



A programme of the European Union



**MEDIA 2007 (2007-2013) \***

**CALL FOR PROPOSALS EACEA/06/2010**

**GUIDELINES**

**SUPPORT FOR THE TRANSNATIONAL DISTRIBUTION OF EUROPEAN  
FILMS – INTERNATIONAL SALES AGENTS  
OF EUROPEAN CINEMATOGRAPHIC FILMS**

**\* Decision N° 1718/2006/CE  
of the European Parliament and the Council**

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## **1. INTRODUCTION**

The current call for proposals and attached guidelines (hereafter: "Call for proposals") are based on Decision No 1718/2006/EC of the European Parliament and of the Council of 15 November 2006 concerning the implementation of a programme of support for the European audiovisual sector (MEDIA 2007)<sup>1</sup>.

The total budget for the MEDIA Programme 2007-2013 amounts to EUR 754,95 million.

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

The MEDIA Programme unit of the Education, Audiovisual and Culture Executive Agency is responsible for the implementation of this call for proposals.

This call is aimed at European organisations whose activities contribute to the realisation of the objectives of the MEDIA Programme as described in the Council Decision 1718/2006/EC.

These guidelines explain how to submit a proposal in view of obtaining a Union financial contribution.

The measures covered by the Decision include support for the transnational distribution of European films.

## **2. OBJECTIVES - PRIORITIES**

### **2.1. Objectives of the programme**

The global objectives of the programme are the following:

- a. preserve and enhance European cultural and linguistic diversity and its cinematographic and audiovisual heritage, guarantee its accessibility to the public and promote intercultural dialogue;
- b. increase the circulation and viewership of European audiovisual works inside and outside the European Union, including through greater cooperation between players;
- c. strengthen the competitiveness of the European audiovisual sector in the framework of an open and competitive European market favourable to employment, including by promoting links between audiovisual professionals.

### **2.2. Objectives of the "Automatic Sales Agents Scheme"**

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<sup>1</sup> published in the Official Journal of the European Union on the 24th of November 2006 (OJ L327, pp 12-29).

The aim of this support 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 market share of European films and the competitiveness of European companies.

### **2.3. Priorities of this Call for Proposals**

This Call for Proposals is aimed at European companies whose activities contribute to the realisation of the above objectives, and in particular at sales agents companies. It explains how to submit a proposal with a view to the generation of a potential Fund in the framework of the “automatic” support scheme for Sales Agents.

Particular attention will be paid to the development of potential in countries with a low audio-visual production capacity and/or a restricted linguistic or geographical area.

The “Sales Agents” support 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 over a given period.
2. Reinvestment : the potential Fund thus generated by each company must be reinvested in :
  - minimum guarantees or advances paid for the international sales rights on new European non-national films;
  - the promotion, marketing and advertising on the market of new non-national European films.

<h2><b>3. TIMETABLE</b></h2>
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Applications must be sent to the Agency by the following deadline (the postmark will be taken as proof of timely sending): **30<sup>th</sup> April 2010 at the latest.**

Please read carefully Section 13 of this Call for Proposals concerning the procedure for submitting an application.

### **3.1. Timetable for "Generation" Stage**

Applicants will be informed normally within **6** months of the submission deadline whether or not they have been granted a financial contribution. This decision will be final.

Should an application be unsuccessful, the Agency will inform the applicant as soon as possible and in writing of the reasons for its decision with regards to the criteria established hereafter.

### **3.2. Timetable for "Reinvestment" Stage**

Sales Agents can present reinvestment actions starting from the deadline of this Call.

Reinvestment applications must be sent to the Agency **by the 30<sup>th</sup> September 2011 at the latest** (the postmark will be taken as proof of timely sending).

Only those costs incurred by the beneficiary during the following periods in the execution of the reinvestment action will be eligible.

<b>Module</b>	<b>Period of the Eligible Costs</b>
1 – Minimum guarantees	From the date of the signature of the international sales contract until 16 months after this date.
2 – Marketing costs	From the date of the signature of the international sales contract until 16 months after this date.

Reinvestment actions agreed by the Agency will be the subject of an Agreement between the Beneficiary and the Agency setting out the terms and conditions of the financial contribution granted.

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 1 month before the end of the eligibility period following the conditions and modalities specified in the Agreement.

## **4. AVAILABLE BUDGET**

The total budget earmarked for the co-financing of actions is estimated at maximum EUR 1,500,000.

