



EUROPEAN UNION

Delegation of the European Commission  
to Montenegro

## CONTRACTING AUTHORITY'S CLARIFICATIONS

### Request for clarifications no 3

Open Call: **Cross-border Programme Croatia-Montenegro, 2007-2008**

Reference: **EuropeAid/128959/L/ACT/MULTI**

---

Q79: In relation to the section 2.1.4 of the GfA "Eligibility of costs", the following is stated:

*...the cost of staff assigned to the Action, corresponding to actual gross salaries including social security charges and other remuneration costs...*

Could you please explain what is exactly meant by "staff"? Only the employees, for which the employer covers social security charges and other remuneration costs according to the Croatian Labour Act, or also the so-called "external collaborators" (free lancers or persons employed elsewhere), to whom the employer pays a fee according to the legal institution of "Ugovor o djelu" or "Ugovor o autorskom djelu"?

**A79: By the term "staff", the Contracting Authorities understand all those hired for or engaged on the project's implementation, irrespective of the fact that they may be permanent or temporary staff members of the applicants and their partners, in the latter case recruited under "Ugovor o djelu" or "Ugovor o radu" (i.e. modalities of contracts of employment on a fixed term basis under Croatian or Montenegrin legislation). All applicants are urged to calculate the salaries or fees paid to these temporary employees (fixed term basis) including all contributions and charges legally required by the national legislation of the applicants' country of origin.**

---

Q80: With reference to the Guidelines for Applicants, specifically the adjacent areas, the wording is:

*"Under this Call for Proposals, an indicative amount of €144,000 for Croatia and €180,000 in Montenegro may be assigned to finance applications with activities totally or partially taking place in adjacent areas".*

Does this in fact mean that the whole budget of a project with some activities taking place in the adjacent area is falling under the 20% limit? If so, what will happen if a project is requesting a grant of maximum of € 300,000 on both sides and it ranks high on the quality list, but it implies activities in the adjacent areas? Would then the project have to be rejected

because it is asking for a grant of more than € 144,000 in Croatia and € 180,000 in Montenegro?

To rephrase the question, I am asking whether a project with some activities in adjacent areas de facto has a limit of maximum grant of € 144,000 in Croatia and € 180,000 in Montenegro?

And if the project has activities in adjacent areas in Croatia, but not in Montenegro, does the limit of € 180,000 then apply to Montenegro.

**A80: Please see for reference section 2.1.3. of the GfA “*Eligible actions: actions for which an application may be made*”, “Actions in “Adjacent Areas” in Croatia and Montenegro”, where the first two paragraphs read:**

***“It has been decided that the Split-Dalmatia County in Croatia and the municipalities of Nikšić, Podgorica and Danilovgrad in Montenegro, though not in the designated Cross-border areas, will qualify as “adjacent areas” for the purpose of the Cross Border Cooperation Programme Croatia/Montenegro and up to 20% of the financial allocation to Croatia (€144,000) and to Montenegro (€180,000) can be spent in these adjacent areas.***

***The actions or part of actions taking place in the adjacent areas must meet all the eligibility qualifications (Applicants, Actions and Costs) that apply in the cross-border areas. The accumulated value of all the activities in the adjacent areas cannot exceed 20% of the total Croatian grant allocation, i.e. it cannot exceed € 144,000, and of the Montenegrin grant allocation, i.e. it cannot exceed €180,000.***

**Also, please see for reference section 1.3 of the GfA “*Financial Allocation provided by the Contracting Authority*”, where the third paragraph reads:**

***“Applications that have project activities in the Croatian and/or the Montenegrin adjacent areas will be treated as “adjacent areas projects”. Applications with activities in adjacent areas must meet all the eligibility criteria set up at these Guidelines for Applicants (GfA). All applications (irrespective of whether they have as beneficiaries the population of the adjacent and/or the eligible areas) will be evaluated according to the evaluation grid as per section 2.3 below. The projects with highest scores will be recommended for financing. The best actions with activities in adjacent areas will be funded until exhaustion of funds available for these areas under this Call for Proposals.”***

**In conclusion, the following principles apply:**

- **The Contracting Authorities, in line with the IPA Implementing Regulation, look into applications fully or partially covering activities in the adjacent areas as exceptional and their justification (or in other words their quality) has to be very strong;**
- **Applications only covering activities in the adjacent areas can receive a maximum grant of € 144,000 if applying to the budget allocated to Croatia and/or € 180,000 if doing so for the budget allocated to Montenegro. If such an application targets these limits and ranks high in the applications’ assessments, it will take by itself the totality of the allocation and will consequently exclude the possibility of funding other applications with full or partial coverage of activities in the adjacent areas.**
- **Applications partially covering activities in the adjacent areas can receive a maximum grant of € 144,000 for the activities specifically targeting the adjacent areas under the allocation for Croatia and/or € 180,000 if doing so for the**

budget allocated to Montenegro. As for the previous scenario, if that application targets these limits and ranks high in the applications' assessments, it will take by itself the totality of the allocation and will consequently exclude the possibility of funding other applications with full or partial coverage of activities in the adjacent areas.

