



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

**SUPPORT FOR THE TRANSNATIONAL DISTRIBUTION OF EUROPEAN  
FILMS – THE "SELECTIVE" SCHEME**

## **PERMANENT GUIDELINES 2012-2013**

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

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 as from 01 January 2013. For this reason they are not yet annexed to the call. The Agency will publish the draft grant agreements/decisions related to this call as soon as possible and, in any event, in due time before the deadline for the submission of proposals. Please note also that the other documents available to you are already in line with the new provisions. The Agency reserves, however, 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 changes will be announced in due time before the deadline of the call.

## Version history

Version	Publication Date	Comments
1.0	September 2011	First version for public release
2.0	September 2012	<p>Second version for public release.</p> <p><b>The changes below take into account the entry into force of the new Financial Regulation and its Rules of Application as from 1/01/2013.</b></p> <p><b>6. Exclusion Criteria</b></p> <p>If the grant does not exceed EUR 60 000, applicants do not have to sign any declaration on honour for the exclusion criteria.</p> <p><b>7. Selection Criteria</b></p> <p>If the grant does not exceed EUR 60 000, applicants do not have to prove their operational and financial capacity.</p> <p><b>9. Financial conditions</b></p> <p>Profit is defined as a surplus of receipts over eligible costs.</p> <p><u>9.1 Contractual provisions and payment procedure</u></p> <p>Payment deadlines have been modified and interests on pre-financing for grants are no longer compulsory.</p> <p><u>9.2 Certificate on the financial statements and underlying accounts</u></p> <p>New procedure</p> <p><u>9.3 Guarantee</u></p> <p>Guarantees may only be requested where the grant exceeds EUR 60 000.</p> <p><u>9.5 – Eligible costs:</u></p> <p>Sentence amended under Digital costs in order to comply with market reality: "Digital "Virtual" Print Fees are eligible provided that they remain within the price range commonly accepted on the market and that they are paid to a third party."</p> <p>Non deductible VAT will be eligible except for activities of public authorities in Member States.</p> <p><b>12. Data Protection</b></p> <p>Text Updated.</p> <p><b>13. Procedure for the submission of proposals</b></p> <p><u>13.4 – Rules applicable</u></p> <p>Reference is made to recent legislation and to the new Financial Regulation.</p>

**Contents :**

- 1. Introduction**
- 2. Objectives and priorities**
  - 2.1. Objectives of the Programme**
  - 2.2. Objectives of the "Selective Scheme"**
  - 2.3. Priorities**
- 3. Timetable**
- 4. Budget Available**
- 5. Eligibility Criteria**
  - 5.1. Eligible companies**
  - 5.2. Eligible countries**
  - 5.3. Eligible films**
  - 5.4 Eligible groupings**
  - 5.5. Eligible proposals**
- 6. Exclusion Criteria**
- 7. Selection Criteria**
  - 7.1. Operational capacity**
  - 7.2. Financial capacity**
- 8. Award Criteria**
- 9. Financial Conditions**
  - 9.1. Contractual provisions and Payment procedure**
  - 9.2. Certificate on the financial statements and underlying accounts**
  - 9.3 Guarantee**
  - 9.4. Double financing**
  - 9.5. Eligible costs**
  - 9.6. Ineligible costs**
- 10. Sub-contracting and award of procurement contract.**
- 11. Publicity**
- 12. Data Protection**
- 13. Procedure for the Submission of Proposals**
  - 13.1. Publication**
  - 13.2. Application form**
  - 13.3. Submission of the grant application**
  - 13.4. Rules applicable**
  - 13.5. Contacts**

## **1. INTRODUCTION**

These guidelines explain how to submit a proposal in response to a "Selective Scheme" call for proposals.

The calls for proposals to which these guidelines are referring will be published in 2011 and 2012.

In accordance with each Annual Work Programme of the MEDIA Programme, the calls for proposals will indicate the budget earmarked for the action, the timetable for the submission of project and the period of eligibility of costs.

These guidelines 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> and featured in the MEDIA Work Programme for 2012.

