



CREATIVE EUROPE

MEDIA Sub-programme

SUPPORT FOR THE DISTRIBUTION OF NON-NATIONAL EUROPEAN FILMS

THE "SALES AGENTS SCHEME"

GUIDELINES

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All the annexes are available on the EACEA/MEDIA website:

http://eacea.ec.europa.eu/creative-europe/actions/media_en

1. INTRODUCTION – BACKGROUND

These guidelines are based on Regulation No 1295/2013 of the European Parliament and of the Council of 11/12/2013 concerning the implementation of a programme of support for the European cultural and creative sector (CREATIVE EUROPE).¹

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

General background information about the Creative Europe programme can be found on the following link: <http://ec.europa.eu/programmes/creative-europe/>

2. OBJECTIVES – THEMES – PRIORITIES

2.1. Objectives

Within the specific objective of promoting transnational circulation, one of the priorities of the MEDIA Sub-programme is the following:

- supporting theatrical distribution through transnational marketing, branding, distribution and exhibition of audiovisual works;

The MEDIA Sub-programme shall provide support for the following:

- establishing systems of support for the distribution of non-national European films through theatrical distribution and on all other platforms as well as for international sales activities, in particular the subtitling, dubbing and audio-description of audiovisual works.

2.2. Targeted actions

The aim of the "Sales Agents" scheme is to encourage and support the wider transnational distribution of recent European films by providing funds to sales agents, based upon their performance on the market, for further reinvestment in new non-national European films.

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

The "Sales Agents scheme" works in two phases :

1. The generation of a potential fund, which will be calculated according to the performance of the company on the European market during the reference period.

2. Reinvestment : the potential fund thus generated by each company must be reinvested in :

¹ Published in the Official Journal of the European Union on the 20/12/2013 (OJ L347/221).

- minimum guarantees or advances paid for the international sales rights on eligible European non-national films;
- the promotion, marketing and advertising on the market of eligible non-national European films.

3. TIMETABLE

3.1. Timetable for "Generation" Stage

	Stages	Date or indicative period
a)	Publication of the call	February
b)	Deadline for submitting applications	18 June 2015 - 12:00 (noon, Brussels Time)
c)	Evaluation period	7 months from deadline
d)	Information to applicants	January 2016
e)	Signature of grant agreement or notification of grant decision	See reinvestment stage
f)	Starting date of the action	See reinvestment stage
g)	Max. duration of the action	See reinvestment stage

As the completion of the process requires the prior completion of the Automatic Generation for the period (including the certification by the national authorities), an additional delay may occur if this process is held up.

3.2. Timetable for "Reinvestment" Stage

Reinvestment applications must be sent to the Agency by **1st March 2017**.

They will be treated on a "first come – first served" basis. The potential fund which is not reinvested by the deadline will be lost.

- **Earliest start date of the action:**
The international sales contract/agreement with the producer can be signed at the earliest on **18 June 2015** (generation deadline).
- **Deadline for presentation of the reinvestment action:**
The reinvestment applications must be submitted to the Agency within 6 months of the signature of the international sales contract/agreement with the producer and no later than **1st March 2017**
- **Information to applicants and signature of the Grant Agreement / Decision:**

The intention is to inform applicants of the outcome of the selection procedure no later than 16 weeks after the relevant submission date. However for submissions sent prior to the completion of the generation, an additional delay may occur.

Reinvestment actions agreed by the Agency will be the subject of a Grant Agreement / Decision between the beneficiary and the Agency setting out the terms and conditions of the financial contribution granted.

- **Period of eligibility of costs:**

The period of eligibility of costs starts on the date of the signature of the international sales contract and ends 18 months after this date.

Only those costs incurred by the beneficiary during the period of eligibility of costs will be eligible.

However, if after the signing of the agreement and the start of the action it becomes impossible for the beneficiary, for fully justified reasons beyond his control, to complete the action within the scheduled period, an extension to the eligibility period may be granted. A maximum extension of 6 additional months may be granted if requested before the deadline specified in the agreement.

4. BUDGET AVAILABLE

The total budget earmarked for the co-financing of projects is estimated at EUR 2.6M.

This amount is subject to the availability of the funds after the adoption of the budget for 2015 by the budgetary authority.

The Financial contribution of the EU cannot exceed 60% of the total eligible costs of the action.

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 cost and nature of each proposed action.

The beneficiary must guarantee the remaining financing.

“Generation”: The total annual amount of potential funding available to each sales agent shall be determined on the basis of the recent European films sold by the sales agent in the reference period (2010-2014).

