

## QUESTIONS

Received during and after Project implementation training on 29.03.2017 in Haskovo  
Concerning implementation of projects under the First Call of Interreg IPA CBC Bulgaria – Turkey Programme

No	Question	Answer
1	<p>In the AF, point 1.3. Joint Staffing the project team consists of 1 Project manager, 1 Financial manager, 1 Coordinator Survey, 1 Coordinator Web&amp;Video, located in Haskovo. In the AF, point 3.5. Project activities description, the role of every member of the team is described. In the AF, point 4 of the project the roles of the team members are described also.</p> <p>Is it possible the staff of the project to consist of only one Project manager since the total amount of BL 1 Staff costs is 6933 Euro for the duration of the project 15 months?</p>	<p>As pointed out in the question, you have described the role of every team member necessary for the achievement of project's outputs and results in the AF, sections 3.5 and 4. If there is a need of modification of the total number of staff members as per AF and/or the positions/responsibilities, it is considered a change in the content of the project. The LP should follow the instructions set in PIM, section 8.4. "Modifications concerning the project's content".</p> <p>In case you decide to appoint only a Project manager, you have to clearly specify his/her functions and responsibilities, taking into account the specific expertise initially identified as required (Coordinator Survey, Coordinator Web&amp;Video, etc.)</p>
2	<p>One of the services we have to contract is at the amount of 13000 Euro. According to PRAG we have to follow the Single tender procedure. Can we procure the service to natural persons? What are the requirements for natural persons accordingly?</p>	<p>The requirements for the eligibility of the applicants are set out in point 11 "Eligibility" of Annex B.2.a of PRAG, as follows:</p> <p>"Participation is open to all natural persons who are nationals of and legal persons (participating either individually or in a grouping – consortium - of tenderers) which are effectively established in a Member State of the European Union or in a eligible country or territory as defined under the Regulation (EU) N°236/2014 establishing common rules and procedures for the implementation of the Union's instruments for external action (CIR) for the applicable Instrument under which the contract is financed. Participation is also open to international organisations".</p>
3	<p>In the attached to PRAG annexes for Single tender procedure there is a template for a Service tender submission form. It only mentions legal entities as potential contractor. If we are allowed to contract the service with natural persons what form are we expected to use?</p>	<p>Annex b8o7 Service tender submission form has to be submitted by any natural or legal person(s) eligible to participate in the procedures for the award of procurement contracts or grants. The form is intended to be filled in with the respective information regarding the potential contractor – natural or legal person.</p> <p>For example, in section 3 of the form - "Economic and financial capacity" it is specified that "natural persons must prove their capacity in accordance with the selection criteria and by the appropriate means".</p>

4	<p>Are we expected to cumulate the amounts of the separate services as in the National Procurement Act?                  Are there certain rules for the accumulation of services when developing a tender procedure?</p> <p>How to proceed with implementation of the NPA and PRAG when applying certain procurement procedures?</p>	<p>Services / supplies / works of the same / similar nature should be included in one procurement procedure. In case the project partner intends to conclude two or more contracts with one and the same contractor, regardless whether they have to be procured or not, all the related expenditures should be planned as one combined contract or procurement procedure in the initial PPP if the subject of the activities is identical/similar.</p> <p>In case a Project partner implements simultaneously more than one project under the Instrument for Pre-accession Assistance, i.e. other contracts will be awarded under the provisions for EU external actions (Chapter 3 of Title IV of Part Two of Regulation (EU, Euratom) No 966/2012 and of Chapter 3 of Title II of Part Two of Delegated Regulation (EU) No 1268/2012), they are obliged to plan and implement the respective tender procedures so that the applicable procurement rules and thresholds are respected.</p> <p>According to Article 10 of the Subsidy Contract the LP shall ensure that the provisions of Chapter 3 of Title IV of Part Two of Regulation (EU, Euratom) No 966/2012 and of Chapter 3 of Title II of Part Two of Delegated Regulation (EU) No 1268/2012 are strictly followed, when the LP or project partners have to conclude contracts in order to carry out the operation. These provisions are applicable to the whole programming region on the territory of the member state and the IPA II grant beneficiary country/ies.</p> <p>The contracting procedures applying to all EU external actions are explained in the Practical Guide for Procurement and Grants for European Union external actions (PRAG).</p>
5	<p>Does the MA have certain approach to the restrictive criteria in the TOR in relation to external experts? Can there be given some examples of restrictive criteria to be avoided?</p>	<p>The capacity of the candidate or tenderer to implement the contract has to be assessed on the basis of objective criteria set out in Section 2.4.11.1. Selection criteria of PRAG.</p> <p>Examples of criteria that should be avoided:</p> <ul style="list-style-type: none"> <li>-Requesting experience in the country;</li> <li>- Requesting technical experience relating to EU projects only, as this may in general be regarded as discriminatory;</li> <li>- Requesting prior experience in the partner country, unless specific justification is provided, as this could in general be regarded as discriminatory;</li> <li>- Requesting technical experience in an overly prescriptive manner which effectively restricts the number of eligible candidates to one or a few</li> </ul>

