



Education, Audiovisual and Culture Executive Agency

MEDIA Unit

EUROPEAN UNION - MEDIA 2007 PROGRAMME

established by European Parliament and Council Decision N° 1718/2006/EC
(JO L 327 of 24.11.2006)

SUPPORT TO DEVELOP AN AUDIOVISUAL PRODUCTION

Category [Interactive Work]

GRANT DECISION for an ACTION

Decision Nr _____ **of the**
Education, Audiovisual and Culture Executive Agency
Project Title: xxx

The Education, Audiovisual and Culture Executive Agency (hereinafter the "Agency"), acting under powers delegated by the Commission of the European Union (hereinafter the "Commission"),

Having regard to the Treaty on the functioning of the European Union;

Having regard to the Decision N° 1718/2006/EC of the Parliament and of the Council (JO L 327 of 24.11.2006);

Whereas:

- (1) Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Union¹ (hereinafter the «Financial Regulation») and Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Union² provide the framework for the award of Union grants;
- (2) Commission Decision CE(2009)336 of 20 April 2009³ setting up the Education, Audiovisual and Culture Executive Agency for the management of Community action in the fields of education, audiovisual and culture in application of Council Regulation (EC) No 58/2003⁴ provides that the Agency is responsible for the management of grants to be awarded under the Union programmes delegated to it, including MEDIA 2007;

¹ OJ L 248 of 16.9.2002, p. 1, as amended subsequently.

² OJ L 357 of 31.12.2002, p. 1, as amended subsequently.

³ OJ L 101 of 21.04.2009, p. 26

⁴ OJ L 11 of 16.01.2003, p. 1, as amended subsequently

- (3) Commission Decision C(2009)3355 of 6 May 2009 delegating powers to the Education, Audiovisual and Culture Executive Agency with a view to performance of tasks linked to implementation of Union Programmes in the fields of education, audiovisual and culture, including in particular the implementation of appropriation entered in the Union budget sets out the mandate given by the Commission to the Agency;
- (4) On xx/09/2011, the Agency has published the call for proposals 22/2011 (the "call") in order to support the development of on and off-line interactive works within the framework of the MEDIA 2007 Programme.
- (5) Whereas this grant decision is the result of a call for proposals by which applicants have been informed of the model grant decision of the Agency and of the General Conditions. Submission of a grant application implies acceptance of the General Conditions annexed to this grant decision;
- (6) The addressee of this decision presented a request for a grant under this call for proposals (application No [*insert number and date of the application*]), wherein he declares that he has taken note of the conditions set out in the call, including the General Conditions of the model grant decision annexed to it, and accepts them.
- (7) The application fulfils the conditions set out in the abovementioned call for proposals and has been selected.
- (8) The Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996⁵ concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Union's financial interests against fraud and other irregularities and Regulation (EC) No 1073/1999 of the European Parliament and the Council of 25 May 1999⁶ concerning investigations conducted by the European Anti-Fraud Office (OLAF) provide for measures for the effective protection of the Union's financial interests;
- (9) The Agency, the Commission and the Court of Auditors may check the use made of the grant at any time during the implementation of the action and during a period of five years following the date of payment of the balance.

HAS DECIDED AS FOLLOWS:

⁵ OJ L 292, 15.11.1996, p. 2–5

⁶ OJ L 136, 31.5.1999, p. 1–7

ARTICLE 1 – PURPOSE OF THE GRANT

1. A grant is awarded to

full official name
official legal form
official registration n°
official address in full
VAT number

represented for the purposes of this Grant Decision by [*name, forename and function*], hereinafter the "beneficiary"

for the action entitled [...] (the "action"), under the terms and conditions set out in the present Decision and its Annexes (including the General Conditions, which the beneficiary, as declared in the application submitted, has taken note of and has accepted).

2. The beneficiary undertakes to do everything in his power to carry out the action as described in the application submitted, acting on his own responsibility.