In the case of “Reinvestment”, the amount of the financial contribution awarded to each company is determined with respect to the cost and nature of each proposed reinvestment action (minimum guarantees and P&A costs) and the availability of the fund. Support will be in the form of a subsidy.

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

5. ADMISSIBILITY REQUIREMENTS

Applications shall comply with the following requirements:

- they must be sent no later than the deadline for submitting applications referred to in section 3 of the present guidelines.
- they must be submitted using the online application form (see section 14 of the present guidelines)

- they must be drafted in one of the EU official languages, preferably in English or French

The application form must be accompanied by a balanced budget and all the other documents referred to in the application form. Failure to comply with those requirements will lead to the rejection of the application.

In order to submit an application, applicants must provide their Participant Identification Code (PIC) in the application form. The PIC can be obtained by registering the organisation in the Unique Registration Facility (URF) hosted in the Education, Audiovisual, Culture, Citizenship and Volunteering Participant Portal. The Unique Registration Facility is a tool shared by other services of the European Commission. If an applicant already has a PIC that has been used for other programmes (for example the Research programmes), the same PIC is valid for the present call for proposals.

The Participant Portal allows applicants, to upload or update the information related to their legal status and attach the requested legal and financial documents (see section 14.2 for more information).

6. ELIGIBILITY CRITERIA

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

6.1. Eligible applicants

The applicant company must be a European Sales Agent.

European company

Company owned, whether directly or by majority participation (i.e. majority of shares), by nationals of Member States of the European Union or nationals of the other European countries participating in the MEDIA Sub-programme and registered in one of these countries.

Applications from legal entities established in one of the following countries are eligible as long as all conditions referred to in Article 8 of the Regulation establishing the Creative Europe Programme are met:

- EU Member States;
- Acceding countries, candidate countries and potential candidates benefiting from a pre-accession strategy, in accordance with the general principles and general terms and conditions for the participation of those countries in European Union programmes established in the respective Framework Agreements, Association Council Decisions or similar agreements;
- EFTA countries which are members of the EEA, in accordance with the provisions of the EEA Agreement;
- The Swiss Confederation, on the basis of a bilateral agreement to be concluded with that country;
- Countries covered by the European Neighbourhood Policy in accordance with the procedures established with those countries following the framework agreements providing for their participation in European Union programmes.

The Programme shall also be open for bilateral or multilateral cooperation actions targeted at selected countries or regions on the basis of additional appropriations paid by, and specific arrangements to be agreed upon with, those countries or regions.

The Programme shall permit cooperation and joint actions with countries not participating in the Programme and with international organisations which are active in the cultural and creative sectors such as UNESCO, the Council of Europe, the Organisation for Economic Cooperation and Development or the World Intellectual Property Organisation on the basis of joint contributions for the realisation of the Programme's objectives.

The Agency may select proposals from applicants in non EU countries, provided that, on the date of the award decision, agreements have been signed setting out the arrangements for the participation of those countries in the programme established by the Regulation referred to above.

(Updated list of countries that fulfil the conditions referred to in Article 8 of the Regulation and that the Commission has started negotiations with can be found on the following link:

http://ec.europa.eu/programmes/creative-europe/opportunities/documents/eligible-countries_en.pdf).

For the implementation of the MEDIA sub-programme, and unless otherwise specified in the text below:

- the following countries are considered as countries with a low audiovisual production capacity: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Greece, Hungary, Ireland, Iceland, Latvia, Lithuania, Luxembourg, Malta, Norway, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden, and any other countries fulfilling the conditions set out above (Eligible countries).

- the following countries are considered as high production capacity countries: France, Germany, Italy, Spain, and United Kingdom.

European sales agents:

Any European company acting as an intermediary agent for the producer, who specialises in the commercial exploitation of a film by marketing and licensing a film to distributors or other purchasers for foreign countries.

The sales agent must be appointed by the producer of the film by way of a written contract or agreement. A contract / agreement signed between a sales agent and a producer will be considered as an international sales contract / agreement only if it provides for the right of the sales agent to sell the film in **at least 10 countries** participating in the MEDIA Sub-programme.

6.2 Eligible activities

1. Generation:

The generation of a potential fund, which will be calculated according to the international sales performance of the company on the European market in the reference period (2010-2014).

2. Reinvestment:

Reinvestment of the potential fund thus generated by each company in:

- minimum guarantees or advances paid for the international sales rights on eligible European non-national films (module 1)
- the promotion, marketing and advertising on the market of eligible non-national European films presented (module 2).