		<p>individuals.</p> <p>When formulating the criteria, the beneficiaries should also avoid usage of imprecise terms such as 'sufficient', 'major', 'relevant' as it is not absolutely clear what these words mean in the context.</p>
6	<p>Does the derogation concerning contracting physical persons still exist when the expenses fall in the thresholds of Single tender procedure?</p> <p><i>N.B. In the previous programming period there has been derogation for usage of Single tender procedure under PRAG when there was clear indication that the service would be provided by a person.</i></p>	<p>Contracting physical persons should follow the respective service procedure in relation to the thresholds given in PRAG, based on the maximum budget for the contract in question.</p> <p>The PIM for the First Call for Proposals under the INTERREG IPA CBC 2014 – 2020 Programme does not provide derogation from PRAG rules for contracting physical persons when the value of the service contract fall within the threshold of the Single tender. Such derogation was given in the Third Call for Proposals under the IPA CBC Bulgaria – Turkey Programme 2007 – 2013, i.e. <i>“When the value of the contract falls within the thresholds of the simplified procedure (up to 20,000 Euros - Single Tender) and if in the project budget (usually in BL 5) or elsewhere in the application form is clearly specified that the activity will be performed by expert (individual), the tender procedure under PRAG is optional.”</i></p>
7	<p>When a municipality has to contract supplies under the project which are commonly purchased by the municipality by a framework contract concluded under the National Procurement Act, is it obliged to implement a separate PRAG procedure for that expenditure or the frameworks contract can be used?</p>	<p>According to Article 10 of the Subsidy Contract the LP shall ensure that the provisions of Chapter 3 of Title IV of Part Two of Regulation (EU, Euratom) No 966/2012 and of Chapter 3 of Title II of Part Two of Delegated Regulation (EU) No 1268/2012 are strictly followed, when the LP or project partners have to conclude contracts in order to carry out the operation. These provisions are applicable to the whole programming region on the territory of the member state and the IPA II grant beneficiary country/ies.</p>
8	<p>Are payments made according to the same principle as submission of Request for FLC, i.e. to every separate partner?</p>	<p>According to <b>art. 9 Requests for payment and reimbursement of the expenditures</b> and <b>art. 10 Rights and duties of the LP of the Subsidy Contract</b> the Lead Partner must send a request for payment (in a model for Request for payment annexed to the Project Implementation Manual) to the Managing Authority.</p> <p>The Request for payment has to be submitted through the BP.</p>
9	<p>When the costs for project preparation have to be paid?</p>	<p>In accordance with <b>p. 2.5.3 Eligibility of expenditures of the Guidelines for Applicants</b> and <b>p. 7.9 Financial and accounting documentation of the project of the PIM</b> the project preparation expenditures should be carried out before or on the date of submission of the project proposals at the latest. It means</p>