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 the calls for proposals for the Selective Scheme.

These guidelines are aimed at European organisations whose activities contribute to the achievement of the objectives of the MEDIA Programme as described in the Council Decision 1718/2006/EC.

The measures covered by the Decision include support for the trans-national distribution of European films.

## **2. OBJECTIVES - PRIORITIES**

### **2.1 Objectives of the Programme**

The global objectives of the programme are the following:

- a) To protect and enhance cultural diversity and the European audiovisual heritage, to guarantee public access and to encourage cultural exchanges;
- b) To increase the circulation of European audiovisual works within and outside of the European Union, and
- c) To reinforce competitiveness of European audiovisual works within the framework of an open and competitive European market.

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

In the distribution sector, the objective of the programme, among others, is to strengthen European distribution sector in the field of cinema by encouraging distributors to invest in the co-production, acquisition and promotion of non-national European films and to set up coordinated marketing strategies.

## **2.2. Objectives of the "Selective scheme"**

The aim of the “selective” support scheme is to encourage and support the wider trans-national distribution of recent non national European films by encouraging theatrical distributors in particular to invest in promotion and adequate distribution of non-domestic European films.

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

## **2.3. Priorities of these guidelines**

These guidelines are aimed at European companies whose activities contribute to the realisation of the above objectives, and in particular at cinema distribution companies.

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

<h2><b>3. TIMETABLE</b></h2>
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Please read carefully section 13.3 of these guidelines concerning the procedures for submitting applications.

It is foreseen that the call for proposals will be published annually, in the 3<sup>rd</sup> quarter of the year.

The Calls for Proposals will indicate the 3 deadlines for submission of applications (November/December, March/April and June/July).

The final dates for submission of applications will be indicated in the call for proposals.

The theatrical release of the film shall take place at the earliest on the same day as the relevant deadline for submission and within 18 months of this deadline.

The maximum duration of the action is 34 months. The eligible period starts 6 months before the earliest possible release date of the film (i.e. the relevant submission deadline) and ends 10 months after the latest release date (i.e. the relevant submission deadline plus 18 months).

However, if after the signing of the Agreement/Decision 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 to the latest release date and eligible period will be granted, if requested before the deadline specified in the Agreement/Decision. The maximum duration will then be 40 months.

The intention is to inform applicants of the outcome of the selection procedure no later than 4 months after the relevant submission date.

It is planned that beneficiaries will receive their Agreement/Decision no later than 6 months after the relevant submission date.

#### **4. BUDGET AVAILABLE**

The total budget earmarked for the co-financing of actions under this scheme will be indicated in each annual call for proposals.

A maximum of 10% of the budget available will be allocated to "old" films. From the remaining budget, around 30% will be allocated to "small" films, while 70% will be allocated to "medium" films. (See section 8).

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 actions.

The recipient company must guarantee the remaining financing.

The amount of the financial contribution awarded to each company by the Agency is determined with respect to the cost and nature of each proposed action. Support will be in form of a subsidy.

The maximum grant will be EUR 150,000 per distributor and per film distributed.

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.

##### **5.1. Eligible Companies**

###### 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.

###### Cinema / theatrical distributor

A cinema / theatrical distributor is involved in commercial activity designed to bring to the attention of a wide audience a film for the purpose of exploitation in cinema theatres. This should be the principle activity of the company or division of the company. Other companies may be considered as eligible if in addition to the Operational Capacity requirements set out at 7.1. below, they submit a distribution plan outlining the technical and operational resources available to execute the proposed action. 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.).

Digital distribution can also be supported as long as it is of a minimum quality (=1,3 k).

This excludes DVD, DVIX, Digital Beta or any other support whose resolution is below 1.3K as a copy or source of the films for theatrical release.

Costs that are specific to digital distribution (master or any other digital equivalent of the inter-negative and duplication costs) are thus eligible. Digital or "Virtual" Print Fees are included.

Distributors can be supported for the digital and non-digital distribution of a film at the same time.

