



CALL FOR PROPOSALS 88/2004

**SUPPORT FOR THE TRANSNATIONAL DISTRIBUTION OF EUROPEAN
FILMS AND AUDIOVISUAL WORKS ON VHS/DVD**

<p>GUIDELINES FOR THE SUBMISSION OF PROPOSALS TO OBTAIN FINANCIAL SUPPORT</p>
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1. INTRODUCTION.

This call for proposals is based on Council Decision 2000/821/EC on the implementation of a programme encouraging the development, distribution and promotion of European audiovisual works (Media Plus – Development, distribution and promotion 2001 - 2005), adopted by the Council on 20 December 2000 and published in the Official Journal of the European Communities on 17 January 2001 (OJ L 13, pages 34-43).

Objectives of the programme.

In the distribution sector, the objectives of the programme include the following:

- to strengthen the distribution sector for European works on media intended for private use, by encouraging publishers to invest in digital technology and the promotion of non-domestic European works.

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

Actions to be implemented.

This call for proposals is aimed at European companies whose activities contribute to the realisation of the above objectives, and in particular off-line publishers of European works on media intended for private use. 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.

The « automatic » support scheme works in two phases :

1. The generation of a potential Fund is based upon the annual revenues yielded by the VHS/DVD distribution of European non-national works and certified by an approved auditor. The total revenues certified will be adjusted taking into account the country of origin of the film. The potential fund will equal to 10 percent of the total adjusted revenues, with the condition of the company reaching a minimum availability threshold. This threshold is measured depending on the size of the market in which the publisher is located.

2. The potential Fund thus generated by each company must be reinvested in:

- the costs of producing and/or promoting non-domestic European works on DVD; or
- the costs of promoting non-domestic European works on VHS.

Financial support

“Generation”: The total annual amount of potential fund available to each publisher shall be determined on the basis of the market performance by the publisher in the reference year (2003).

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 project. Under no circumstance may the amount of the financial contribution awarded by the Commission exceed 50% of the overall costs of the projects. The recipient company must guarantee the remaining finance. Support will be in the form of a grant.

2. ELIGIBILITY CRITERIA

2.1 Formal Criteria

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

Applications which do not meet these criteria and the following criteria will be excluded.

2.2 Definitions

For the purposes of this call for proposals, the following definitions shall apply.

2.2.1 Eligible Countries

Participating countries

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

Countries with a low audiovisual production capacity

For the purposes of this Call for Proposals, the following countries will be considered as countries with a low audiovisual production capacity: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, Greece, Hungary, Ireland, Iceland, Latvia, Liechtenstein, Lithuania, Luxembourg, Norway, Netherlands, Malta, Poland, Portugal, Slovakia, Slovenia and Sweden.

2.2.2 Eligible Companies

European company

Company registered in one of the Member States of the European Union or of the countries participating in the MEDIA Plus Programme as defined in this Call for

Proposals, and which is owned and continues to be owned, whether directly or by majority participation, by nationals from these countries.

European VHS/DVD publisher

Any European company which, having bought contractually the publication rights to a film or an audiovisual programme for a given territory, is directly responsible for its publication, negotiates the dates and the terms of its release into the market and bears the costs of publication and distribution.

The use of “physical distributors” for specific services is allowed, provided that it has been previously disclosed to the Commission. Such “physical distributors” shall not be eligible for support.

For the avoidance of any doubt, wholesalers, rack-jobbers and other sub-contractors shall not be eligible for support either.

2.2.3 Eligible projects and audiovisual programmes

Any work of fiction (including animated films) or documentary complying with the following conditions :

- the work has been majority produced by companies established in one or more countries participating in the MEDIA Programme ;
- and
- the work has been made with a significant participation by professionals who are citizens / residents of the countries participating in the MEDIA Programme. Significant participation is defined as **10** or more points under the following scheme (or the majority of points if the total is less than 19 in case of documentaries or animated films):

+	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
Total	19

Categories of Projects

Films and audiovisual works belonging to the following categories are eligible:

- Fiction works of a minimum total duration of 60 minutes
- Creative Documentaries (one-offs and series) of a minimum total duration of 50 minutes. Creative documentaries are productions based on real subject matter but which require substantial original writing, in particular those setting out the point of view of a writer and/or a filmmaker. Creative documentaries based on archive footage are eligible. News programmes, magazines, sports events, talk-shows, reality-shows, docu-soaps, school and “how to” programmes are not eligible.
- Animation works (including series) of a minimum total duration of 50 minutes.

Works consisting of advertising, pornographic or racist material or advocating violence, as well as programmes intended to promote an institution or its activities are not eligible for support.