- If an application may have full or partial coverage of activities in the adjacent area of one of the two participating countries (in the sense of territory), the only limit being applied for the activities taking place in the eligible area of the other participating country are those set out in section 1.3 "*Size of grants*" of the GfA.

---

Q81: *Can you confirm that the location of the applicant's organization is not a criterion for defining the location of the project? This would imply that as long as the project activities are happening in the programme area, the project is not falling under the 20% rule, even if the applicant organization is located in the adjacent area? "*

A81: The origin or location of the main office of an applicant is only relevant to determine the eligibility of the applicant in line with the requirements of section 2.1.1 of the GfA, but it is not a criterion to define the eligibility of the action.

Please note that programme areas are both eligible areas and adjacent areas (see section 2.1.3, "Location", page 15 of GfA). Please see for reference too section 1.3. of the GfA "*Financial Allocation provided by the Contracting Authority*", where the third paragraph reads:

*"Applications that have project activities in the Croatian and/or the Montenegrin adjacent areas will be treated as "adjacent areas projects".*

Therefore, if activities are taking place only in eligible areas of the programme, the project will not be treated as "adjacent areas projects", even if the applicant organisation is located in adjacent areas.

---

Q82: We noted that where the proposed Functional Lead Applicant on the Croatian financial allocation is from an EU Member State, this must, in order to comply with the rules of the Programme, have a Croatian Partner. However, may that entity also be a Partner of the Montenegrin Applicant on the Montenegrin side of the Proposal or vice versa?

A82: The case you present to our consideration is not falling under any of the scenarios the GfA refer to in section 2.1.3. "*Eligible actions: actions for which an application can be made*":

"Number of applications and grants per applicant

*An applicant may submit more than 1 application under this call for proposals.*

*An applicant may not be awarded more than two grants under this call for proposals, limited to a maximum of one grant per measure.*

*An applicant may at the same time be a partner in one or more other applications.*

*Partners may take part in more than one application."*

Nevertheless, it is obvious that an operator cannot be in the same application, the applicant (or functional lead applicant) under one country allocation and a partner of the applicant under the second country allocation. This would imply that such an operator may receive EU funding twice under the same project, once as applicant and again as partner. Irrespective of his role as applicant or partner in individual applications, an operator can appear as a member of the application's partnership exclusively in one role.

---

Q83: In relation to the previous question, if in addition to being the Functional Lead Partner, an organization may also be a Partner of the other Applicant (on the other side of the Proposal), must she complete 2 original copies of the Partnership Statement, one for each side of the proposal?

**A83: Please see the answer 82 above. No operator can participate in an application under different partnership roles. An operator can play one exclusive role within a single application.**

---

Q84: In our project, we have foreseen a public competition for designing landscape project documentation. In common practice, the expert selected is awarded a certain amount. However the overall tender amount is greater since the second and third award are also acknowledged from the tender. This is because the experts that wish to submit their proposal have to work on project design at least for one month.

Is it possible to ensure the total amount for the 3 awarded experts, although only the first awarded expert will execute the activity?"

**A84: Please see the instructions on procurement stipulated in Annex IV of the Standard Grant Contract (Annex F of the GfA) "Procurement by grant Beneficiaries in the context of European Community external actions", especially section 1. "General principles" where you can read:**

***"If the implementation of an Action requires procurement by the Beneficiary, the contract must be awarded to the most economically advantageous tender (ie, the tender offering the best price-quality ratio), in accordance with the principles of transparency and fair competition for potential contractors and taking care to avoid any conflicts of interest."***

**In addition, later on the text reads:**

***"In the event of failure to comply with the rules referred to above, expenditure on the operations in question is not eligible for Community financing."***

**You may also want to carefully read section 4 of annex F, entitled "Rules applicable to service contracts", where the procedure for the service procurement is explained.**

**In conclusion, a contract must be awarded to only the most economically advantageous tender (i.e. the tender offering the best price-quality ratio for the service described in the Terms of References). The Contracting Authorities will not accept that a financial compensation is included in the amount foreseen in the tender for bidders classified as second and third best. Every bidder must be aware that the costs of preparing a bid are**

**his entire responsibility and that in the event of not being the most economically advantageous tenderer, he cannot expect any financial reward.**

---

Q85: Is this activity (indicated in Q84) eligible under Measure 1.1. *“Joint actions for environment, nature and cultural heritage protection?”*

**A85: Please note that in section 2.1.3 of the GfA *“Eligible actions”*, in the sub-section *“Types of actions/activities”* the list of possible activities under each measure is indicative and not exhaustive. Even more, appropriate innovative activities that are not mentioned in the lists of possible activities per measure may also be considered for support.**

**Additionally, please bear in mind that, as per provisions laid down at the end of the section, the following type of action is ineligible: *“preparatory studies or preparation of preliminary design for works to be carried out within the project”*, or in other words, an application cannot contain as eligible activities the preparation of preliminary designs and the execution of the works related to these designs.**

---