A cinema / theatrical distributor must fulfil the following criteria:

1. be the holder of the theatrical distribution rights for the film in the territory concerned;
2. carry out the theatrical distribution of the film in the territory (determines the release date; plans, controls and executes the distribution and promotion campaign), and
3. pay the associated distribution costs.

(See also section 5.5 – eligible proposals)

Limited sub-contracting is allowed, provided that :

- it has been disclosed to the Agency,
- it is substantiated by receipted invoices,
- it complies with the sub-contracting rule set out in section 10.

In the event that distribution activities are shared between several companies, the contracts/agreements between these companies must be disclosed to the Agency. The Agency will normally consider as eligible the company which actually executes the distribution of the film in the territory. The decision of the Agency will be final.

The use of "physical distributors" for specific services such as the booking of cinemas, circulation of prints and collection of receipts is allowed. Such physical distributors shall not be eligible for support.

The distribution agreements should not have any contractual conditions which would lead to the Union grant being considered as revenue for the film, or change the terms and conditions of payments, calculations or any other contractual terms in any manner whatsoever which may have the effect of taking the Union grant into account.

Conditional clauses (such as execution only if the subsidy is awarded) are also not permitted. Distributors should ensure that their agreements are free of such clauses before submission and will be, in any event, obliged to remedy any such clause before being selected.

### **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 for the Cinema Selective & Automatic Schemes. Together with the form, they must 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 the following address:

[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/legal\\_entities/legal\\_entities\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm)  
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:*

The calls for proposals will be 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 these guidelines 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, The 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>

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

In order to verify the eligibility of the films, coordinators must provide a copy of the film (DVD or any other format) for which support is sought. Failure to do so, may lead to the ineligibility of the proposal.

#### **National / Non-national European film**

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

#### Small films

Films with a production budget smaller than EUR 3 Mio qualify as small films.

#### Medium films

Films with a production budget between EUR 3 Mio and EUR 15 Mio qualify as medium films.

Films with a production budget over EUR 15 Mio are not eligible for selective support.  
They are still eligible for automatic support.

### **5.4. Eligible groupings**

Groupings must be made up of companies fulfilling the Eligible Distribution criteria set out in 5.1. above. Any grouping which does not fulfil this requirement may be excluded from the selection.

- **In the case where a grouping of distributors has not yet been supported in the framework of the « selective » support scheme for distribution of the MEDIA Programme for the proposed film :**

Small films: only applications from groupings of at least **five** different eligible distributors operating in different national territories (and preferably with different languages) which propose to distribute one or more recent non-national European films may be eligible.

Medium films: only applications from groupings of at least **seven** different eligible distributors operating in different national territories (and preferably with different languages) which propose to distribute one or more recent non-national European films may be eligible.

The theatrical release of the film (not including previews or special screenings) shall take place in the territories concerned at the earliest on the same day as the relevant deadline for submission and within 18 months after this date.

All groupings must have a coordinator who is responsible for submitting the 'Film/Group Form'.

- **In the case where a grouping of distributors has already been supported for the proposed film in the framework of the « selective » support scheme for distribution of the MEDIA Programme:**

One or more distributors may join a grouping that has been selected in the course of one of the last 2 selection deadlines of the selective scheme.

A written confirmation from the grouping's coordinator acknowledging the participation of the distributor to the grouping is requested.

The theatrical release (not including previews or special screenings) shall take place in the relevant territory at the earliest on the day of the relevant deadline for submission, and within 18 months of this date.

### **5.5. Eligible proposals**

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

The application form must be accompanied by an official letter from the applicant organisation, 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 European Union cofinancing, set at 50%.

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

All applicants must have operational activities in the territories they apply for.

Please note that applications will normally only be considered as eligible in the territory where the applicant is registered. If the applicant is not registered in the territory in the case of the U.K., The Netherlands, Belgium, France, Denmark, Finland, Norway, Sweden, Austria, Germany, Poland, Italy, Spain, Portugal, Greece, Romania, Bulgaria and Switzerland, they will not be eligible.

