option 2**

In cases of grants for an action of more than EUR 60.000 and less than EUR 750 000, the beneficiary is required to submit, in support of the final payment, a “Report of Factual Findings on the Final Financial Report - Type I” produced by an approved auditor or in case of public bodies, by a competent and independent public officer.

The procedure and the format to be followed by an approved auditor or in case of public bodies, by a competent and independent public officer, are detailed in the following “Guidance Notes”:

[https://eacea.ec.europa.eu/sites/eacea-site/files/annex\\_iii\\_guidance\\_notes\\_audit\\_type\\_i\\_03-2014\\_en.pdf](https://eacea.ec.europa.eu/sites/eacea-site/files/annex_iii_guidance_notes_audit_type_i_03-2014_en.pdf)

The use of the report format set by the “Guidance Notes” is compulsory.

## **- Option 3**

In cases of grants for an action of EUR 750 000 or more, when the cumulative amounts of request for payment is at least EUR 325 000, the beneficiary is required to submit, in support of the final payment, a “Report of Factual Findings on the Final Financial Report - Type II” produced by an approved auditor or in case of public bodies, by a competent and independent public officer. The certificate shall certify, in accordance with a methodology approved by the Agency, that the costs declared by the beneficiary in the financial statements on which the request for payment is based are real, accurately recorded and eligible in accordance with the grant agreement.

The procedure and the format to be followed by an approved auditor or in case of public bodies, by a competent and independent public officer, are detailed in the following “Guidance Notes”:

[https://eacea.ec.europa.eu/sites/eacea-site/files/annex\\_iv\\_guidance\\_notes\\_audit\\_type\\_ii\\_03-2014\\_en.pdf](https://eacea.ec.europa.eu/sites/eacea-site/files/annex_iv_guidance_notes_audit_type_ii_03-2014_en.pdf)

The use of the report format set by the “Guidance Notes” is compulsory.

The calculation of the final grant amount by the Agency is based on a detailed final financial statement of the beneficiary, accompanied by supporting documentation for the incurred expenditure.

If the eligible costs actually incurred by the beneficiary are lower than anticipated, the Agency will apply the rate of co-financing stated in the grant agreement to the expenditure actually incurred. In the event of non-execution or clearly inadequate execution of an activity planned in the application attached to the funding agreement, the final grant will be reduced accordingly.

EU grants may not have the purpose or effect of producing a profit within the framework of the action of the beneficiary. Profit shall be defined as a surplus of receipts over the eligible costs incurred by the beneficiary, when the request is made for payment of the balance. In this respect, where a profit is made, the Agency shall be entitled to recover a percentage of the profit corresponding to the Union contribution to the eligible costs actually incurred by the beneficiary to carry out the action.

Where applicable, the beneficiary will be required to reimburse any excess amounts paid by the Agency in the form of pre-financing.

The verification of the non-profit does not apply to low value grants, i.e.  $\leq$  EUR 60 000.

### **11.3. Payment arrangements**

A pre-financing payment corresponding to 30% of the grant amount will be transferred to the beneficiary within 30 days either of the date when the last of the two parties signs the agreement provided all requested guarantees have been received.

A second pre-financing payment of 30% of the grant amount will be made within 60 days of receipt by the Agency of the progress report on the action's implementation. This second pre-financing payment is normally made when at least 70% of the previous pre-financing payment has been used up. Where the consumption of the previous pre-financing is less than 70%, the amount of the new pre-financing payment shall be reduced by the unused amounts of the previous pre-financing.

The Agency will establish the amount of the final payment to be made to the beneficiary on the basis of the calculation of the final grant amount (see section 11.2 above). If the total of earlier payments is higher than the final grant amount, the beneficiary will be required to reimburse the amount paid in excess by the Commission through a recovery order.

### **11.4. Pre-financing guarantee**

In the event that the applicant's financial capacity is not satisfactory, a pre-financing guarantee for up to the same amount as the pre-financing may be requested in order to limit the financial risks linked to the pre-financing payment.

The financial guarantee, in euro, shall be provided by an approved bank or financial institution established in one of the Member States of the European Union. When the beneficiary is established in a third country, the authorising officer responsible may agree that a bank or financial institution established in that third country may provide the guarantee if he considers that the bank or financial institution offers equivalent security and characteristics as those offered by a bank or financial institution established in a Member State. Amounts blocked in bank accounts shall not be accepted as financial guarantees.

The guarantee may be replaced by a joint and several guarantees by a third party or by a joint guarantee of the beneficiaries of an action who are parties to the same grant agreement.

The guarantee shall be released as the pre-financing is gradually cleared against interim payments or payments of balances to the beneficiary, in accordance with the conditions laid down in the grant agreement.

<b>12. PUBLICITY</b>
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#### **12.1. By the beneficiaries**

Beneficiaries must clearly acknowledge the European Union's contribution in all publications or in conjunction with activities for which the grant is used.

