



# **CREATIVE EUROPE**

## **MEDIA Sub-programme**

### **SUPPORT FOR THE DISTRIBUTION OF NON-NATIONAL EUROPEAN FILMS**

#### **THE "SALES AGENTS SCHEME"**

## **GUIDELINES**

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## 1. INTRODUCTION

These guidelines are based on Regulation No EU (2013) 1295 of the European Parliament and of the Council of 20/12/2013 concerning the implementation of a programme of support for the European cultural and creative sector (CREATIVE EUROPE).<sup>1</sup>

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/creative-europe>.

## 2. OBJECTIVES - PRIORITIES

### 2.1 Objectives and priorities

Within the specific objective of promoting transnational circulation, one of the priorities of the MEDIA Sub-programme shall be 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 Projects

The aim of the "Automatic 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 :

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<sup>1</sup> published in the Official Journal of the European Union on the 20/12/2013 (OJ L347, pp 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

	<b>Stages</b>	<b>Date or indicative period</b>
a)	Publication of the call	March 2013
b)	Deadline for submitting applications	18 June 2014 - 12:00 (noon, Brussels Time)
c)	Evaluation period	7 months from deadline
d)	Notification letter	Feb-Mar 2015

As the completion of the process requires the prior completion of the Automatic Generation for the period, 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 2016**

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 2014** (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 2016**

The potential fund which is not reinvested by the beneficiary by this deadline will be lost.

- **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 an 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 available for the co-financing of projects is estimated at EUR 2,75 M for 2014.

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 Financial contribution of the EU cannot exceed 60% of the total eligible costs of the 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 (2009-2013).

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 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. ELIGIBILITY CRITERIA**

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

##### **5.1 Formal criteria**

In order to submit an electronic application, applicants must provide their Participant Identification Code (PIC) in the application form. The PIC can be obtained by registering the organisation in the Education, Audiovisual, Culture, Citizenship and Volunteering Participant Portal.<sup>2</sup>

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 the section on Registration in the Participant Portal for more information.

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<sup>2</sup> The organisation has to register 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 the organisation 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.

Only proposals submitted in one of the EU official languages, preferably in English or French, using the official application form, completed in full, signed (original signatures or equivalent required) and received by the specified deadline, will be considered.

The application form must be accompanied by all the documents referred to in the application form.

## **5.2 Eligible 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 and the Commission has entered into negotiations with the country:

- EU Member States;
- Accessing 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 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 of the European neighbourhood area in accordance with the procedures defined with those countries following the framework agreements providing for their participation in European Union programmes.

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/culture/creative-europe/documents/eligible-countries.pdf>)

### *Countries with a low production capacity*

The following countries are considered as countries with a low audiovisual production capacity: Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Greece, Hungary, Ireland, Iceland, Lichtenstein, Latvia, Lithuania, Luxembourg, Malta, Norway, Netherlands Poland, Portugal, Romania, Slovakia, Slovenia, Sweden, Switzerland.

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

## **5.3 Eligible applicants**

### 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 countries participating in the MEDIA Sub-programme and registered in one of these countries.

### 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.

#### **5.4 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 (2009-2013).

##### 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 films 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 2009 at the earliest;
- it must not consist of alternative content (operas, concerts, performances, etc.), advertising, pornographic or racist material or advocate violence;

- it must have been majority produced by a producer or producers established in the countries participating in the MEDIA Sub-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;
- the work must be produced with the significant participation of professionals who are nationals/residents of countries participating in the MEDIA Sub-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):

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
Artistic Director/Production Design	1
Director of Photography	1
Editor	1
Sound	1
Shooting location	1
Laboratory	1
<b>Total</b>	<b>19</b>

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.

<b>6. EXCLUSION CRITERIA</b>
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**6.1. 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 or 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 States 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 or 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 an 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.

## **6.2 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 6.1.

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 grant award procedure.