They may be considered as eligible in other territories if they have provided written evidence of the functioning of a theatrical distribution operation working in the territory concerned, together with copies of any contracts or service agreements.

This last provision concerning the territory does not apply to the following territories as they are linked for distribution purpose: Belgium and Luxembourg; Switzerland and Liechtenstein; Greece and Cyprus; United Kingdom and Ireland.

The selective support cannot be cumulated with reinvestment in distribution costs (Module 3) under the Automatic support for the same film. Applications for distribution costs may only be made to one scheme at a time. A second application for the same film will be ineligible, unless it is made after the applicant has been officially informed that the first application under the other scheme has been unsuccessful.

## 6. EXCLUSION CRITERIA

Applicants must state 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 (Council regulation No. 1605/2002 as amended) and set out below.

Applicants will be excluded from participating in the calls 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(1) of the Financial Regulation (Council Regulation (EC, Euratom) No.1605/2002 of 25/06/02, as amended).

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

- (a) are subject to a conflict of interest;
- (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(1) 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 period 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 for a grant exceeding EUR 60.000 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.

## **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.

The required documents and forms should be provided at least once per year for the Cinema Selective and Cinema Automatic Schemes. 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, organisations applying for a grant exceeding EUR 60.000 must submit, together with their applications:

- the curriculum vitae of the legal representative of the company and
- the curriculum vitae of the Head of Distribution (if they are not the same person).

### **7.2. Financial Capacity**

In order to permit an assessment of their financial capacity, organisations applying for a grant exceeding EUR 60.000 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;
- 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. 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) completed by the applicant and certified by the Bank (original signatures are required);

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

The verification of financial capacity shall not apply to natural persons in receipt of scholarships nor to public bodies, or to international organisations under public law.

NB: 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 bank guarantee (see 9.3)
- offer a grant Agreement/Decision without pre-financing

In the event that an applicant requests a grant equal to or below EUR 60,000 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**

*Not applicable*

## 8. AWARD CRITERIA

Eligible applications will be assessed on the basis of the following criteria.

**In the case where a grouping of distributors has not yet been supported in the framework of the « selective » support scheme for distribution of the MEDIA Programme for the proposed film:**

Within the limits of the budgetary resources available, those groupings of distributors which score the highest number of points on the basis of the following criteria will be selected:

### **Small films (Production cost < EUR 3 Mio)**

	Points
Number of different eligible distributors in the grouping (minimum 5)	1 point per eligible distributor
Number of distributors that have generated a potential fund under the last Automatic scheme	0.5 additional point per eligible distributor
Bonus for groupings of 10 or more distributors	2
Film produced in FR or UK	0
Film produced in DE, ES or IT	1
Film produced in a country with a low production capacity	2
Film produced in a new Member State of the European Union (entered the EU in 2004 or later)	3
First or second feature film of the director	2
Documentary	2
Animation film	1
Film for children	1
The co-ordinator of the grouping is the sales agent / producer of the film (+ 1 if the sales agent is from a different country than the film)	2

### **Medium films (Production cost: EUR 3 – 15 Mio)**

	Points
Number of eligible distributors in the grouping (minimum 7)	1 point per eligible distributor
Number of distributors that have generated a potential fund under the last Automatic scheme	0.5 additional point per eligible distributor
Film with a production budget of EUR 3 – 5 Mio	1
Film with a production budget of EUR 5 – 15 Mio	0
Film produced in FR or UK	0
Film produced in DE, ES or IT	1
Film produced in a country with a low production capacity	2
Film produced in a new Member State of the European Union (entered the EU in 2004 or later)	3
First or second feature film of the director	2
Documentary	2
Animation film	1
Film for children	1
The co-ordinator of the grouping is the sales agent / producer of the film (+ 1 if the sales agent is from a different country than the film)	2

A special attention will be paid to permanent groupings of distributors who own the distribution rights and apply for support in several territories at a time. To reward and to encourage this kind of European distribution structures, two extra points will furthermore be given to such groupings.