The amount of the financial contribution to be awarded will be determined within the limits of the available budgetary resources and with regards to the selection and award criteria. Under no circumstance may the amount of the financial contribution awarded by the Agency exceed 50% of the total eligible costs of the action. The recipient company must guarantee the remaining finance.

“Generation”: The total annual amount of potential funding available to each sales agent shall be determined on the basis of the recent European films sold by the sales agent.

In the case of “Reinvestment”, the amount of the financial contribution awarded to each company is determined with respect to the cost and nature of each proposed reinvestment action. Support will be in the form of a subsidy.

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

## 5. ELIGIBILITY CRITERIA

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

Applications duly signed by the legal representative of the company must be submitted before the relevant deadlines and use the application forms annexed hereto.

### **5.1. Eligible Companies**

This Call is only open to a:

#### European company

Company owned, whether directly or by majority participation, by nationals of Member States of the European Union and of the European Economic Agreement (or nationals of the other European countries participating in the Media Programme) and registered in one of these countries.

#### Sales Agent

Any 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 territories.

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 2007 Programme.

#### International sales of cinema films.

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 audio-visual 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.).

### 5.1.1 Legal Entity

In order to demonstrate its existence as a legal entity, the applicant must have completed the Company Form once per year. Together with the form, they should provide the following documents:

- **"Legal Entity Form"** duly completed and signed by the legal representative of the Applicant
- **"Financial Identification"** ("Bank Identification Sheet") duly completed, stamped and signed by both the legal representative of the applicant and by a representative of the bank

These documents must mention the name of the applicant organisation (full legal title), the registration number, the official registered address of the organisation, the date and place of registration.

- A copy of the **VAT registration**, including the VAT number (EVEN for those countries where the Registration & VAT numbers are identical). If the applicant does not have a VAT number, "Not applicable" shall be written down in the appropriate place on the application form.
- A copy of the **applicant's registration certificate** from the relevant authority, (e.g Companies register, Official Journal, etc.) and the **statutes** of the applicant organisation (including copies of all recent amendments either to the registration documents or to the elected shareholders, directors, board members or other legal representatives).

If the name of the legal representative of the organisation is not stated in the official registration document, a copy of his/her nomination is also required (for instance: signed minutes of the Board).

Where the person authorised to sign any agreement with the Agency is not an individual specified in the documents mentioned in the previous paragraph, a letter or proxy (signed by one of the aforementioned individuals) giving them the authority to sign agreements with the Agency on the organisation's behalf must be provided.

As the legal structure of a company may vary from country to country, the relevant Legal Entity Form is only enclosed with these guidelines in sample form. Applicants must access the appropriate form at [http://ec.europa.eu/budget/execution/legal\\_entities\\_en.htm](http://ec.europa.eu/budget/execution/legal_entities_en.htm) and complete the form in their national language.

Note: Individuals who are registered for VAT will be treated as Private Companies.

### **5.2. Eligible Countries**

#### Participating countries :

This call for proposals is open to companies registered in and owned by nationals from the Member States of the European Union and countries of the European Economic Agreement participating in the MEDIA 2007 Programme (Iceland, Liechtenstein and Norway), as well as Switzerland and Croatia.

Countries with a low production capacity

For the purpose of this call for proposals the following countries will be considered as countries with a low production capacity: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Greece, Hungary, Eire - Ireland, Iceland, Liechtenstein, Latvia, Lithuania, Luxembourg, Malta, Norway, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden and Switzerland.

**5.3. Eligible Films**

European film

Any recent work of fiction (including animated films) or documentary, with a minimum duration of 60 minutes, complying with the following conditions:

- the work has been majority produced by a producer or producers established in the countries participating in the MEDIA 2007 Programme. To be considered as the actual producers the production companies must be credited as such. Other elements such as creative control, ownership of exploitation rights and share of profits may also be taken into account to determine who the actual producer is;

and

- the work must be produced with the significant participation of professionals who are nationals/residents of countries participating in the MEDIA 2007 Programme. '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):

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

Recent films are those whose first copyright has been established during or after **2006**.

Films consisting of advertising, pornographic or racist material or advocating violence are not eligible for support.



National / Non-national European film

European films will be considered as national in that member state or territory participating in the MEDIA 2007 Programme whose citizens / 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 territories.