## **6.3 Support 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 6.1. and 6.2, filling in the relevant form attach to the application form accompanying the call for proposals and available at [https://eacea.ec.europa.eu/creative-europe/funding/distribution-support-sales-agents\\_en](https://eacea.ec.europa.eu/creative-europe/funding/distribution-support-sales-agents_en).

<b>7. SELECTION CRITERIA</b>
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Applicant organisations must have stable and sufficient sources of funding (financial capacity) 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 (operational capacity).

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.

### **7.1. Operational Capacity**

In order to permit an assessment of their operational capacity, organisations applying for a grant above EUR 60.000 must submit, together with their applications:

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

## 7.2. 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.

In the event of an application grouping several applicants, the above thresholds shall apply to each applicant.

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 or decision without pre-financing;
- propose a grant agreement or decision without pre-financing but an interim payment based on expenses already occurred;
- propose a grant agreement or decision with a pre-financing covered by a bank guarantee (see section 9.2 below);
- reject the application.

The required documents and forms should be provided at least once per year.

<b>8. AWARD CRITERIA</b>
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### 8.1 Generation Stage

A potential fund will be attributed to eligible European sales agents on the basis of their performance on the European markets (i.e. countries participating in the MEDIA Sub-programme) in the reference period (2009-2013).

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:

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 01/01/2009 and 31/12/2013, 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**.

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.

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

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

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.

Reinvestment of the potential fund into completed actions is impossible.

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.

Reinvestment projects approved by the Agency will be the subject of an agreement between the beneficiary and the Agency setting out the terms and conditions of the financial contribution granted.

### 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) : Licence agreement signed before completion of the principal photography of the film	60 %
Module 1 (MG) : Licence agreement signed after completion of the principal photography of the film	50 %
Module 2 (P&A)	50 %

## 9. FINANCIAL CONDITIONS

An EU grant is an incentive to carry out activities that would not be possible without the support of the Union. It is based on the principle of co-financing. The EU grant supplements the applicant organisation's own financial involvement and/or any national, regional or private support it may have obtained.

Acceptance of an application by the Agency does not constitute an undertaking to award a grant equal to the amount requested by the beneficiary. Furthermore, under no circumstances may the amount awarded exceed the amount requested.

The awarding of a grant does not establish an entitlement for subsequent years.

The award of a potential fund does not constitute an undertaking to support the reinvestment projects.

Any support from the MEDIA Sub-programme shall remain the exclusive property of the beneficiary. Union Law and the general conditions of any eventual contract offered to a beneficiary 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".

### 9.1 Contractual provisions and payment procedures

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

- In case of beneficiaries established outside the European Union: the 2 copies of the original agreement must be signed by the beneficiary and returned to the Agency immediately. The Agency will sign them last.
- 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 (General Conditions II.a) are available in the 'Documents register' of the Agency website [https://eacea.ec.europa.eu/about-eacea/document-register\\_en#calls](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.

A pre-financing payment of 60% will be transferred to the beneficiary within 30 days:

- of notification of the grant decisions,
  - of the date when the last of the two parties signs the agreement (for grant agreements)
- and all the possible guarantees are received.

Pre-financing is intended to provide the beneficiary with a float.

The account or sub-account indicated by the beneficiary must make it possible to identify the funds transferred by the Agency.

The Agency will establish the amount of the final payment to be made to the beneficiary on the basis of the final reports.

## 9.2 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 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

The guarantee shall be released as the pre-financing is gradually cleared against interim payments or payments of balances to the beneficiary, in accordance with the conditions laid down in the grant agreement.

## 9.3 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, they must give details in their application form of any other grant requests other than those submitted to the MEDIA Sub-programme which they have submitted or intend to submit to the European Institutions or to Eurimages during the same budgetary year, stating in each case the budget heading, the European Union programme and the amount requested.