National/Non-national European works

European works will be considered as national in that member state or territory participating in the MEDIA Programme whose citizens / residents have participated in the highest proportion in the making of the work, on the basis of the points table shown above. They will be considered as non-national in all the other territories.

2.3 Situations of exclusion

1) Applicants are excluded from participation in this call for proposals if:

- (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 judgement 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 project is to be performed;
- (e) they have been the subject of a judgement which has the force of res judicata for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Communities' financial interests;

(f) following another grant award procedure or procurement procedure financed by the Community budget, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations.

Applicants must certify that they are not in one of the situations listed above (by signing the **declarations** in Annex 3 and/or 4).

2) Applicants shall be excluded from the participation at this call for proposals if:

- (a) they are subject to a conflict of interest;
- (b) they are guilty of misrepresentation in supplying the information required by the Commission as a condition of participation in the relevant call for proposals or fail to supply this information.

N.B.: Administrative and financial penalties of an effective, proportionate and dissuasive nature may be imposed by the Commission on applicants who are excluded under the above grounds, in accordance with the provisions of Articles 93 to 96 of the Financial Regulation (Council Regulation 1605/2002 of 25/6/02) and Articles 133 and 175 of the Implementing Regulation (Commission Regulation 2342/2002 of 23/12/02).

3. SELECTION CRITERIA

The selection criteria make it possible to assess the applicant's legal, operational and financial capacity to complete the proposed project or work plan.

The applicants must provide evidence of:

1) Legal Structure:

The Commission can enter into an agreement only on the basis of satisfactory evidence of the legal form of the applicant, be they a company (private company, charity, association etc.) or an individual.

The applicant should complete the relevant Legal Entity Form (see below) and must provide the following documents:

- Private Companies, associations etc.:
 - A copy of the Certificate of Registration/Incorporation (from an Official Journal if appropriate) as well as a copy of the VAT Registration (for those countries where the Registration & VAT numbers are identical, only one of the above documents is required)
- Public Entities:
 - Copy of the decree/act or governmental decision or any other official documents establishing the public body.
- Individuals:
 - Copy of the ID card and/or passport.

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

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://europa.eu.int/comm/budget/execution/legal_entities_fr.htm

2) stable and sufficient sources of funding to maintain his/her activity throughout the period during which the project is being carried out.

This criterion will be assessed on the basis of the following documents, which must obligatorily be included in the proposal submitted:

- the complete audited accounts for the last fiscal year for which the accounts have been completed including the balance sheet and profit and loss statement. This should be certified by an approved auditor;

- 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 Bank Identification form (see Company Application Form) completed by the applicant and certified by the Bank (original signatures are required);
- the Financial Capacity form (see Company Application Form) carefully and fully completed. The information given (in figures) must be based on the certified accounts of the most recent completed fiscal year which are included with the application form. The applicant guarantees that these figures are precise and verifiable. This information is required to evaluate the financial strength and co-financing capacity of the applicant.

The Commission reserves the right to apply these criteria taking into account the legislative framework of the different countries participating in the Programme.

N.B. If, on the basis of the documents provided, the Commission consider that the financial capacity is not proven or sufficient it may:

- Refuse the application
- Request additional information
- Require a Bank Guarantee
- Propose a subsidy contract without any advance payment.

3) professional competencies, qualifications and/or experience required to complete the proposed project.

This criterion will be assessed on the basis of the following documents, which must obligatorily be included in the proposal submitted:

- the curriculum vitae of the legal representative of the company and of the Head of home entertainment/VHS/DVD publishing (if any);
- the list of audio-visual works distributed by the applicant over the last two years.

The Commission reserves the right not to select proposals submitted by distributors who have not fulfilled their obligations in the framework of contracts signed in the framework of the MEDIA I, MEDIA II and MEDIA Plus Programmes or other EC-funded programmes.

4. AWARD CRITERIA

4.1 Generation Stage

A potential Fund will be attributed to eligible European VHS and DVD publishing companies on the basis of the net revenues from European non-national films and audiovisual works distributed by the applicant in the reference year (**2003**).

The potential fund will be calculated on the following basis:

- Net revenues per title shall be declared by the applicant company using the attached forms. Revenues generated by non-national European works published in the reference year (2003) will be eligible. Only those net revenues actually received on the account of the publisher and capable of verification by an approved auditor shall be eligible.
- On the basis of the applicant's declaration, the fund generated will be calculated by multiplying the revenues per title by a fixed amount following the country of origin of the film.