In this respect, beneficiaries are required to give prominence to the name and logo of the MEDIA sub-programme on the main page or sponsor page of their website and on all their publications, posters, programmes and other products, such as trailers realised under the co-financed project.

To do this they must use the text, the logo and the disclaimer available at

[https://eacea.ec.europa.eu/about-eacea/visual-identity\\_en](https://eacea.ec.europa.eu/about-eacea/visual-identity_en) which will be provided by the Agency.

If this requirement is not fully complied with, the beneficiary's grant may be reduced in accordance with the provisions of the grant agreement.

## **12.2. By the Agency and/or the Commission**

With the exception of scholarships paid to natural persons and other direct support paid to natural persons in most need, all information relating to grants awarded in the course of a financial year shall be published on the Internet site of the European Union institutions no later than the 30 June of the year following the financial year in which the grants were awarded.

The Agency and/or the Commission will publish the following information:

- name of the beneficiary;
- locality of the beneficiary: address of the beneficiary when the latter is a legal person, region when the beneficiary is a natural person, as defined on NUTS 2 level<sup>7</sup> if he/she is domiciled within the EU or equivalent if domiciled outside EU,
- the amount awarded;
- nature and subject of the grant.

Upon a reasoned and duly substantiated request by the beneficiary, the publication shall be waived if such disclosure risks threatening the rights and freedoms of individuals concerned as protected by the Charter of Fundamental Rights of the European Union or harm the commercial interests of the beneficiaries.

## **12.3 Communication and dissemination**

The Commission together with the Agency may identify good practices and prepare relevant dissemination materials to be shared within and across all participating countries and beyond.

Data and results from projects will be made freely available to be used by stakeholders, policy makers and others in a wide range of ways.

Beneficiaries may be required to attend and to participate in events organised by the European Commission or the Agency to share their experience with other participants and/or policy makers.

## **13. DATA PROTECTION**

All personal data (such as names, addresses, CVs, etc.) will be processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the European Community institutions and bodies and on the free movement of such data.<sup>8</sup>

Unless marked as optional, the applicant's replies to the questions in the application form are necessary to evaluate and further process the grant application in accordance with the specifications of the call

<sup>7</sup> European Union Official Journal L39, of 10 February 2007.

<sup>8</sup> Official Journal L 8, 12.1.2001.

for proposals. Personal data will be processed solely for that purpose by the department or Unit responsible for the Union grant programme concerned (entity acting as data controller). Personal data may be transferred on a need to know basis to third parties involved in the evaluation of applications or in the grant management procedure, without prejudice of transfer to the bodies in charge of monitoring and inspection tasks in accordance with European Union law. In particular, for the purposes of safeguarding the financial interests of the Union, personal data may be transferred to internal audit services, to the European Court of Auditors, to the Financial Irregularities Panel or to the European Anti-Fraud Office and between authorising officers of the Commission and the executive agencies. The applicant has the right of access to, and to rectify, the data concerning him or her. For any question relating to these data, please contact the Controller. Applicants have the right of recourse to the European Data Protection Supervisor at any time. A detailed Privacy statement, including contact information, is available on EACEA's website:

[http://eacea.ec.europa.eu/about/documents/calls\\_gen\\_conditions/eacea\\_grants\\_privacy\\_statement.pdf](http://eacea.ec.europa.eu/about/documents/calls_gen_conditions/eacea_grants_privacy_statement.pdf)

Applicants and, if they are legal entities, persons who are members of the administrative, management or supervisory body of that applicant or who have powers of representation, decision or control with regard to that applicant or natural or legal persons that assume unlimited liability for the debts of that applicant are informed that, their personal data (name, given name if natural person, address, legal form and name and given name of the persons with powers of representation, decision-making or control, if legal person) may be registered in the Early Detection and Exclusion System (EDES) by the Authorising Officer of the Agency, should they be in one of the situations mentioned in the Regulation (EU, Euratom) N° 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) N° 1605/2002 (OJ.L 298 of 26.10.2012, p.1) as amended by the Regulation (EU, Euratom) N° 2015/1929 of the European Parliament and of the Council of 28 October 2015 (OJ L 286, 30.10.2015, p.1).

## **14. PROCEDURE FOR THE SUBMISSION OF PROPOSALS**

### **14.1 Publication**

The call for proposals is published on the Internet site of the EACEA at the following address:

[http://eacea.ec.europa.eu/creative-europe/funding\\_en](http://eacea.ec.europa.eu/creative-europe/funding_en)

### **14.2 Registration in the Participant Portal**

Before submitting an electronic application, applicants will have to register their organisation in the Education, Audiovisual, Culture, Citizenship and Volunteering Participant Portal and receive a Participant Identification Code (PIC). The PIC will be requested in the application form.

The Participant Portal is the tool through which all legal and financial information related to organisations will be managed. Information on how to register can be found in the portal under the following address:

<http://ec.europa.eu/education/participants/portal/desktop/en/home.html>

The tool also allows applicants to upload different documents related to their organisation. These documents have to be uploaded once and will not be requested again for subsequent applications by the same organisation.