**5.4. Eligible applications**

Only proposals submitted using the official application form, completed in full, signed (original signatures required) and received by the specified deadline, will be considered.

The application form must be accompanied by an official letter from the applicant organisation, documents attesting to its financial and operational capacity, and all the other documents referred to in the application form.

Applicants must submit a budget that is balanced in terms of expenditure and revenue and must comply with the ceiling for Union cofinancing.

The Agency reserves the right to request additional information from the applicant.

<b>6. EXCLUSION CRITERIA</b>
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Applicants must certify that they are not in any of the situations described in Articles 93(1), 94 and 96(2)(a) of the Financial Regulation applicable to the general budget of the European Communities and set out below.

Applicants will be excluded from participating in the call for proposals if they are in any of the following situations:

- a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) they have been convicted of an offence concerning their professional conduct by a judgment which has the force of *res judicata*;
- c) they have been guilty of grave professional misconduct proven by any means which the contracting authority can justify;
- d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the contracting authority or those of the country where the contract is to be performed;
- e) they have been the subject of a judgment which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Union's financial interests;
- f) they are subject to an administrative penalty referred to in Article 96 of the Financial Regulation

Applicants will not be granted financial assistance if, on the date of the grant award procedure, they:

- (a) are subject to a conflict of interests;
- (b) are guilty of misrepresentation in supplying the information required by the contracting authority as a condition of participation in the grant award procedure, or fail to supply this information.
- (c) find themselves in one of the situations of exclusion, referred to in art 93 of the Financial Regulation, for this grant award procedure.

and they are subject to the penalty consisting in the exclusion from contracts and grants financed by the budget for a maximum of ten years.

In accordance with Articles from 93 to 96 of the Financial Regulation, administrative and financial penalties may be imposed on applicants who are guilty of misrepresentation or are found to have seriously failed to meet their contractual obligations under a previous contract award procedure.

To comply with these provisions, applicants must sign a declaration on their honour certifying that they are not in any of the situations referred to in Articles 93 and 94 of the Financial Regulation.

This declaration is included in the Application Forms.

## **7. SELECTION CRITERIA**

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. They must have the professional competencies and qualifications required to complete the proposed action or work programme.

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

Applicants who fail to provide the requested documents or who, on the basis of the documents submitted, are judged not to meet the selection criteria, will be excluded.

### **7.1. Operational Capacity**

In order to permit an assessment of their operational capacity, applicants must submit, together with their applications:

- the curriculum vitae of the legal representative of the company and of the Head of International Sales (if they are not the same person);
- a list of films for which the applicant was the appointed sales agent over the period **2006-2009**.

## **7.2. Financial Capacity**

In order to permit an assessment of their financial capacity, applicants must submit, together with their applications:

- the audited annual accounts of the 2 most recent completed fiscal years for profit companies and of the last year for non profit companies (i.e balance sheet, profit and loss accounts and the annexes) must be included within the application form. These accounts should be certified by an approved auditor external to the company;
- Or, for new companies: a bank declaration (document delivered by the bank confirming that the applicant company is the holder of an account which is properly operated);
- the Financial Capacity form (see point IV of Company Application Form) carefully and fully completed must be signed by the legal representative of the company. The information (in figures) should be given in national currency and must be based on the certified accounts attached to the application. The applicant guarantees that these figures are correct and verifiable. This information is required to evaluate the financial strength and co-financing capacity of the applicant.
- the Financial Identification form (see page 4 of Company Application Form re bank details) completed by the applicant and certified by the Bank (original signatures are required & stamp);

The analysis of the Financial Capacity will take into account the legislative framework of the different countries participating in the Programme.

If, on the basis of the documents provided, the Agency considers that the financial capacity has not been proven or is not satisfactory, it may:

- reject the application
- ask for further information
- require a guarantee (see 9.3)
- offer a grant agreement without pre-financing.

In the event that an application is awarded a grant equal to or below EUR 25,000 then the analysis of the Financial Capacity shall not apply provided that the applicant has duly completed the relevant Declaration of Honour in the application form.

## **7.3. Audit**

For applicants requesting a contribution of more than EUR 500 000, grant applications must be accompanied by an external audit report produced by an approved external auditor.

This report shall certify the accounts for the last 2 fiscal years available.

## 8. AWARD CRITERIA

### 8.1 Generation Stage

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 2007 Programme).