International sales:

Any commercial activity designed to promote and sell the exploitation rights to a cinematographic film on the marketplace, in particular to cinema distributors. This activity includes, inter alia :

- the negotiation and execution of contracts licensing the rights to exploit or exhibit the film;
- the promotion and advertising of the film in markets or festivals (screenings, advertising, promotional events)
- the design and dissemination towards potential buyers of promotional material for the film (EPK, stills, slides, “making-of”, ...)
- the design and dissemination towards the press (trade press or other) and the potential audience of the film of promotional material and information (web site, ...).

Cinema / Theatrical distribution:

Any commercial activity designed to bring to the attention of a wide audience a film for the purpose of exploitation in cinema theatres. Such activity may include aspects of the technical publishing of an audio-visual work (dubbing and subtitling, striking of prints, circulation of prints, etc.) as well as marketing and promotional activities (production of trailers and publicity material, the purchase of advertising space, the organisation of promotional events etc.).

The film must comply with the following criteria:

- it must be a work of fiction (including animated films) or documentary, with a minimum duration of 60 minutes;
- it must have its first copyright established in 2010 at the earliest;
- it must not consist of alternative content (operas, concerts, performances, etc.), advertising, pornographic or racist material or advocate violence;
- it must be majority produced by a producer or producers established in the countries participating in the MEDIA Sub-programme (see section 6.1). 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;
- it must be produced with the significant participation of professionals who are nationals/residents of countries participating in the MEDIA Sub-programme (see section 6.1). ‘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):

Nationals/residents of countries participating in the MEDIA sub-programme	Points
Director	3
Scriptwriter	3
Composer	1
Actor 1	2
Actor 2	2
Actor 3	2
Production Design	1
Director of Photography	1
Editor	1

Sound	1
Shooting location	1
Laboratory	1
Total	19

National / Non-national European film:

European films will be considered as "national" in that member state or country participating in the MEDIA Sub-programme whose nationals/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 countries.

Only applicants 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.

7. EXCLUSION CRITERIA

7.1. Exclusion from participation

Applicants will be excluded from participating in the call for proposals procedure 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 or persons having powers of representation, decision making or control over them have been convicted of an offence concerning their professional conduct by a judgment of a competent authority of a Member State which has the force of res judicata;
- (c) they have been guilty of grave professional misconduct proven by any means which the responsible authorising officer can justify including by decisions of the EIB and international organisations;
- (d) they are not in compliance with their 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 responsible authorising officer or those of the country where the grant agreement is to be performed;
- (e) they or persons having powers of representation, decision making or control over them have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity, where such illegal activity is detrimental to the Union' financial interests;
- (f) they are currently subject to an administrative penalty referred to in Article 109(1) of the Financial Regulation.

7.2. Exclusion from award

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

- (a) are subject to a conflict of interests;
- (b) are guilty of misrepresentation in supplying the information required by the Agency 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 the above section 7.1.

Administrative and financial penalties may be imposed on applicants, or affiliated entities where applicable, who are guilty of misrepresentation or are found to have seriously failed to meet their contractual obligations under a previous grant award procedure.

7.3. Supporting documents

Applicants for a grant exceeding EUR 60.000 must sign a declaration on their honour certifying that they are not in one of the situations referred to in the above sections 7.1. and 7.2, filling in the relevant form attach to the application form accompanying the call for proposals and available at http://eacea.ec.europa.eu/creative-europe/actions/media_en

8. SELECTION CRITERIA

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.

8.1. Financial capacity

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. The applicants' financial capacity will be assessed on the basis of the following supporting documents to be submitted with the application:

- a) Low value grants (\leq EUR 60 000):
 - a declaration on their honour.
- b) Grants $>$ EUR 60 000:
 - a declaration on their honour
 - the financial statements (including the balance sheet, the profit and loss accounts and the annexes) of the last two financial years for which the accounts have been closed
 - financial capacity form provided for in the application form, filled in with the relevant statutory accounting figures, in order to calculate the ratios as detailed in the form.
- c) Grants for an action $>$ EUR 750 000 in addition to the above:
 - an audit report produced by an approved external auditor certifying the accounts for the last financial year available.

On the basis of the documents submitted, if the Agency considers that financial capacity is not satisfactory, it may:

- request further information;
- propose a grant agreement without pre-financing;
- propose a grant agreement with a pre-financing covered by a bank guarantee (see section 11.4 below);
- propose a grant agreement without pre-financing but an interim payment based on expenses already occurred.
- reject the application.