Example on how to calculate the fund:

Film Title	Revenue	Multiplier per eligible film			Revised revenues
		Films originating from France and United Kingdom	Films originating from Germany, Spain, Italy	Films originating from countries having a limited audiovisual production capacity	
		1	1,3	1,5	
French drama	8000	X			8000
Danish dogma	5000			X	7500
UK comedy	9000	X			9000
Latvian animation	2000			X	3000
Spanish horror	6000		X		7800
Σ Revenues	30000				35300

Within the limit of budgetary resources available, the potential fund will equal to 10 percent of the total revised revenues certified, with the condition that the company reach a minimum availability threshold set according to the size of the market in which the publisher is located:

Territory of distribution	Minimum availability threshold	Generating automatic minimum award
France, Germany, Italy, Spain	€50.000 in revenues	€5.000
Belgium, Denmark, The Netherlands, Norway, Poland, Sweden, United Kingdom	€25.000 in revenues	€2.500
Austria, Bulgaria, Cyprus, Czech Republic, Estonia, Finland, Greece, Hungary, Iceland, Ireland, Latvia, Lithuania, Luxembourg, Malta, Portugal, Slovakia, Slovenia	€10.000 in revenues	€1.000

The amounts indicated above are provisional and may be subject to modification depending upon the budgetary resources available. Under any circumstances the fund allocated to one company may not exceed **€ 150 000**

Minimum availability thresholds per title:

The declared net revenues per title have to meet the following minimum availability thresholds in order to be taken into account/be eligible:

Territory of distribution	Minimum availability threshold per title
France, Germany, Italy, Spain	€5.000 in revenues declared
Belgium, Denmark, The Netherlands, Norway, Poland, Sweden, United Kingdom	€2.500 in revenue: declared
Austria, Bulgaria, Cyprus, Czech Republic, Estonia, Finland, Greece, Hungary, Iceland, Ireland, Latvia, Lithuania, Luxembourg, Malta, Portugal, Slovakia, Slovenia	€1000 in revenues declared

It has to be born in mind that the maximum award per title may not exceed **€ 50.000**

In the event that the potential fund generated by a company in a given year does not reach the minimum threshold, the potential fund will not be available. This amount may however be carried forward and be available in the following year, if the total of potential fund generated for the two years is greater than the availability threshold.

Following the calculation of the potential Fund generated, a notification letter will be sent by the European Commission to the Beneficiary. This letter will indicate the amount of the potential fund and the reinvestment criteria to meet to be able to use this potential fund.

The letter will normally be sent to the Beneficiary within 5 months of the deadline of this Call for Proposals.

The notification to the Beneficiary of the potential Fund generated does not constitute a claim on the European Commission.

4.2 Reinvestment Stage

The potential Fund generated may only be used through reinvestment projects.

The potential Fund can be reinvested in:

- the costs of producing and/or promoting non-domestic European works on DVD; or
- the costs of promoting non-domestic European works on VHS.

50 % of the potential Fund must be reinvested in new titles, i.e. projects where first copyright was established during or after 2002. Upon written confirmation, an exception to this rule is accepted for companies specialising in the publishing of classics only.

Please note that the Commission will only process these projects after the establishment of the letter informing the Beneficiary of the amount of the potential Fund she/he has generated. The reinvestment projects will be treated on the basis and within the limits of the potential Fund generated by the publisher as calculated and notified by the Commission. Reinvestment projects must be approved by the European Commission.

Publishers can present reinvestment projects starting from receipt of the notification letter of the Commission or from **1st June 2005**, whichever is earlier.

A reinvestment project must in any case be submitted before the release date of the DVD/VHS.

The final deadline for the submission of reinvestment projects is 1st October 2006.

<h2>5. <u>FINANCIAL SUPPORT</u></h2>

5.1. Amount of the Project Allocation

The minimum threshold for reinvestment projects is € 1000 in MEDIA contribution.

The amount of the potential fund that may be drawn for a given reinvestment project may not exceed 50% of the total costs of the proposed reinvestment project.

5.2 Payment of the Project Allocation

Every reinvestment project will have to be approved in writing by the Commission.

Once approved, the reinvestment projects will be the subject of an Agreement setting out the terms and conditions of the MEDIA contribution granted (i.e. the amount of potential fund reinvested in the project, the period of eligibility of costs...).

Under the proviso that the Beneficiary complies with the terms of the Agreement, each financial contribution will take the form of a grant.

Payment will normally be made in two parts :

- 50% following the signature of the Agreement by both parties ;
- the balance on presentation to the Commission and acceptance by the Commission of the final eligible costs of the project, certified by an approved auditor.

The beneficiaries will notify the Commission of any significant alteration in the budget of any reinvestment project (variation of more than 30 %) at the latest in the Financial Report.