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

Within the limit of the budgetary resources available, the amount of potential fund available to 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 **01/01/2006 and 31/12/2009** the appointed sales agent of **at least 8 recent European films<sup>2</sup>** (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 to the MEDIA 2007 Programme; the mandate must be signed and take effect within the reference period
- **and** that, **during the same period**, for **at least 4 of these films in at least 3 countries** participating in the MEDIA 2007 Programme, outside the country of origin of the films there was a theatrical release as evidenced by distributor declarations to the MEDIA Programme Cinema Automatic scheme.

If this first step is successfully completed, the sales agent shall be entitled to a potential support of **EUR 20 000**.

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:

a) as **a percentage of the total potential fund generated in the framework of the automatic support scheme for theatrical distribution** (Call for proposals EACEA/03/2010) by the non-national films:

- 10 % for films from countries with a high production capacity (DE, ES, FR, IT, UK);
- 15 % for films coming from countries “with a low production capacity”;
- 20 % for films coming from new Member States of the European Union (Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia) and Croatia.

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<sup>2</sup> i.e. European films whose first copyright has been established during or after **2006**.

b) in addition, besides the films released to be eligible by distributor declarations to the MEDIA Programme Cinema Automatic Scheme, the sales agent will generate an additional potential fund of EUR **1500** per extra film declared in at least 3 countries participating in the MEDIA 2007 Programme, outside the country of origin of the films (as evidenced by distributor declarations to the MEDIA Programme Cinema Automatic scheme).

Example : Swiss sales agent X

Step 1 : The sales agent had, between 2006 and 2009, 15 films in international sales, of which 9 non-national films were distributed and declared for at least 3 non-national countries over the same period.

On the basis of this proof, the sales agent generates a potential fund of EUR 20.000.

Step 2 : the calculation of the potential fund generated by distributors under Call for proposals EACEA/03/2010 (automatic support scheme for theatrical distribution) on the basis of cinema admissions made in 2009:

<b>Film</b>	<b>Potential Fund generated by distributors under Call for Proposals EACEA/03/2010</b>	<b>Potential Fund generated by the Sales Agent for films of big countries (10 %)</b>	<b>Potential Fund generated by the Sales Agent for films of small countries (15 %)</b>	<b>Potential Fund generated by the Sales Agent for films of new countries (20 %)</b>
Je t'aime (FR)	300.000	30.000		
Ich liebe dich (DE)	120.000	12.000		
I love you (IE)	50.000		7.500	
Szeretlek (HU)	65.000			13.000
Te quiero (ES)	100.000	10.000		
Ti amo (IT)	80.000	8.000		
Kocham Cie (PL)	200.000			40.000
Ik hou van jouw (NL)	75.000		11.250	
Jeg elsker dig (DA)	40.000		6.000	
<b>EUR</b>	<b>1.030.000</b>	<b>60.000</b>	<b>24.750</b>	<b>53.000</b>

The total potential Fund generated by the sales agent further to steps 1 and 2a and 2b is therefore EUR 20.000 + (60.000 + 24.750 + 53.000) + (5\*1.500) = EUR 165.250.

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

Following the calculation of the potential Fund generated, the Agency will inform each beneficiary of the amount of potential Fund available for reinvestment.

The notification will normally be sent to the beneficiary within 6 months of the deadline of this Call for Proposals.

The notification to the sales agent of the potential Fund generated does not constitute a claim on the European Commission/EACEA.

## **8.2 Reinvestment Stage**

Sales agents can present reinvestment actions starting from the deadline of this Call.

These actions will be processed by the Agency following the assessment of the “generation” phase of the fund, and will be treated on the basis and within the limits of the potential Fund generated by the sales agent as calculated and notified by the Agency.

The potential Fund can be reinvested :

- ① In the meeting of Minimum Sales Guarantees for new European **non-national** films.
- ② In the meeting of promotion and marketing costs for new European **non-national** films.

The potential Fund can be reinvested in one or several films. Reinvestments in Module 1 (MG) and in Module 2 (promotion costs) for the same film are allowed.

Beneficiaries wishing to reinvest (part of) their potential Fund should send to the Agency a request for reinvestment.

Reinvestment actions must be approved by the Agency.

Reinvestment of the potential Fund into completed actions is impossible.