8.2 Operational capacity

Applicants must have the professional competencies as well as appropriate qualifications necessary to complete the proposed action. In this respect, applicants have to submit a declaration on their honour, and, for those applying for a grant above EUR 60.000 the following supporting documents:

- the curriculum vitae of the legal representative of the company
- the curriculum vitae of the Head of International Sales (if they are not the same person);

The documents and forms required under section 8.1 and 8.2 should be provided at least once per year for the Cinema Selective, the Cinema Automatic and the Sales Agents schemes.

9. AWARD CRITERIA

9.1. Generation Stage

A potential fund will be attributed to eligible European sales agents on the basis of their performance on the European markets (i.e. countries participating in the MEDIA Sub-programme) in the reference period (2010-2014).

The support will take the form of a potential fund available to sales agents for further investments in recent non-national European films.

Within the limit of the budgetary resources available, the potential fund available for each Sales Agent will be calculated on the following basis:

A. Step 1.

The applicant sales agent shall provide evidence of its activity as a sales agent for European cinematographic films. To this end, the sales agent shall prove that:

- it was, between 01/01/2010 and 31/12/2014, the appointed sales agent of **at least 8 eligible European films (of which at least 1 non-national film)**, for which the agreement with the producer provided the right to sell the film in at least 10 countries participating to the MEDIA Sub-programme; the mandate must be signed and take effect within the reference period,
- **and** that, **during the same period**, for **at least 3 of these films in at least 3 countries** participating in the MEDIA Sub-programme, outside the country of origin of the films there was a theatrical release as evidenced by distributor declarations to the Automatic scheme of the MEDIA Sub-programme.

In exceptional circumstances where the national theatrical release has not been reported to the Automatic scheme, the declaration of the applicant sales agent may be accepted in the event that it is accompanied by independent proof which can reasonably be verified by the Agency.

If this first step is successfully completed, the sales agent shall be entitled to a potential support of **EUR 20.000,00**.

B. Step 2.

If (and only if) the applicant sales agent has completed successfully the conditions set out for the first step, an additional potential fund will be calculated on the basis of **the total potential fund generated under the latest call of the Cinema Automatic scheme for theatrical distribution** by the non-national films:

- 20 % for films from countries with a high production capacity (DE, ES, FR, IT, UK);
- 30 % for films coming from other countries with a low production capacity;

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

Shall the sum of generated funds exceed 3M€ under each call, each potential fund will be reduced proportionally.

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

The generation stage is a method to calculate a maximum potential fund to be reinvested in new projects depending upon the budget available. The notification to the sales agent of the potential Fund generated does not constitute a claim on the European Commission/Agency.

All other information supplied shall be treated as confidential.

9.2 Reinvestment Stage

The fund generated may only be used through reinvestment projects.

The potential Fund can be reinvested in:

Module 1: Minimum Sales Guarantees for eligible **non-national** European films

Module 2: Promotion and marketing costs for eligible **non-national** European films

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

Please note that these reinvestment projects will only be processed by the Agency after the letter informing the beneficiary of the amount of the potential fund has been sent. Reinvestment projects will be treated on the basis and within the limits of the fund generated by the sales agent as calculated and notified by the Agency. Reinvestment projects must be approved by the Agency.

Combining funds generated by different reference years and under different calls into a single reinvestment project is not permitted, which means that the last request for a financial contribution to a reinvestment project will be limited to the balance of the current fund.

The award of a potential fund does not constitute an undertaking to support the reinvestment projects. Reinvestment projects approved by the Agency will be the subject of a grant agreement or grant decision setting out the terms and conditions of the financial contribution granted.

Amount of the financial contribution to a reinvestment project

The amount of the fund that may be requested for a given reinvestment project may not exceed a certain percentage of the total cost of the proposed reinvestment project, defined in the following table:

Maximum percentage of the reinvestment project's costs to be covered by the fund	
Module 1 (MG) : Sales agreement signed before completion of the principal photography of the film	60 %
Module 1 (MG) : Sales agreement signed after completion of the principal photography of the film	50 %
Module 2 (P&A)	50 %

10. LEGAL COMMITMENTS

In the event of a grant awarded by the Agency, a grant agreement or a grant decision drawn up in euro and detailing the conditions and level of funding, will be sent to the beneficiary, as well as the procedure in view to formalise the obligations of the parties.

- Agreement (**in case of beneficiaries established outside the European Union**): the 2 copies of the original agreement must be signed first by the beneficiary and returned to the Agency immediately. The Agency will sign them last.
- Decision (**in case of beneficiaries established within the European Union Member States**): the Grant Decision must not be returned to the Agency. The general conditions applicable to the decision are available in the 'Documents register' of the Agency website (Calls for proposals II.a) https://eacea.ec.europa.eu/about-eacea/document-register_en#calls

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.