If selected, the grouping may be awarded a higher percentage of MEDIA contribution (within the 50% limit and the amount requested) considering the higher costs incurred for joint or co-ordination activities. For the avoidance of any doubt, companies who have subsidiaries in other territories are not considered as permanent groupings in the meaning of these guidelines.

### **Old films**

**This is the case where a grouping of distributors has already been supported for the proposed film in the framework of the “selective” support scheme for distribution of the MEDIA Programme:**

If applicants join a grouping of distributors that has been supported for the proposed film in the course of one of the last 2 deadlines of the “selective” support scheme for distribution of the MEDIA Programme, within the limits of 10% of the budgetary resources available at each session, the selection will be automatic, provided that they meet the conditions defined in sections 5, 6 and 7 of these guidelines.

This provision is principally intended for smaller and more difficult territories and thus the awards are limited.



## **9. FINANCIAL CONDITIONS**

European 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 own financial contribution and/or national, regional or private assistance that has been obtained elsewhere.

Any MEDIA grant shall remain the exclusive property of the beneficiary and cannot be considered as revenue for the film. Union Law and the general conditions of any eventual grant Agreement or grant Decision 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".

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. Grant applications from countries outside the euro zone must use the monthly conversion rate, applicable the month before the deadline. 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/inforeuro/>.

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 the same financial year for the same action.

The beneficiary shall supply evidence of the co-financing provided if requested to do so.

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

### **9.1 Contractual provisions and payment procedure**

In the event of definitive approval by the Agency, a grant Agreement or a grant Decision, drawn up in euro and detailing the conditions and the level of funding will be sent to the beneficiary.

The form of the legal commitment will depend on the country of origin of the beneficiary:

➤ **Decision:**

A grant Decision will be signed if the beneficiary comes from a Member States of the European Union.

The Decision will be signed only by the Agency acting under powers delegated by the Commission. The Decision must not be returned to the Agency.

The General Conditions applicable to the Decision (General Conditions IIa) are available in the 'Documents register' of the Agency website <http://eacea.ec.europa.eu/index.htm>.

The beneficiary will have to confirm the reception of the Decision and his intention to implement the action and, where applicable, make the request for the payment of the advance.

As regards grant Decisions, beneficiaries understand that:

**Submission of a grant application implies acceptance of these General Conditions. These General Conditions bind the beneficiary to whom the grant is awarded and shall constitute an annex to the Grant Decision.**

➤ **Agreement:**

A grant Agreement will be signed if the beneficiary comes from another eligible country.

The 2 copies of the original Agreement must be signed by the beneficiary 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.

As a general rule payments will be made as follows:

- A pre-financing payment of 60% will be transferred to the beneficiary within 30 days of :
    - the date of reception of the payment request (for Decisions) ,
    - the date when the last of the two parties signs the Agreement (for grant Agreements)
- and when all the possible guarantees are received by the Agency.

Pre-financing 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. The final total contribution cannot exceed 50% of the Final Eligible costs as accepted by the Agency. 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 60 days after the Agency receives a request for payment accompanied by a final report on the action's implementation, provided the Agency approves the report.

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.

### Small Awards & Consolidation.

All those awards per film and territory which are equal to or less than 25,000€ are considered to be small awards.

As a simplification and adaptation of the administrative modalities of issuing Grant Agreements and Grant Decisions, a consolidated Agreement/Decision will be issued in the case of multiple small awards for a single beneficiary. The consolidated Agreement/Decision will contain the small awards for each beneficiary granted at the same deadline and for the same territory. The list of awarded projects will be enclosed with the Agreement/Decision (annex I) and no modification to this list will be possible. In case a film is not released, the related granted amount will be reduced accordingly.

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

The Executive Agency will establish the final amount of the grant on the basis of the following documents:

- a final report providing details of the implementation and results of the Work Programme ;
- the final financial statement of costs actually incurred, certified by an approved auditor with the certification form provided by the Agency in the grant agreement.