**In order to be eligible, reinvestment actions of the potential fund generated by this Call for proposals need to fulfil all of the following conditions:**

- **begin at the earliest on the 30<sup>th</sup> April 2010.**

For the different modules, eligible reinvestment actions cannot start before the following dates :

<b>Module</b>	<b>Earliest start date of the action</b>
1 – Minimum guarantee	The international sales contract/agreement with the producer can be signed at the earliest on the <b>30<sup>th</sup> April 2010</b>
2 – Promotion and marketing costs	The international sales contract/agreement with the producer can be signed at the earliest on the <b>30<sup>th</sup> April 2010</b>

- be submitted to the Agency within the following deadlines :

Module	Deadline for presentation of the reinvestment action
1 – Minimum guarantee	Within 6 months of the signature of the international sales contract/agreement with the producer
2 – Promotion and marketing costs	Within 6 months of the signature of the international sales contract/agreement with the producer

- be submitted to the Agency at the latest on the 30<sup>th</sup> September 2011.

The potential fund which is not reinvested by the beneficiary by the 30<sup>th</sup> September 2011 will be lost.

## 9. FINANCIAL CONDITIONS

Union grants are incentives to carry out actions which would not be feasible without the Agency's financial support, and are based on the principle of co-financing. . They complement the applicant's financial contribution and/or national, regional or private financial contributions that have been obtained elsewhere.

Acceptance of an application by the Agency does not constitute an undertaking to award a financial contribution equal to the amount requested by the beneficiary.. The awarding of a grant does not establish an entitlement for subsequent years.

Grant applications must include a detailed estimated budget in which all prices are given in euro. For those countries which are not members of the Euro zone or for expenses incurred in the currencies of countries which are not part of the Euro zone, the exchange rate to be used is the official exchange rate published by the Commission at the beginning of each month for the month in which the application is submitted.

This exchange rate is available from the MEDIA Desks and Antennae and from the web site of the Commission at (<http://ec.europa.eu/budget/inf euro/>).

The budget for the action attached to the application must have revenue and expenditure in balance and show clearly the costs which are eligible for financing from the Union budget.

The amount of the own resources indicated in the financing plan of the estimated budget is regarded as secured, and the amount as a minimum, must be entered in the financing plan of the final account.

The allocated amount may not exceed the amount requested.

The applicant must indicate the sources and amounts of any other funding received or applied for in the same financial year for the same action.

The beneficiary shall supply evidence of the co-financing provided, either by way of own resources, or in the form of financial transfers from third parties. The applicants shall provide an explicit undertaking from each co-financing organisation to provide the amount of funding stated in the grant application for the action.

The Union grant may not have the purpose or effect of producing a profit for the beneficiary. Profit is defined as a surplus of receipts over costs. The amount of the grant will be reduced by the amount of any surplus.

### **9.1 Payment Procedure**

In the event of definitive approval by the Agency, a financial agreement, drawn up in euro and detailing the conditions and the level of funding will be entered between the Agency and the beneficiary. This agreement (the original) must be signed and returned to the Agency immediately. The Agency will sign it last.

The account or sub-account indicated by the beneficiary must make it possible to identify the funds transferred by the Agency. If the funds paid into this account give rise to interest or equivalent profits in accordance with the legislation of the country where the account is held, such profit or interest will be recovered by the Agency where it results from the prefinancing payment if this payment exceeds 50 000 euros.

As a general rule payments will be made as follows:

- A pre-financing payment of 50% will be transferred to the beneficiary within 45 days of the date when the last of the two parties signs the agreement and all the necessary guarantees are received. Prefinancing is intended to provide the beneficiary with a float.
- Payment of the balance is made after the end of the action on the basis of the implementation of the action and the approval by the Agency of final reports. In order for the Agency to agree to a payment, additional information may be requested from applicants when the final reports are submitted. The amount of this final contribution depends on actual eligible costs incurred by the beneficiary within the period of eligibility of costs and the levels of co-financing ultimately obtained. If applicable, the beneficiary will be required to reimburse any surplus already paid as part of initial pre-financing. The final payment will be made within 45 days following approval by the Agency of the final reports accompanying the request for payment of the balance.

The Agency will establish the amount of the final payment to be made to the beneficiary on the basis of the final reports certified by an independent and approved external auditor.