Please note that the award of a grant does not establish an entitlement for subsequent years.

11. FINANCIAL PROVISIONS

11.1. General Principles

a) Non-cumulative award

An action may only receive one grant from the EU budget.

In no circumstances shall the same costs be financed twice by the Union budget. To ensure this, applicants shall indicate in the application form the sources and amounts of Union funding received or applied for the same action or part of the action or for its functioning during the same financial year as well as any other funding received or applied for the same action.

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

b) Non-retroactivity

No grant may be awarded retrospectively for actions already completed.

A grant may be awarded for an action which has already begun only where the applicant can demonstrate the need to start the action before the grant agreement is signed or the grant decision is notified. In such cases, costs eligible for financing must be incurred during the period of eligibility set out in section 3.2.

c) Co-financing

Co-financing means that the resources which are necessary to carry out the action may not be entirely provided by the EU grant.

Co-financing of the action of the may take the form of:

- the beneficiary's own resources,
- income generated by the action,
- financial contributions from third parties.

d) Balanced budget

The estimated budget of the action is to be attached to the application form. It must have revenue and expenditure in balance, including the requested MEDIA grant.

The budget must be drawn up in euros.

Applicants which foresee that costs will not be incurred in euros shall use the exchange rate published on the Infor-euro website available at:

http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm and applicable on the month of the reinvestment application.

e) Implementation contracts/subcontracting

Where the implementation of the action requires the award of procurement contracts (implementation contracts), the beneficiary must award the contract to the bid offering best value for money or the lowest price (as appropriate), avoiding conflicts of interests and retain the documentation for the event of an audit.

Entities acting in their capacity of contracting authorities in the meaning of Directive 2004/18/EC² or contracting entities in the meaning of Directive 2004/17/EC³ shall abide by the applicable national public procurement rules.

Sub-contracting, i.e. the externalisation of specific tasks or activities which form part of the action as described in the proposal and which cannot be performed by the beneficiary itself must satisfy the conditions applicable to any implementation contract (as specified above) and in addition to them the following conditions:

- it may only cover the implementation of a limited part of the action.
- it must be justified having regard to the nature of the action and what is necessary for its implementation;
- it must be clearly stated in the proposal.

² Directive 2004/18/EC on the coordination of procedures for the award of public work contracts, public supply contracts and public service contracts.

³ Directive 2004/17/EC coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors.

f) Financial support to third parties

The applications may not envisage provision of financial support to third parties

Any support from the MEDIA Sub-programme shall remain the exclusive property of the beneficiary and cannot be considered as revenue for the film. There cannot be any contractual conditions or other agreements which 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. Distribution agreements cannot have any conditional clauses linked to the award of the subsidy. 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".

11.2 Funding forms

The grants financed through reimbursement of eligible costs in combination with flat rate covering overheads are calculated on the basis of a detailed estimated budget, indicating clearly the costs that are eligible for EU funding.

➤ Maximum amount requested

The EU grant is limited to a co-financing rate of 50% or 60% of the eligible costs depending of the type of project (see table on section 9.2).

Consequently, part of the total eligible expenses entered in the estimated budget must be financed from sources other than the Union grant.

The grant amount may neither exceed the eligible costs nor the amount requested. Amounts are indicated in euros.

Acceptance of an application by the Executive Agency does not constitute an undertaking to award a grant equal to the amount requested by the beneficiary.

➤ Eligible costs

Eligible costs are costs actually incurred by the beneficiary of a grant 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.

The period of eligibility of costs starts on the date of the signature of the international sales contract and ends 18 months after this date. Only those costs incurred by the beneficiary during the period of eligibility of costs will be eligible

- they are indicated in the estimated overall budget of the action;

- they are incurred in connexion with the action which is the subject of the grant and are necessary for the implementation of the action;

- they are identifiable and verifiable, in particular being recorded in the accounting records of the beneficiary and determined according to the applicable accounting standards of the country where the beneficiary is established and according to the usual cost-accounting practices of the beneficiary;
- they comply with the requirements of applicable tax and social legislation;
- they are reasonable, justified, and comply with the requirements of sound financial management, in particular regarding economy and efficiency.

The beneficiary's internal accounting and auditing procedures must permit direct reconciliation of the costs and revenues 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;

Eligible costs for reinvestment in Module 1 (MG)

Only the costs of the Minimum Guarantee or Advance set out in the international sales contract/ agreement signed between the sales agent and the producer of the film will be eligible.

A contract/agreement signed between a sales agent and a producer will be considered as an international sales contract/agreement only if it provides for the right of the sales agent to sell the film in at least 10 countries participating to the MEDIA Sub-programme.