## 9.4 Funding method

9.4.1 Lump sum grant: Not applicable

9.4.2 Budget-based financing

✓ General provisions

Budget-based grants are calculated on the basis of a detailed estimated budget. The budget attached to the application form must be complete and in balance, i.e. total estimated expenditure must equal total revenue, including the requested MEDIA grant. The budget must indicate clearly the costs that are eligible for European Union funding. The European Union grant is limited to a maximum co-financing rate of 60% of eligible costs.

The budget must be drawn up in Euro. Applicants not based in the euro zone must use the exchange rate published in the Official Journal of the European Union and applicable on the month of the reinvestment application. This exchange rate is available from the Creative Europe Desks and from the web site of the European Commission at <http://ec.europa.eu/budget/inforeuro/>).

Part of the total estimated eligible expenses must be financed from sources other than the Union grant. Applicants must indicate the sources and amounts of any other funding received or applied for in the same financial year for the implementation of the project concerned.

The allocated amount may not exceed the amount requested.

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.

✓ 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/action's financial statements and underlying accounts;

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 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.

The beneficiary's internal accounting and auditing procedures must permit direct reconciliation of the costs and revenue declared in respect of the action with the corresponding accounting statements and supporting documents.

The 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 or the work programme 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&ACosts)

***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’s attention is drawn to the fact that in the case of organisations receiving an operating grant, indirect costs are no longer eligible under 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.
- contributions in kind
- excessive or reckless expenditure
- personnel costs
- travel and subsistence of staff
- purchase of equipment

Costs which are directly re-invoiced by the sales agents to third parties, such as producers or distributors, are not considered as eligible costs.

✓ Calculation of the final award

The 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 action/work programme ;
- the final financial statement of costs actually incurred,

In case of "Module 2" grants for an action 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"

In cases of grants for an action between EUR 60.000 and 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":

[http://eacea.ec.europa.eu/about/documents/guidance-notes-audit-type-i\\_11.2012\\_en.pdf](http://eacea.ec.europa.eu/about/documents/guidance-notes-audit-type-i_11.2012_en.pdf)

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

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”:

[http://eacea.ec.europa.eu/about/documents/guidance-notes-audit-type-ii\\_11.2012\\_en.pdf](http://eacea.ec.europa.eu/about/documents/guidance-notes-audit-type-ii_11.2012_en.pdf)

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

The calculation of the final grant amount by the Agency is based on a detailed final financial statement of the beneficiary, accompanied by supporting documentation for the incurred expenditure. 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. The Agency also reserves the right to reduce the amount of the grant if the organisation has not fully implemented the agreed project/work programme.

Where applicable, the beneficiary will be required to reimburse any excess amounts paid by the Agency in the form of pre-financing.

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

Where the implementation of the action or the work programme 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.

Sub-contracting, i.e. the externalisation of specific tasks or activities which form part of the action/work programme 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 or prior written authorisation from the Agency must be obtained.

## **11. PUBLICITY, COMMUNICATION AND DISSEMINATION**

### **11.1 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 using any other appropriate medium, including the Official Journal of the European Union.

The beneficiary authorises the Agency to publish the following information in any form and medium, including via the Internet:

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

Upon a reasoned and duly substantiated request by the beneficiary, the Agency may agree to forgo such publicity, if disclosure of the information indicated above would threaten the safety of the beneficiaries or harm their business interests.

Beneficiaries must clearly acknowledge the European Union's contribution in all publications or in conjunction with activities for which the grant is used. The name and logo of the programme must appear on all publications, posters, programmes and other products created in relation to the co-financed action.