### **9.2 Certificate on the financial statements and underlying accounts**

A certificate on the financial statements and underlying accounts, produced by an approved auditor or in case of public bodies, by a competent and independent public officer, may be demanded by the authorising officer responsible in support of any payment on the basis of his assessment of risks. In the case of a grant for an action, the certificate shall be attached to the request for payment. The certificate shall certify, in accordance with a methodology approved by the authorising officer responsible, 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. Except in the case of lump sums and flat rate financing, the certificate on the financial statements and underlying accounts shall be compulsory for interim payments per financial year and for payments of balances 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.



### **9.3 Guarantee**

The Agency may require any organisation which has been awarded a grant to provide a guarantee first, in order to limit the financial risks linked to the pre-financing payment.

The purpose of this guarantee is to make a bank or a financial institution stand as irrevocable collateral security for, or first-call guarantor of, the grant beneficiary's obligations.

This 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.

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.

### **9.4 Double financing**

Subsidised actions may not benefit from any other Union or Eurimages funding for the same activity.

To ensure this, details are to be given in the application form of any other grant requests which the applicant has submitted or intends to submit to the European Institutions during the same year, stating in each case the budget heading, the Union programme and the amount requested.

### **9.5 Eligible costs**

Eligible costs of the action are costs actually incurred by the beneficiary, 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 on the action/action's financial statements and underlying accounts;
- they are connected with the subject of the agreement and they are indicated in the estimated overall budget of the action;
- they are necessary for the implementation of the action which is the subject of the grant;
- 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 revenue declared in respect of the action with the corresponding accounting statements and supporting documents.

The categories of eligible costs are clearly identified in the form “Marketing Budget”.

#### **9.5.1 Eligible costs for reinvestment in Module 1 (MG)**

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 2007 Programme.

#### **9.5.2 Eligible costs for reinvestment in Module 2 (Marketing costs)**

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 2007 Programme.

The categories of eligible costs are clearly identified in the form “Marketing Budget”. We can, in short, distinguish the following categories:

##### **Advertising costs (heading 1)**

**Publicity Material** : Production of trailers/teaser; making of showreels/promoreels design, layout and printing of the posters; slides and stills, production of advertising spots for radio and TV, flyers, design and layout of press advertising.....

**Publicity Spaces**: purchase of advertising spaces (posters in markets / festivals, professional press)

##### **Promotion costs (heading 2)**

Promotion material such as press files, organisation of market / festival screenings organisation of press screenings, organisation of test-screenings or recruited audience screenings, production of an EPK (electronic press kit), travel and accommodation of the director / cast of the film for the promotion of the film, design and construction of a web site / homepage for the promotion of the film.....

##### **Optical Print Costs (heading 3)**

These costs include the costs related to the optical manufacturing and circulation of the prints for the exploitation of the film in the cinemas: striking of an internegative and prints of the film, dubbing and subtitling the prints of the film, insurance, transport and taxes, prints maintenance, costs for the national systems of certification of the film.

**Digital Print Costs (heading 3)**

These costs include the costs related to the optical manufacturing and circulation of the digital copies for the exploitation of the film in the cinemas : mastering<sup>3</sup> and duplication of the digital copies, dubbing and subtitling of the digital copies of the film, insurance, transport and taxes, prints maintenance, costs for the national systems of certification of the film.

DVD or Digital Beta for promotional purposes are to be included in heading 2 Promotion Costs.

If the digital costs are eligible according to the list above, the different digital services should be detailed relating to the following :

- master (Digital Source Master (DSM), Digital Cinema Distribution Master (DCDM), specific colour grading for digital release...);
- digital copies : specify what kind of digital copy you use;
- dubbing and subtitling.

**Other Costs (heading 4)**

**Audit Fees.**

In the framework of the execution of an eventual financial support agreement, the Agency requires the beneficiary to produce a statement of the final costs. This document must be certified by an 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.

**All other Costs.**

A space is provided in the form for the disclosure of other costs, directly linked to the actions which are not expressly provided for in the form. These “other costs” must not fall under costs listed under Chapter 9.6 ‘ineligible costs’ and have to be clearly identified and detailed in the application form and/or in the financial report for them to be eligible. Moreover, those costs associated with the normal running of the company are not eligible under this heading.

**Indirect costs (Overheads)**

A flat-rate amount, not exceeding 7% of the eligible direct distribution 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 are not eligible where the beneficiary already receives an operating grant.

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

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<sup>3</sup> Colour grading required for theatrical release, compression of the data, encoding, encryption.