Details on the supporting document that need to be uploaded in the portal can be found [https://eacea.ec.europa.eu/creative-europe/funding/support-sales-agents-2018\\_en](https://eacea.ec.europa.eu/creative-europe/funding/support-sales-agents-2018_en)

### **14.3 Submission of the grant application**

Proposals must be submitted in accordance with the admissibility requirements set out in Section 5 and by the deadline set out under section 3.

An online application system has been set up. Grant applications must be drawn up in one of the official EU languages, using the online form (eForm) specifically designed for this purpose. To facilitate the assessment of the application, additional documents relevant to the assessment of the project should be submitted preferably in English or French.

The eForm can be obtained on the Internet at the following address: <https://eacea.ec.europa.eu/PPMT/>

Proposals must be received by the deadline mentioned in the call for proposals and in Section 3. "Timetable" of the present Guidelines **before 12:00 CET/CEST (Midday, Brussels time)**, using the online application form.

Applicants should note that no applications received after 12.00 CET/CEST on the relevant deadline will be accepted. They are very strongly encouraged not to wait until the final day to read the User Guide and submit their application.

Please note that no other method of submission of an application will be accepted. Applications submitted in any other way will be automatically rejected. No exceptions will be made.

Make sure that you have officially submitted your electronic application form and that you have received an e-mail acknowledging receipt of your submission with a project reference number.

Applicants shall ensure that all the documents requested and mentioned in the eForm are attached to the eForm (see *Guide for applicants*):

- Annex I: Declaration on the applicant's honour;
- Annex II: List of films & Budget form;
- Annexes III: (1) Film(s) information for the generation phase, (2) Additional mandatory information, (3) project description/strategy;
- Annex IV: Financing plan(s) for the films to be qualified for the generation phase (for new films only).

When drafting their budget, applicants must assess the amount of the potential fund based on the admissions declared by the distributors and the parameters set out in the award criteria of the distribution automatic scheme (call EACEA 05/2018) and of the present guidelines (section 9). *A guide to calculate the potential fund can be found on the following link* [https://eacea.ec.europa.eu/creative-europe/funding/support-sales-agents-2018\\_en](https://eacea.ec.europa.eu/creative-europe/funding/support-sales-agents-2018_en)

The final potential grant is subject to the availability of the budget and might therefore have to be reduced by the Evaluation Committee. In such case, it will be proposed to the applicant to amend their budget accordingly.



The following document must be at the applicant's disposal for each film declared, in case of verification by the EACEA:

International sales agreement with the producer with the hand written statement "Copy certified as true" signed by the legal representative of the company (the date of contract must be signed and take effect between 01/01/2013 and 31/12/2017).

The applicant shall provide this information upon request by the Agency, in the context of verification of the validity of the international sales (see section 9). In the event the applicant fails to submit the requested documents, the relevant international sales will not be taken into account in the calculation of the potential fund.

No modifications to the application are allowed once the deadline for submission has elapsed. However, if there is a need to clarify certain aspects or for the correction of clerical mistakes, the Agency may contact the applicant for this purpose during the evaluation process.

All applicants will be informed by electronic mail with receipt about the results of the selection process.

#### **14.4 Rules applicable**

Regulation (EU, Euratom) N° 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union (OJ L 298, 26.10.2012, p.1) as amended by the Regulation (EU, Euratom) N° 1929/2015 of the European Parliament and of the Council of 28 October 2015 (OJ L 286, 30.10.2015, p. 1).

Commission Delegated Regulation (EU) N° 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) N° 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p.1) as amended by the [Commission Delegated Regulation \(EU\) N° 2015/2462 of 30 October 2015 amending Delegated Regulation \(EU\) N° 1268/2012 on the rules of application of Regulation \(EU, Euratom\) N° 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union](#) (OJ L 342, 29.12.2015, p. 7).

Regulation (EU, Euratom) N° 1295/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Creative Europe Programme (2014 to 2020) concerning the implementation of a support Programme for the European creative sector (Creative Europe) (OJ L 347/221, 20 December 2013) and its corrigendum of the 27/06/2014 (OJ L189/260).

#### **14.5 Contacts**

For any further information please contact your Creative Europe desk:

[https://ec.europa.eu/programmes/creative-europe/contact\\_en](https://ec.europa.eu/programmes/creative-europe/contact_en)

Contact within the Agency:

[EACEA-DISTRIBUTION-SALESAGENTS@ec.europa.eu](mailto:EACEA-DISTRIBUTION-SALESAGENTS@ec.europa.eu)

If you encounter a technical problem in relation to the e-Form, please ensure that you contact the HelpDesk well in advance of the deadline for submission: [eacea-helpdesk@ec.europa.eu](mailto:eacea-helpdesk@ec.europa.eu).