ARTICLE 2 – DURATION

1. The action and the period of eligibility of costs shall begin on xx/yy/zz [*insert starting date – submission date*] (the "starting date") and shall end on 30/06/2014 / 30/11/2014⁷ (the "closing date"). If the project enters into production before this date, the period of eligibility ends on the date of entry into production (1st day of principle photography or equivalent).
2. The costs pertaining to the acquisition of the rights on the action (included as budget heading "1" in the estimated budget of the action annexed hereto) may be eligible if incurred at the earliest 12 months before the date of submission of the application (the starting date of the action).
3. Any change of date has to be communicated in writing to the Agency, which reserves the right in that case to withdraw the grant. The communication must take place at least one month before the closing date of the action.

ARTICLE 3 – FINANCING THE ACTION

1. The total cost of the action is estimated at EUR [...], as shown in the estimated budget in Annex III. The estimated budget shall give a detailed breakdown of the costs that are eligible for European Union funding, under the terms of General Conditions n° 11, of any other costs that the action may entails and of all receipts, so that receipts and costs balance.

⁷ no later than 30/06/2014 for requests for support submitted within the 1st deadline and no later than 30/11/2014 for those requests submitted within the 2nd deadline

2. The total eligible costs of the action for which the European Union grant is awarded are estimated at EUR [...] [equal the total cost of the action], as shown in the estimated budget in Annex III.

Indirect costs are eligible for flat-rate funding of 7% of the total direct eligible costs, subject to the provisions laid down in General Condition n° 11, paragraph 3.

3. The Agency shall contribute a maximum of EUR [...], equivalent to [...] % of the estimated total eligible costs indicated in paragraph 2. The final amount of the grant shall be determined as specified in General Condition n° 14, without prejudice to General Condition n° 16.

The Union grant may not finance the entire costs of the action. The amounts and sources of co-financing other than from Union funds shall be set out in the estimated budget referred to in paragraph 1. In this respect, contributions in kind shall not be accepted as part of the co-financing of the action, unless it is specifically provided for in Article 11 of the Grant Decision.

4. The beneficiary may, when carrying out the action, adjust the estimated budget by transfers between headings of eligible costs, provided that this adjustment of expenditure does not affect the implementation of the action and each transfer between headings does not exceed 10% of the total eligible costs indicated in Article 3. He shall inform the Agency in writing in the technical implementation report and financial statement foreseen in Article 5 of the Grant Decision.

ARTICLE 4 – PAYMENT ARRANGEMENTS

Option 1 → if the beneficiary fulfils the financial capacity or can provide a bank guarantee; 1. pre-financing is used and option 2 is not applicable

1. Pre-financing:

Within 45 days of [the latest of the following dates:]

[receipt of the request for pre-financing]

[receipt of a financial guarantee amounting to an amount equivalent to the amount of pre-financing granted,]

a pre-financing payment of EUR [...] shall be made to the beneficiary, representing 70% of the amount specified in Article 3.3

2. Further pre-financing payments: Not Applicable

Option 2 → if the beneficiary does not fulfil the financial capacity and cannot provide a bank guarantee; 3. interim payment is used and 1. pre-financing is not applicable

3. Interim payment:

Any request for interim payment shall be accompanied by the interim technical implementation report and financial statement specified in Article 5 in accordance

with General Condition n° 12 and by an external audit report on the action's financial statements and underlying accounts.

The Agency shall have 45 days to approve or reject the documents accompanying the request for payment or to request additional supporting documents or information under the procedure laid down in General Condition n° 12. In that case, the beneficiary shall have 30 days to submit the additional information requested or a new report.

The amount of the interim payment shall be determined on the basis of the eligible costs actually incurred, as shown in the interim statement and approved by the Agency, to which shall be applied the percentage of the Union grant specified in Article 3.3. In no circumstances may the interim payment exceed 50% of the maximum amount of the grant specified in Article 3.3.

The interim payment shall be made to the beneficiary within 45 days following approval by the Agency of the documents accompanying the request for interim payment.

The Agency may suspend the period for payment in accordance with the procedure laid down in General Condition n° 13.

4. Payment of the balance

The request for payment of the balance shall be accompanied by the final technical implementation report and financial statement specified in General Condition n° 12 and by an external audit report on the action's financial statements and underlying accounts.

The Agency shall have 45 days to approve or reject the documents accompanying the request for payment or to request additional supporting documents or information under the procedure laid down in General Condition n° 12. In that case, the beneficiary shall have 30 days to submit the additional information or a new report.