Only in case 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, will require the beneficiary 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”:

[http://eacea.ec.europa.eu/about/documents/guidance\\_notes\\_audit\\_type\\_ii\\_01.08.2012\\_en.pdf](http://eacea.ec.europa.eu/about/documents/guidance_notes_audit_type_ii_01.08.2012_en.pdf)

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

### **9.3 Guarantee**

The Agency may require any organisation which has been awarded a grant exceeding EUR 60.000 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, third party or the other beneficiaries 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 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/Decision.

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/Decision.

#### **9.4 Double financing**

Subsidised actions may not benefit from any other Union or Eurimages funding for the same activity. (Eurimages. i.e. European cinema support from the Council of Europe).

To ensure this, applicants must give details in their application form of any other grant requests other than those submitted to the MEDIA Programme which they have submitted or intend to submit to the European Institutions during the same operating year, stating in each case the budget heading, the European 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/Decision, with the exception of costs relating to final reports and certificates on the action's financial statements and underlying accounts;
- they are connected with the subject of the Agreement/Decision 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;
- they are directly linked to the distribution of the film concerned.

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.

#### **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. In particular, the following direct costs are eligible, provided that they satisfy the criteria set out in the previous paragraph:

**Advertising & Promotion costs (heading 1)**

**Publicity Material** : 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, ...

Other costs have to be clearly identified and detailed for them to be eligible.

**Publicity Space**: purchase of advertising spaces (TV, radio, internet, press), distribution of publicity material (trailers, flyers, posters, mailing...) and other advertising costs.

Other costs have to be clearly identified and detailed for them to be eligible.

**Promotion costs**: promotion material such as press files, EPK, betas; press screenings; previews and receptions for launching the film in the territory, organisation of test screenings and market research; travel and accommodation of the director / cast of the film in the distribution territory for the promotion of the film; Press Agency, Press officer, Publicist and PR fees; design and construction of a web site / homepage for the promotion of the film; other promotion costs.

Other costs have to be clearly identified and detailed for them to be eligible.

**Optical Costs (heading 2)**

These costs include the costs related to the optical manufacturing and circulation of the prints for the exploitation of the film/trailers in the cinemas: striking of an inter-negative and prints of the film/trailers, prints insurance, prints maintenance, dubbing and subtitling of the prints of film/trailers, translation; transport and taxes, costs for the national systems of certification of the film.

**Digital Costs (heading 2)**

These costs include the costs related to the optical manufacturing and circulation of the digital copies for the exploitation of the film/trailers in the cinemas: mastering<sup>2</sup> and duplication of the digital copies, digital copies insurance, dubbing and subtitling of the prints of film/trailers, translation; transport and taxes, costs for the national systems of certification of the film.

DVD or Digital Beta for promotional purposes are to be included in heading 1 Advertising & 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.

Digital "Virtual" Print Fees are eligible provided that they remain within the price range commonly accepted on the market and that they are paid to a third party.

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<sup>2</sup> Colour grading required for theatrical release, compression of the data, encoding, encryption.

### **Other Costs (heading 3)**

#### **Audit Fees.**

In the framework of the execution of an eventual financial support contract, the Agency requires the beneficiary to produce a statement of the final costs of the action. 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.

#### **All other Costs.**

A space is provided in the form for the disclosure of other costs such as censorship and booking & billing Agency, and costs directly linked to the action which are not expressly provided for in the form and have to be clearly identified and detailed in the application form and in the financial report for them to be eligible. Moreover, those costs normally associated with the running of the company are not eligible under this heading.

These “other costs” must not fall under costs listed under Section 9.6 - Ineligible costs

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, 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 may not include costs entered under another budget heading.

Indirect costs are not eligible where the beneficiary already receives an operating grant.

### **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;
- costs declared by the beneficiary and covered by another action or work programme receiving an European Union grant;
- excessive or reckless expenditure;
- contributions in kind;
- personnel costs;
- travel and subsistence of staff;
- purchase of equipment.

## **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 European Union Institutions during the first half of the year following the closure of the budget year in respect of which they were awarded. 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 awarded and rate of funding.