Eligible costs for reinvestment in Module 2 (P&A Costs)

- ***Heading 1: Advertising and promotion costs***

- **1.1 Publicity Material:**

- Production of trailers/teaser; making of showreels/promoreels design, layout and printing of the posters; artwork, production of advertising spots for radio, TV and internet, flyers, postcards, design and layout of press advertising, etc.

- **1.2 Publicity Space:**

- purchase of advertising spaces (posters in markets / festivals, professional press)

- **1.3 Promotion material:**

- press files, organisation of market / festival screenings, organisation of press screenings, organisation of test-screenings or recruited audience screenings, production of an EPK (electronic press kit), DVD or Digital Beta for promotional purposes, travel and accommodation of the director / cast of the film for the promotion of the film, design and construction of a web site / homepage for the promotion of the film, etc.

- **Heading 2: Optical and digital costs**

- **2.1 Optical Costs:**

- This sub-heading includes the costs related to the optical manufacturing and circulation of the prints for the exploitation of the film in the cinemas: striking of an internegative and prints of the film, dubbing and subtitling the prints of the film, insurance, transport and taxes, prints maintenance.

- **2.2 Digital Costs:**

- This sub-heading includes all digital costs related to the production of DCPs, including delivery for the exploitation of the film in the cinemas, insurance and taxes.

- **2.3 Dubbing and subtitling (including translation):**

- All costs related to the dubbing and the subtitling of the film, including the translation costs.

- **Heading 3: Other Costs**

- **3.1 Audit Fees:**

- In the framework of the execution of an eventual financial support agreement, the Agency requires the beneficiary to produce a statement of the final costs. This document must be certified by an approved auditor external to the company on the basis of justifying documents and the accountancy records of the beneficiary. Therefore the costs of this certification are the only costs eligible beyond the eligibility period.

- **3.2 All other Costs:**

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

- 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.

Applicants' attention is drawn to the fact that in the case of organisations receiving an operating grant, indirect costs are no longer eligible under the specific actions.

- **Ineligible costs**

The following costs shall not be considered eligible:

- return on capital;

- debt and debt service charges;
- provisions for losses or debts;
- interest owed;
- doubtful debts;
- exchange losses;
- costs of transfer from the Agency charged by the bank of the beneficiary;
- costs declared by the beneficiary and covered by another action receiving a European Union grant. In particular, indirect costs shall not be eligible under a grant for an action awarded to the beneficiary who already receives an operating grant financed from the Union budget during the period in question;
- contributions in kind
- excessive or reckless expenditure
- personnel costs
- travel and subsistence of staff
- purchase of equipment

➤ **Calculation of the final grant amount - Supporting documents**

The final amount of the grant to be awarded to the beneficiary is established after completion of the action, upon approval of the request for payment containing the following documents:

- a final report providing details of the implementation and results of the action;
- the final financial statement of costs actually incurred,

And

- Option 1

In case of "Module 2" grants for an action equal or inferior to EUR 60.000, the beneficiary is required to submit, in support of the final payment, a copy of the following underlining documents:

- the invoices related to the budget item "Optical and Digital costs"

- Option 2

In cases of grants for an action of more than EUR 60.000 but less than EUR 750 000, the beneficiary is required to submit, in support of the final payment, a "Report of Factual Findings on the Final Financial Report - Type I" produced by an approved auditor or in case of public bodies, by a competent and independent public officer.

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":

https://eacea.ec.europa.eu/sites/eacea-site/files/annex_iii_guidance_notes_audit_type_i_03-2014_en.pdf

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

- Option 3

In cases of grants for an action of EUR 750 000 or more, when the cumulative amounts of request for payment is at least EUR 325 000, the beneficiary is required 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/Decision.

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”:

https://eacea.ec.europa.eu/sites/eacea-site/files/annex_iv_guidance_notes_audit_type_ii_03-2014_en.pdf

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

.If the eligible costs actually incurred by the beneficiary are lower than anticipated, the Agency will apply the rate of co-financing stated in the Grant Agreement/Decision to the expenditure actually incurred. In the event of non-execution or clearly inadequate execution of an activity planned in the application attached to the funding decision/ agreement, the final grant will be reduced accordingly.

EU grants may not have the purpose or effect of producing a profit within the framework of the action of the beneficiary. **Profit shall be defined as a surplus of receipts over the eligible costs incurred by the beneficiary, when the request is made for payment of the balance.** In this respect, where a profit is made, the Agency shall be entitled to recover a percentage of the profit corresponding to the Union contribution to the eligible costs actually incurred by the beneficiary to carry out the action.