A payment representing the balance of the grant determined in accordance with General Condition n° 14 shall be made to the beneficiary within 45 days following approval by the Agency of the documents accompanying the request for payment of the balance.

The Agency may suspend the period for payment in accordance with the procedure laid down in General Condition n° 13.

ARTICLE 5 – SUBMISSION OF REPORTS AND OTHER DOCUMENTS

The provisions relating to the submission of the technical implementation reports, financial statements and other documents referred to in Article 4 are contained in Annex IV.

The technical implementation reports, financial statements and other documents referred to in Article 4 must be submitted in one copy in one of the official languages of the European Union (preferably in English or in French) on the following dates:

- If applicable, interim technical implementation report and financial statement and an external audit report: after at least 50% of the total eligible costs of the action as indicated in the Article 3.2 has been spent,
- final technical implementation report and financial statement and an external audit report: on 30/07/2014 / 30/12/2014⁸ or one month after the end of the action if the project has entered into production before the closing date foreseen

ARTICLE 6 –BANK ACCOUNT

Payments shall be made to the beneficiary's bank account or sub-account denominated in euro, as indicated below:

Name of the bank: [...]

Address of branch: [...]

Precise denomination of the account holder: [...]

Full account number (including bank codes): [...]

IBAN account code: [...]

This account or sub-account must identify the payments made by the Agency. If the total pre-financing payment exceeds 50 000 euros and if the funds paid to this account yield interest or equivalent benefits under the law of the State on whose territory the account is opened, such interest or benefits shall, if they are generated by pre-financing payments, be recovered by the Agency as specified in General Condition n° 13.

Any change of bank account or sub-account shall be communicated in writing to the Agency.

ARTICLE 7 – GENERAL ADMINISTRATIVE PROVISIONS

1. Any communication addressed to the Agency in connection with the present Decision shall be in writing, indicating the number of the decision and addressed to the Agency under the following address:

Education, Audiovisual and Culture Executive Agency (EACEA)

MEDIAUnit

Support for Independent Producers - Development

Office: BOUR 3/23B

Avenue du Bourget 1

BE-1140 Brussels,

Belgium

2. Ordinary mail shall be considered to have been received by the Agency on the date on which it is formally registered by the Agency unit responsible referred to above. E-

⁸ no later than 30/07/2014 for requests for support submitted within the 1st deadline and no later than 30/12/2014 for those requests submitted within the 2nd deadline

mail shall be considered as received on the date it is received. However, if the beneficiary receives a reply asking him to redirect the e-mail, it shall not be considered received until the correctly redirected e-mail is received.

3. This Decision is addressed to the beneficiary:

full official name
official legal form
official registration n°
official address in full
VAT number
E-mail address: *[insert email address]*

4. Any change of address by the beneficiary shall be communicated in writing to the Agency.

ARTICLE 8 – APPEAL PROCEDURE

This Grant Decision is governed by Union law. Under article 263 the Treaty on the Functioning of the European Union, the beneficiary may bring legal proceedings regarding decisions by the Agency concerning the application of this Grant Decision, before the General Court of the European Union. This proceeding must be instituted within two months of the notification of the decision to the applicant, or, in the absence thereof, of the date on which the decision came to his knowledge.

ARTICLE 9 – DATA PROTECTION

All personal data contained in or relating to this Decision shall be processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Union institutions and bodies and on the free movement of such data. Such data shall be processed solely for the purposes of the implementation, the management and the follow-up of this Decision by the Controller, without prejudice to the possible transmission of the data to the bodies in charge with monitoring or inspection tasks in conformity with Union law [the Court of Auditors, the European Anti-Fraud Office (OLAF), the Financial Irregularities Panel, auditors, etc].

The beneficiary shall have the right of access to his personal data and the right to rectify any such data that is inaccurate or incomplete. Should the beneficiary have a query concerning the processing of his personal data, he shall address it in writing to the Controller. The beneficiary shall also have the right of recourse to the European Data Protection Supervisor at any time.

For the purpose of this provision, the «Controller» is the person who has represented the Agency for the purpose of the signature of this Decision.