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

Furthermore, beneficiaries are required to give prominence to the name and logo of the programme as well as the mention "with the support of the MEDIA Programme of the European Union" on all their publications, posters, programmes and other products realised under the co-financed action. If this requirement is not fully complied with, the beneficiary's grant may be reduced.

## **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 European Union institutions and bodies and on the free movement of such data.<sup>3</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 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. 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

<sup>3</sup> Official Journal L 8, 12.1.2001.

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 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.

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

Following the adoption of the Annual Work Programmes, the calls for proposals will be published in the Official Journal of the European Union and will be accessible on the MEDIA programme website: [http://ec.europa.eu/culture/media/programme/distrib/schemes/select/index\\_en.htm](http://ec.europa.eu/culture/media/programme/distrib/schemes/select/index_en.htm)

These permanent guidelines are valid for calls published in 2011 and 2012.

Applicants may present proposals to the Agency at any given date following the publication of the call. Only complete proposals sent before the relevant deadline will be examined by the Agency.

**The closing dates for submission of proposals will be indicated in the call for proposals.**

### **13.1. Publication**

The Calls for proposals will be published in the Official Journal of the European Union and on the internet site of the MEDIA Programme at the following address:

[http://ec.europa.eu/culture/media/programme/distrib/schemes/select/index\\_en.htm](http://ec.europa.eu/culture/media/programme/distrib/schemes/select/index_en.htm)

### **13.2. Application form**

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

An online application system has been set up. **Applications must be submitted on-line (using e-Form) in order to be eligible.**

E-forms must be filled on the Internet at the following address:

[http://ec.europa.eu/culture/media/programme/distrib/schemes/select/index\\_en.htm](http://ec.europa.eu/culture/media/programme/distrib/schemes/select/index_en.htm)



In addition, an application package must be sent by mail, containing:

- a print out of the E-form
- all the documents listed in the checklist.

The application form "Company Form" must be filled in by the distributor once a year or in case of changes.

Applications which do not include all the stipulated documents in the required languages and which are not submitted at the respective deadline will not be considered.

### **13.3. Submission of the grant application**

E-forms must be submitted by the deadlines indicated in the Calls for Proposals **before 12:00 CET/CEST (Midday, Brussels time)**.

All the paper forms must be sent to the following address:

Education, Audiovisual and Culture Executive Agency (EACEA)  
MEDIA Programme – P8  
BOUR 3/66  
Avenue du Bourget, 1  
B-1140 Brussels  
Belgium

- (a) by registered post, 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 date of the relevant deadline at the latest before 15h00**)
- (c) by courier service, date of receipt by the courier service.

**Envelopes should be clearly marked:**

#### **MEDIA PROGRAMME - DISTRIBUTION EACEA – SELECTIVE CINEMA**

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 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.

All unsuccessful applicants will be informed in writing.

The applicant has to submit all distribution 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.

The information submitted by the distributor will be treated as confidential.

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

Selected proposals will be subjected 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.

#### **13.4. Rules applicable**

- 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.)
- 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).
- Decision n° 1718/2006/EC of the European Parliament and the Council of 15<sup>th</sup> November 2006 concerning the implementation of a programme of support for the European audiovisual sector (MEDIA 2007).
- Proposal for Regulation (EU) No .../2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (expected to enter into force as from 1 January 2013).
- Proposal for Commission Delegated Regulation (EU) No .../.. of XXX on the rules of application of the Regulation (EU) No .../2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (expected to enter into force as from 1 January 2013).

#### **13.5 Contacts**

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

[http://ec.europa.eu/culture/media/programme/overview/who/index\\_en.htm](http://ec.europa.eu/culture/media/programme/overview/who/index_en.htm)

If you have any questions, please contact:

[eleni.chandrinou@ec.europa.eu](mailto:eleni.chandrinou@ec.europa.eu)

[gregory.parr@ec.europa.eu](mailto:gregory.parr@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)

Annexes:

- Film/group form for coordinators (e-Form)
- Application form for distributor (e-Form)
- Declaration on the honour (distributors and coordinators)
- Budget form
- Company form