#### **9.6. Ineligible costs**

The following costs shall not be considered eligible:

- return on capital;
- debt and debt service charges;
- provisions for losses or potential future liabilities;
- interest owed;
- doubtful debts;
- exchange losses;
- VAT, unless the beneficiary can show that he is unable to recover it;
- costs declared by the beneficiary and covered by another action or work programme receiving a Union grant;
- excessive or reckless expenditure
- direct personnel costs of the beneficiary.

*Costs which are directly re-invoiced by the Sales Agents to third parties, such as producers or distributors, shall not be considered as eligible costs.*

### **10. SUB-CONTRACTING AND AWARD OF PROCUREMENT CONTRACT**

Where implementation of the action requires sub-contracting or the awarding of a procurement contract, the beneficiary and, where applicable, its partners must obtain competitive tenders from potential contractors and award the contract to the bid offering best value for money, observing the principles of transparency and equal treatment of potential contractors and taking care to avoid conflicts of interests.

### **11. PUBLICITY**

All grants awarded in the course of a financial year must be published on the Internet site of the Union Institutions during the first six months of the following financial year, after the completion of the budget under which they were granted. The information may also be published in any other appropriate medium, including the Official Journal of the European Union.

With the agreement of the beneficiary, (taking account of whether information is of such a nature as to jeopardise its security or prejudice its financial interests) the Agency will publish the following information:

- name and address of the beneficiary,
- the subject of the grant,
- the amount and rate of financing.

Beneficiaries must clearly acknowledge the European Union's contribution in all publications or in conjunction with activities for which the grant is used. The name and logo of the programme as well as the mention "with the support of the MEDIA Programme of the European Union" must appear on all publications, posters, programmes and other products created in relation to the co-financed action. If this requirement is not fully complied with, the beneficiary's grant may be reduced.

Any MEDIA grant shall remain the exclusive property of the beneficiary. Union Law and the general conditions of any eventual contract offered to a distributor clearly lay down the fact that the Union Contribution (Grant) "shall be used by the Beneficiary solely, exclusively and directly in discharging eligible expenses incurred".

## **12. 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 Union institutions and bodies and on the free movement of such data.<sup>4</sup>

Your replies to the questions in the application form are necessary in order to assess your grant application and they will be processed solely for that purpose by the department responsible for the Union grant programme concerned. On request, you may be sent personal data and correct or complete them. For any question relating to these data, please contact the Agency. Beneficiaries may lodge a complaint against the processing of their personal data with the European Data Protection Supervisor at any time.

Applicants and, if they are legal entities, persons who have powers of representation, decision making or control over them, are informed that, should they be in one of the situations mentioned in:

- the Commission Decision of 16.12.2008 on the Early Warning System (EWS) for the use of authorising officers of the Commission and the executive agencies (OJ, L 344, 20.12.2008, p. 125), or

- the Commission Regulation of 17.12.2008 on the Central Exclusion Database – CED (OJ L 344, 20.12.2008, p. 12),

their personal details (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 EWS only or both in the EWS and CED, and communicated to the persons and entities listed in the above-mentioned Decision and Regulation, in relation to the award or the execution of a procurement contract or a grant agreement or decision.

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<sup>4</sup> Official Journal L 8, 12.1.2001.

### 13. PRESENTATION AND SUBMISSION OF PROPOSALS

The purpose of this section is to define clearly for the applicants the procedures to follow when applying for support and submitting reinvestment actions.

#### *Duration and validity of the Call for Proposals*

These guidelines are valid for the years **2009** (generation) and **2010 - 2011** (reinvestments). These two stages can be summarised as follows:

	<b>Stage 1: GENERATION</b>	<b>Stage 2: REINVESTMENT</b>
<b>Deadline</b>	<b>30/04/2010</b>	<b>30/09/2011</b>
<b>Sales Agent</b>	Application from the sales agent for the generation of the support	Presentation of reinvestment actions
<b>Agency</b>	Calculation of the potential Fund generated  Notification of approval (or rejection) of its available potential Fund and of the reinvestment rules	Acceptance/Rejection of the reinvestment action  Signature of the Agreement between the Agency and the beneficiary
<b>Payment of a Union Financial Contribution</b>	No	Yes

#### **Reinvestment Application Forms.**

All reinvestment requests must be made using the application forms attached to the current Call for Proposals together with one copy of the requested documents except where otherwise specified.