The verification of the non-profit does not apply to low value grants, i.e. \leq EUR 60 000.

11.3. Payment arrangements

A pre-financing payment corresponding to 50% of the grant amount will be transferred to the beneficiary within 30 days either of the date when the last of the two parties signs the agreement, or of the notification of the grant decision, provided all requested guarantees have been received.

The Agency will establish the amount of the final payment to be made to the beneficiary on the basis of the calculation of the final grant amount (see section 11.2 above). If the total of earlier payments is higher than the final grant amount, the beneficiary will be required to reimburse the amount paid in excess by the Commission through a recovery order.

11.4. Pre-financing guarantee

In the event that the applicant's financial capacity is not satisfactory, a pre-financing guarantee for up to the same amount as the pre-financing may be requested in order to limit the financial risks linked to the pre-financing payment.

The financial guarantee, in euro, shall be provided by an approved bank or financial institution established in one of the Member State 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. Amounts blocked in bank accounts shall not be accepted as financial guarantees.

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.

12. PUBLICITY

12.1. By the beneficiaries

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

In this respect, beneficiaries are required to give prominence to the name and logo of the MEDIA sub-programme on all their publications, posters, programmes and other products realised under the co-financed project.

To do this they must use the text, the logo and the disclaimer available at http://ec.europa.eu/dgs/education_culture/promo/creative-europe/eps/eps.zip, which will be provided by the Agency.

If this requirement is not fully complied with, the beneficiary's grant may be reduced in accordance with the provisions of the grant agreement or grant decision.

12.2. By the Agency and/or the Commission

With the exception of scholarships paid to natural persons and other direct support paid to natural persons in most need, all information relating to grants awarded in the course of a financial year shall be published on the Internet site of the European Union institutions no later than the 30 June of the year following the financial year in which the grants were awarded.

The Agency and/or the Commission will publish the following information:

- name of the beneficiary,
- locality of the beneficiary
- the amount awarded,
- nature and purpose of the grant.

Upon a reasoned and duly substantiated request by the beneficiary, the publication shall be waived if such disclosure risks threatening the rights and freedoms of individuals concerned as protected by the Charter of Fundamental Rights of the European Union or harm the commercial interests of the beneficiaries.

12.3 Communication and dissemination

To maximise impact, projects should have a clear and strong strategy for communication and dissemination of their activities and results, and applicants must provide enough time and resources to communicate and interact appropriately with peers, audiences and local communities as appropriate.

The Commission together with the Agency may identify good practices and prepare relevant dissemination materials to be shared within and across all participating countries and beyond.

Data and results from projects will be made freely available to be used by stakeholders, policy makers and others in a wide range of ways.

Beneficiaries may be required to attend and to participate in events organised by the European Commission or the Agency to share their experience with other participants and/or policy makers.

13. 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 Community institutions and bodies and on the free movement of such data.⁴

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. In particular, for the purposes of safeguarding the financial interests of the Union, personal data may be transferred to internal audit services, to the European Court of Auditors, to the Financial Irregularities Panel or to the European Anti-Fraud Office and between authorising officers of the Commission and the executive agencies. 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 available on EACEA's website:

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.

14. PROCEDURE FOR THE SUBMISSION OF PROPOSALS

14.1 Publication

The call for proposals is published on the Internet site of the EACEA at the following address:

http://eacea.ec.europa.eu/creative-europe/funding_en

14.2 Registration in the Participant Portal

Before submitting an electronic application, applicants will have to register their organisation in the Education, Audiovisual, Culture, Citizenship and Volunteering Participant Portal and receive a Participant Identification Code (PIC). The PIC will be requested in the application form.

⁴ Official Journal L 8, 12.1.2001.

The Participant Portal is the tool through which all legal and financial information related to organisations will be managed. Information on how to register can be found in the portal under the following address:

<http://ec.europa.eu/education/participants/portal/desktop/en/home.html>

The tool also allows applicants to upload different documents related to their organisation. These documents have to be uploaded once and will not be requested again for subsequent applications by the same organisation.

Details on the supporting document that need to be uploaded in the portal can be found http://eacea.ec.europa.eu/creative-europe/funding_en

14.3 Submission of the grant application

Proposals must be submitted in accordance with the admissibility requirements set out under Section 5.

An online application system has been set up. Grant applications must be drawn up in one of the official EU languages, using the online form (eForm) specifically designed for this purpose. To facilitate the assessment of the application, an English or French translation of the documents relevant to the assessment of the project must be submitted.