ARTICLE 10 – ORDER OF PRECEDENCE AND ANNEXES

The General Conditions annexed to the Call for Proposals, and the other annexes to the present Decision, constitute an integral part of the present Decision. The terms set out in this Decision shall take precedence over those in the General Conditions. The

terms of the General Conditions shall take precedence over those in the other Annexes.

ARTICLE 11 – OTHER CONDITIONS

The following additional special conditions apply to this Decision:

1. Exchange rate applicable for the conversion of currencies into euro

The beneficiary shall submit the payment requests in accordance with article 4, including the underlying financial statements, in euro. By way of derogation from General Condition n° 13, any conversion of actual costs into euro shall be made by the beneficiary at the monthly accounting rate established by the Commission and published on its website applicable on the month when the financial statement is drafted.

2. Eligible costs

For the purpose of the General Conditions n° 11.4 seventh indent, VAT paid by public bodies is not an eligible cost.

3. Costs of financial transfers

Costs of the financial transfers are borne in the following way:

- Costs of dispatch charged by the bank of the Commission shall be borne by the Commission;
- Costs of receipt charged by the bank of the beneficiary shall be borne by the beneficiary;
- All costs of repeated transfers caused by one of the parties shall be borne by the party who caused repetition of the transfer.

4. Implementation contracts

Where the value of the procurement contract awarded in accordance with the provisions of General Condition n° 7 exceeds EUR 60,000, the beneficiary shall, in addition to the provisions laid down in General Condition n° 7, abide by the rules on procurement contained in the Financial Regulation applicable to the general budget of the European Union. Within the context of this decision, General Condition n° 7.2d shall not apply.

5. The Agency shall consider as a «substantial error» within the meaning of General Condition n° 9.2h, *inter alia*, the non compliance by the beneficiary, during the entire duration of the action, with the eligible criteria set out for the beneficiary and the action in Council Decision 1718/2006/EC and in the Call for Proposals EACEA 22/2011.

In particular, such obligation shall include the duty to ensure that:

- a) it is an Independent Production Company as defined in the Guidelines to the Call for Proposals N°22/2011;

- b) it is a company owned, whether directly or via majority control, by nationals of the Member States of the European Union or countries participating in the MEDIA 2007 Programme in accordance with the conditions laid down by Article 5 of the Decision N° 1718/2006/EC of the European Parliament and of the Council and is registered in one of those countries;
 - c) it has the full power and authority to be beneficiary of this Grant Decision;
 - d) it possesses the requisite author's rights to produce the work concerned by the action;
 - e) the action is not produced in breach of any national regulations relating to exhibition as regards violence, racism or pornography;
 - f) it has fulfilled all prior contractual obligations with the Agency or the Commission and/or any of the action lines operating within the framework of MEDIA II (1996-2000), MEDIA Plus (2001-2006) and MEDIA 2007 (2007-2013) Programmes;
 - g) the development costs of the action have not been already co-financed by the European Commission or the Agency within the framework of the MEDIA Programme.
6. For the purpose of the application of General Condition n° 4.1, any communication or publication by the beneficiary about the action, including its website, shall indicate that the action has received funding from the European Union. Such acknowledgement shall be worded as follows: "with the support of the MEDIA Programme of the European Union" and be accompanied by the MEDIA logo and the European flag. The beneficiary shall use the logos, trademarks or items created by the Commission for these purposes and include the text provided by the Agency in the publications/catalogue of the action.
- The Agency shall consider this publicity obligation foreseen also in General Condition n° 4 as a substantial obligation within the meaning of General Condition n° 9.2 (b) of the Grant decision. The beneficiary undertakes to supply to the Agency two copies of all audiovisual works resulting from the development of the action on the appropriate platform, together with a selection of stills, posters, photographs of the production and of the major participants, copies of major advertising leaflets and brochures from which the Agency may take and use extracts exclusively for non-commercial use for the promotion of the MEDIA Programme.

Done in [*insert place*], on [*insert date*]

For the Agency

Soon Mi PETEN

Head of Sector
Authorising Officer by Sub-delegation

Annexes: **I) General Conditions**
 II) Description of the action
 III) Estimated budget of the action

- IV) Technical implementation reports and financial statements to be submitted**
- V) Model for pre-financing request**