If this alteration implies a reduction of the total distribution costs or a variation between headings of more than 50 % from the forecast budget, the beneficiaries must justify this reduction and request prior written approval of the Commission for this variation.

If the final distribution costs are below 50 % of the forecast budget without justified commercial reasons and without written information from the distributor to the Commission and acceptance by the Commission of this variation, the Commission will ask for the immediate repayment of all sums already paid for the project.

6. EVALUATION AND AWARD PROCEDURE

Duration and validity of the Call for Proposals

These guidelines are valid for the period 2005-2006.

The Commission reserves the right not to process proposals which lack the required documentation (documents listed in the application forms) at the closing date.

The Commission reserves the right to request additional information from applicants before taking any final decision on granting support.

Proposals that meet the eligibility and selection criteria will be submitted to an evaluation process.

Applicants will be informed as soon as possible whether or not the Commission has decided to grant them a financial contribution. This decision will be final.

The Commission will publish the name and address of the Beneficiary, the subject of the grant and the amount and the rate of financing. This will be done, in agreement with the Beneficiary, and unless publication of the information may threaten the safety of the Beneficiary or harm their business interests. In the event that the Beneficiary does not agree to this, they should attach a detailed justification, which the Commission will consider in the process of deciding on the award of the grant.

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

7. PRESENTATION AND SUBMISSION OF PROPOSALS.

Deadline for submission of proposals

The closing date for submission of proposals (postmark date) in view of the “generation” of a potential Fund is **25 February 2005**.

European VHS and DVD publishing companies applying for the type of support described above must present their proposal in view of the generation of a potential Fund in duplicate by using the attached application forms and providing the required annexes.

Proposals must include the following items (see Annex 3):

- the Company Form
- Legal Entity Form
- the Revenue Statement (certified by an approved auditor)

as well as the Annexes (including distribution contracts) defined in the application forms.

Proposals must be sent by registered mail or private courier, for which purposes the relevant date is to be the date of despatch by registered post, as evidenced by the postmark, to the following address:

European Commission
Directorate-General for Education and Culture
Audiovisual support (MEDIA)
Mr Costas DASKALAKIS
1, Rue de Genève
B-1049 Brussels - Belgium.

ENVELOPES SHOULD BE CLEARLY MARKED :

“MEDIA Plus - DISTRIBUTION 88/2004 – AUTOMATIC VHS/DVD”

Applicants submitting a proposal by post are asked to send the Commission, before the closing date, a fax announcing their intention to apply:

Fax n° (+32-2) 299 92 14

Contacts at the European Commission

The Commission service responsible for implementing the MEDIA Plus Programme is Unit C-3 of Directorate General for Education and Culture (EAC).

Any requests for clarification should be addressed to:

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Catharina.Nes@cec.eu.int
Tel : + 32 2 295 99 25

Technical Assistance Office

D&S Media Service GmbH
MEDIA Plus Programme Distribution Cinema
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B – 1140 EVERE
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Fax : +32 2 743 22 45
e-mail : aurelie.varin@d-and-s.com

National contacts

Additional information, as well as guidelines and applications forms in the Community's official languages other than French and English are available at MEDIA Desks and Antennae (list enclosed).

Annex 1 – FINANCIAL GUIDE

The “Automatic” support system works in two successive stages:

- The generation of a potential Fund is based upon the annual revenues yielded by the VHS/DVD distribution of European non-national works and certified by an approved auditor. The total revenues certified will be adjusted taking into account the country of origin of the film. The potential fund will equal to 10 percent of the total adjusted revenues, with the condition of the company reaching a minimum availability threshold. This threshold is measured depending on the size of the market in which the publisher is located.
- The Reinvestment of the potential Fund in:
 - the costs of producing and/or promoting non-domestic European works on DVD; or
 - the costs of promoting non-domestic European works on VHS.

These two stages can be summarised as follows:

	Stage 1: GENERATION	Stage 2: REINVESTMENT
Distributor	Application from the publisher for the generation of the support (declaration of revenues per title certified by an approved auditor)	Presentation of reinvestment projects
Commission	Calculation of the potential fund generated Notification letter informing the publisher about its available potential fund and about the reinvestment rules	Agreement setting out the terms of the financial contribution granted
Payment of a Community Financial Contribution	No	Yes

The purpose of this section is to define the procedures to follow clearly for the applicants when filling in and submitting reinvestment projects, as well as the normal financial principles which will be applied in the framework of the execution of the Agreement for financial support signed by the Commission.

1. Reinvestment Application Forms

All reinvestment requests must be made using the application forms attached to the current Call for Proposals (Annex 4) together with two copies of the requested documents except where otherwise specified.