Two types of reinvestments are possible:

Module 1      Minimum Guarantee for the international sales of new **non-national** European films.

Module 2      Marketing and promotion costs for new **non-national** European films.

Reinvestment actions must be submitted within the deadlines set out in Section 8.2 of these Guidelines.

### **13.1. Publication**

The Call for proposals is being published in the Official Journal of the European Union and is accessible on the MEDIA Programme website at the following address:

[www.ec.europa.eu/media](http://www.ec.europa.eu/media)

### **13.2. Application forms**

Grant applications must be drawn up in one of the official EU languages, (preferably in English or French) using the form specifically designed for this purpose.

The proposals must include the following documents:

- a) **Application form « COMPANY 2010 » must be filled in by the sales agent only once a year and in case of changes**
- b) **Application form « Films » for European films sold by the sales agent between 01/01/2006 and 31/12/2009**

**as well as the annexes defined in the application forms.**

The official forms can be downloaded from the website mentioned in 13.1.

### **13.3. Submission procedure**

Only applications submitted on the correct form, duly completed, dated, showing a balanced budget (revenue/expenditure) and signed by the person authorised to enter into legally binding commitments on behalf of the applicant organisation will be accepted.

Applications which do not include all the stipulated documents and which are not submitted before the deadline will not be considered.

Application and documents must be sent to the following address **by the relevant deadlines:**

Education, Audiovisual and Culture Executive Agency (EACEA)  
*Constantin Daskalakis*  
BOUR 3/66  
Avenue du Bourget, 1  
B-1140 Brussels  
Belgium

- (a) by registered post or, date as postmark;
- (b) in person, at the address above mentioned, in which case the evidence shall be constituted by a signed and dated receipt (**on the 30<sup>th</sup> April 2010 at the latest before 15h00**)
- (c) by courier service, date of receipt by the courier service.

**ENVELOPES SHOULD BE CLEARLY MARKED :**

**“MEDIA 2007 - DISTRIBUTION EACEA/06/2010 – CINEMA SALES AGENTS”**

No changes to the dossier can be made after the application has been submitted. However, if there is a need to clarify certain aspects, the Agency may contact the applicant for this purpose.

Only applications that fulfil all of 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 applicant has to submit all International sales contracts/agreements relevant to the application including agreements already submitted when applying for support under any previous call of the MEDIA programme. Incomplete applications will be considered non-eligible.

Selected applications will be subject to a financial analysis, in connection with which the Agency may ask the persons responsible for the proposed actions to provide additional information and, if appropriate, guarantees.

The information submitted by the sales agent will be treated as confidential.

No file or document submitted will be returned to applicants at the end of the evaluation and award procedure.

### **13.4. Applicable Rules**

- Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities . (OJ L 248, 16.9.2002, p. 1, as last amended by Regulation (EC) No 1525/2007 of 17 December 2007 (OJ L 343, 27.12.2007, p. 9).
- Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities . (OJ L 357, 31.12.2002, p. 1, as last amended by Regulation (EC, Euratom) No 478/2007 of 23 April 2007 (OJ L 111, 8.4.2007, p. 13).
- Decision n° 1718/2006/EC of the European Parliament and the Council of 15th November 2006 concerning the implementation of a programme of support for the European audiovisual sector (MEDIA 2007).

### **13.5 Contacts**

The Commission service responsible for administrating the MEDIA 2007 Programme is the EAC Executive Agency (EACEA).

Any requests for clarification should be addressed to:

Fund Generation:- Nanou Dumont  
[Anne.Dumont-Vandeputte@ec.europa.eu](mailto:Anne.Dumont-Vandeputte@ec.europa.eu)  
Tél : + 32 2 298 04 29

Fund Reinvestments:- Gregory Parr  
[Gregory.Parr@ec.europa.eu](mailto:Gregory.Parr@ec.europa.eu)



Tél : + 32 2 298 07 25

Contract Monitoring & Payments:-

Jean-Charles Freyer

[Jean-Charles.Freyer@ec.europa.eu](mailto:Jean-Charles.Freyer@ec.europa.eu)

Tel : + 32 2 298 05 21

*National contacts*

Additional information is available at MEDIA Desks and Antennae as per the list included on the following website:

[http://ec.europa.eu/information\\_society/media/overview/who/desks/index\\_en.htm](http://ec.europa.eu/information_society/media/overview/who/desks/index_en.htm) .