The eForm can be obtained on the Internet at the following address: <https://eacea.ec.europa.eu/PPMT/>

Proposals for both Generation and Reinvestments must be submitted by the deadline mentioned in the call for proposals and in Section "3. Timetable" of the present Guidelines **before 12:00 CET/CEST (Midday, Brussels time)**, using the online application form.

Applicants should note that no applications submitted after 12.00CET/CEST on the deadline will be accepted. They are very strongly encouraged not to wait until the final day to read the User Guide and submit their application.

Please note that no other method of submission of an application will be accepted. Applications submitted in any other way will be automatically rejected. No exceptions will be made.

Make sure that you have officially submitted your electronic application form and that you have received an e-mail acknowledging receipt of your submission with a project reference number.

Applicants shall ensure that all the documents requested and mentioned in the eForm are attached to the Eform (see *Guide for applicants*).

Generation stage:

- Annex I: declaration on the applicant's honour
- Annex II: Information on the film and financing plan for the films to be qualified (*detailed description of the project in pdf, jpeg, tiff*)
- Annex III: List of films and international sales (*budget form in excel*)

The following document must be at the applicant's disposal for each film declared, in case of verification by the EACEA:

International sales agreement with the producer with the hand written statement "Copy certified as true" signed by the legal representative of the company (the date of contract must be signed and take effect between 01/01/2010 and 31/12/2014).

The applicant shall provide this information upon request by the Agency, in the context of verification of the validity of the international sales (see section 9.1).

In the event the applicant fails to submit this document upon request, the relevant international sales will not be taken into account in the calculation of the award criteria (see section 9.1).

Reinvestment stage:

- Annex I: declaration on the applicant's honour
- Annex II: application form, international sales agreement and financing plan of the film (for new films only) (*detailed description of the project in pdf, jpeg, tiff*)
- Annex III: budget form (module 2 only)

No modifications to the application are allowed once the deadline for submission has elapsed. However, if there is a need to clarify certain aspects or for the correction of clerical mistakes, the Agency may contact the applicant for this purpose during the evaluation process.

All applicants will be informed in writing about the results of the selection process.

14.4 Evaluation procedure

The "Sales Agents" scheme works in two successive stages:

- The generation of the potential fund
- The reinvestment of the potential fund

These two stages can be summarised as follows:

Deadline	Stage 1: GENERATION	Stage 2: REINVESTMENT
Sales Agent	Application from the sales agent for the generation of the support Deadline: 18 June 2015 (12:00 CET/CEST)	Presentation of reinvestment actions : within 6 months of the signature of the international sales agreement with the producer and by 1 March 2017 (12:00 CET/CEST)
Agency	- Calculation of the potential Fund generated - Notification of approval (or rejection) of its available potential Fund	- Acceptance/Rejection of the reinvestment project - Signature of the agreement/decision between the Agency and the beneficiary
Legal commitment or payment of a Union Financial Contribution	No	Yes

The assessment is made solely on the basis of the documents sent by the relevant deadline.

Nevertheless, the Agency reserves the right to request additional information from the applicant.

14.5 Award decision

Only after completion of the procedure mentioned above, is the selection process finalised and the award decision adopted by the Agency.

Applicants will be informed of the results of the selection within two weeks of the date of adoption of the award decision.

Unsuccessful applicants will receive a letter stating the reasons why their application was not selected.

Once applicants are informed the list of selected proposals will be published on the websites of the Agency: http://eacea.ec.europa.eu/creative-europe/selection-results_en

The award of a grant will be conditional upon the acceptance by the Agency of the re-investment project, within the limit of the available budget.

14.6 Rules applicable

Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union (OJ L 298, 26.10.2012, p.1).

Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p.1).

Regulation (EU) No 1295/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Creative Europe Programme (2014 to 2020) concerning the implementation of a support Programme for the European creative sector (Creative Europe) (OJ L 347/221, 20 December 2013).

14.7 Contacts

For any further information please contact your Creative Europe desk:

http://ec.europa.eu/culture/tools/creative-desks_en.htm

Contact with the Agency:

EACEA-DISTRIBUTION-SALESAGENTS@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

Annexes:

Generation stage:

- Annex I: declaration on the applicant's honour
- Annex II: Information on the film and financing plan for the films to be qualified (*detailed description of the project in pdf, jpeg, tiff*)
- Annex III: List of films and international sales (budget form in excel)
- Annex IV: Financial capacity form

Reinvestment stage:

- Annex I: declaration on the applicant's honour
- Annex II: application form, international sales agreement and financing plan of the film (for new films only) (*detailed description of the project in pdf, jpeg, tiff*)
- Annex III: budget form (module 2 only)
- Annex IV: Model Grant agreement/ decision