Two types of reinvestments are possible:

- Reinvestment in the costs of producing and/or promoting non-domestic European works on DVD
- Reinvestment in the costs of promoting non-domestic European works on VHS

50 % of the potential Fund must be reinvested in new titles, i.e. projects where first copyright was established during or after 2002. Upon written confirmation, an exception to this rule is accepted for companies specialising in the publishing of classics only.

Reinvestment projects must be submitted within the deadlines set out in Section 4.2 of these Guidelines.

2. Eligible Costs

2.1 Duration of the eligible costs

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

From 5 months before 1st VHS/DVD release until 6 months after.

The period of eligible costs cannot start more than 11 months before the signature of the Agreement between the Beneficiary and the Commission, nor finish more than 15 months after this date. In case of conflict between the above rules and the present rule, the present rule shall apply.

2.2. Categories of eligible costs.

In all cases, the costs which are considered as eligible are those that are:-

- directly linked to the distribution of the film concerned
- actually incurred by the Beneficiary
- identifiable and controllable on the basis of justifying documents
- registered in the accountancy or financial records of the Beneficiary.

The beneficiaries of a community support are obliged to maintain a clear analytical accounting of the costs for each Approved Project. This accounting and classification system will facilitate the verification and certification of the final costs by the approved auditor necessary for the payment of an eventual financial contribution.

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

Advertising and Promotion costs for VHS & DVD (Section 1).

Publicity Material: Design, layout and printing of the posters; design and printing of publicity for Point of Sale; slides and photographs, production of advertising spots for radio and TV, flyers, design and layout of press advertising,...

Publicity Spaces: purchase of advertising spaces (Folder, poster, TV, Radio, Press), distribution of flyers / postcards and mailing etc.

Promotion: Promotional material.

Production Costs for DVD only (Section 2)

These costs comprise the costs related to the manufacturing of the DVD: Glassmaster, Premastering, Authoring, Disc checking, Duplication, Sound, Dubbing and Sub-titling costs, boxes and jackets conception and the production or purchase of Bonus Material.

Other Costs (Section 3)

Audit Costs.

In the framework of the execution of an eventual financial support contract, the Commission requires the Beneficiary to produce a statement of the final costs of the project. This document must be certified by an approved auditor on the basis of justifying documents and the accountancy records of the Beneficiary. Therefore the costs of this certification are eligible.

Other Costs.

A space is provided in the form for the disclosure of other costs directly linked to the project which are not expressly provided for in the form. These “other costs” have to be clearly identified and detailed in the application form for them to be eligible. Those costs normally associated with the normal running of the company are not eligible under this heading.

Indirect costs (Section 4)

Overheads

A flat-rate fee up to a maximum of 7% of the eligible direct distribution costs, within the limit of € 15,000 per project, to cover the following indirect costs of the Beneficiary relevant to the project: rent of company offices, insurance, maintenance costs, telecommunications, postal charges, heating, lighting, water, electricity, office supplies, rental of stands on markets and festivals.

The indirect costs are eligible in so far as they do not include any of the costs taken into account in another section of the budget and if they cannot be the object of a direct allocation in the distribution budget.

Please note that the total amounts of indirect costs charged by the Beneficiary who has multiple Community financial support contracts cannot exceed the actual total costs incurred by the Beneficiary for these categories of costs for the financial reporting period.

2.3 Categories of ineligible costs

In all cases, the following costs are ineligible:

- unnecessarily high expenses which are unjustified;
- costs which are not identifiable or verifiable on the basis of supporting documents
- costs which are not registered in the accountancy or financial records of the Beneficiary
- capital investment costs;
- general provisions (for losses, future debts, etc.)
- financial costs (bank charges, costs of opening and maintaining bank accounts, exchange charges and other bank charges)
- debts
- loan interest
- bad debts
- exchange losses
- contributions in kind (such as publicity partnerships with various media)

3. Exchange Rates

Reinvestment stage:

The provisional budget must be presented in Euro (€). The exchange rate to be used is the official exchange rate published at the beginning of each month for the month in which the reinvestment project is presented.

This exchange rate is available from the MEDIA Desks and Antennae and from the web site of the Commission at <http://europa.eu.int/comm/budget/inforeuro>.

MEDIA DESK & ANTENNES



BELGIË/BELGIQUE/BELGIEN (BE)

Vlaamse Gemeenschap:

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Bijlokekaai 7 F
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?

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Annex 3 - Application forms – “Generation”

Application Form - Company 2005

Application Form - Film / Audiovisual Work

Application Form - Declaration of Revenues

Annex 4 - Application forms – “Reinvestment”

Reinvestment Project Form

Budgetary Form