The logo of the Creative Europe Programme can be downloaded from the following address: [http://ec.europa.eu/dgs/education\\_culture/promo/creative-europe/eps/eps.zip](http://ec.europa.eu/dgs/education_culture/promo/creative-europe/eps/eps.zip)

## **11.2 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.

## **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.

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 available on the Agency'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 SELECTION OF PROPOSALS**

### **13.1. Publication**

Following the adoption of the Annual Work Programme, the call for proposals will be published in the Official Journal of the European Union and will be accessible on the MEDIA Sub-programme website at the following address: [https://eacea.ec.europa.eu/creative-europe/funding/distribution-support-sales-agents\\_en](https://eacea.ec.europa.eu/creative-europe/funding/distribution-support-sales-agents_en).

### **13.2 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.

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>

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 on the following link: [https://eacea.ec.europa.eu/creative-europe/funding/distribution-support-sales-agents\\_en](https://eacea.ec.europa.eu/creative-europe/funding/distribution-support-sales-agents_en)

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

For this action, 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 relevant deadlines 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.

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 eForm 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 eForms are attached to the eForm.

In addition, a set of compulsory annexes that cannot be submitted online have to be sent to the Agency by post.

Generation Stage:

- The Financing Plan, including the Total Production Cost, certified by the lead producer. The Financing Plan should identify the (co)producer(s) of the film (as officially credited) and their share in the (co)production.
- A copy (complete with annexes and without alterations) of the international sales contract/ agreement with the producer with the handwritten statement " Copy certified as true" signed by the legal representative of the company (the date of the contract must be on 31/12/13 at the latest).

To be sent only if these documents have not already been supplied to the Agency as a part of a previous application.

Reinvestment Stage

Module 1: n/a

Module 2: The Financing Plan, including the Total Production Cost, certified by the lead producer. The Financing Plan should identify the (co)producer(s) of the film (as officially credited) and their share in the (co)production.

To be sent only if the film has not already been qualified.

The package must indicate:

the name of the company:

PIC number

the country of distribution:

the title of the film:

the E-form confirmation number:

Address to which the documents must be sent:

**Education, Audiovisual & Culture Executive Agency**

Creative Europe Programme (2014–2020)

MEDIA Sub-programme – SALES AGENTS SCHEME

Avenue du Bourget 1

BOUR 03/66

BE – 1049 Brussels

Belgium

Only applications submitted on the correct form, duly completed, dated and signed by the person authorised to enter into legally binding commitments on behalf of the applicant organisation will be accepted.

No changes to the dossier can be made after the deadline for the submission of applications. 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.

**13.4 Evaluation procedure**

The “Sales Agents” scheme works in two successive stages:

- The generation of the potential fund

- The reinvestment of the potential support

These two stages can be summarised as follows:

<b>Deadline</b>	<b>Stage 1: GENERATION</b>	<b>Stage 2: REINVESTMENT</b>
<b>Sales Agent</b>	Application from the sales agent for the generation of the support <b>Deadline: 18 June 2014</b>	Presentation of reinvestment actions : within 6 months of the signature of the international sales agreement with the producer <b>and by 1 March 2016</b>
<b>Agency</b>	- Calculation of the potential Fund generated - Notification of approval (or rejection) of its available potential Fund and of the reinvestment rules	- Acceptance/Rejection of the reinvestment project - Signature of the agreement between the Agency and the beneficiary
<b>Legal commitment or payment of a Union Financial Contribution</b>	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.

### 13.5 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 informed the list of selected proposals will be published on the websites of the Commission/ Agency: [http://eacea.ec.europa.eu/creative-europe/selection-results\\_en](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.

### 13.6 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) 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, Euratom) No 1295/ 2013 of the European Parliament and of the Council of 11<sup>th</sup> 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 L347, 20.12.2013, p.221).

### **13.7 Contacts**

If you have any questions, please contact:

[EACEA-DISTRIBUTION-SALESAGENTS@ec.europa.eu](mailto:EACEA-DISTRIBUTION-SALESAGENTS@ec.europa.eu)

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

[http://ec.europa.eu/culture/creative-europe/creative-europe-desks\\_en.htm](http://ec.europa.eu/culture/creative-europe/creative-europe-desks_en.htm)

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)