		that all supporting documents as invoices, acceptance protocols, lists, etc., should be issued before or on the date of submission of the project proposal to the Managing authority at the latest. The expenses for project preparation should be requested for reimbursement and verified only in the first request for reimbursement of the respective project partner and in accordance with the guidelines from the Managing Authority. The payment has to be done not later than the first request for FLC under the project, reporting expenditures of the related project partner.
10	Does the 15 % limit of BL2 include the maintenance costs?	<p>In accordance with <b>p. 2.5.3 Eligibility of expenditures of the Guidelines for Applicants</b> and <b>p. 7.9 Financial and accounting documentation of the project of the PIM</b> the Office and administrative costs (BL2) must be reported as flat rate on the basis of the concrete percentage of the direct costs, envisaged in the budget of the respective project partner.</p> <p>The amount of the Office and administrative costs (BL2), which could be requested for reimbursement, depends on the amount of the direct costs spent during the reporting period.</p> <p>The expenditures on office and administrative costs cover operating and administrative expenses of the partner organization that support delivery and implementation of project activities such as: Rent of office, Overheads, Consumables, Bank charges and Maintenance costs.</p>
11	Is appointment of tender evaluation committee compulsory in Single tender procedures? Who is conducting the negotiations in Single tenders?	<p><i>Establishment of Evaluation committee is not required</i> in case of single tender procedures (<math>\leq 20,000</math> €).</p> <p>The Beneficiary shall describe the selection process in Annex A10_b of the PRAG (<i>Negotiation report for single tender procedure</i>) for all type of contracts (service, supply and works), explaining the manner in which the participant(s) in the <i>negotiations</i> were identified and the price was established, and the grounds for the award decision. The Contracting Authority must follow the <i>negotiation steps</i> shown in the negotiation report template and ensure that basic principles relating to procurement procedures such as checking compliance with eligibility rules (nationality rules), capacity to carry out the contract and exclusion criteria are duly applied. The negotiation report must be approved by the contracting authority.</p>
12	Do we have to present a declaration for de-minimis from each	During the life-cycle of the project the Bulgarian project partners have to

	<p>participant in training organized under the project?</p>	<p>ensure that all activities are implemented in compliance with the respective national legislation related to competition and state aid. It should be minded that recipient of state aid can be any undertaking (individual or legal person) receiving an advantage through the project that it would not have received under normal market conditions. This means that the rules for state aid apply to all undertakings – either participating as project partners, or third parties such as participants in project activities like trainings, seminars, workshops etc. receiving benefits from the project.</p> <p>Under some projects a certain amount is granted in the form of de minimis aid for implementation of particular activity/activities by a particular project partner. These conditions for each project are reflected in Article 6 of the Subsidy Contract. When the partner is not the final user of the aid, i.e. implementation of this activity/activities will give advantage to third parties the undertakings which represent third parties can receive de minimis aid under the project only if they have not received public aid under the de minimis rule totalling more than 200 000 EUR within three fiscal years from the date of granting the aid.</p> <p>In cases when the indicated in the Subsidy Contract activity/activities is related to organizing trainings each participant in the training should present a de minimis declaration. It is the responsibility of project partner to ensure that the declarations are signed in order to verify that the conditions related to compliance with state aid and de minimis rules are met.</p>
13	<p>If participants in trainings are invited by public announcement does the hypothesis of state aid exist?</p>	<p>Although the participants in a particular event – a training organized within project activities, have been selected through a public announcement with a wide range of distribution through various types of media if there is any possibility that a certain participant in the training will gain advantage through the project that it would not have received under normal market conditions there is a situation for distorting competition. The project partners must ensure publicity and transparency of the project activities and project outputs and results in order to avoid situations for awarding state aid to third parties due to favourable conditions or attitude to specific undertakings. They must observe closely for compliance with the state aid rules during the whole implementation period of a project and inform the MA in case a situation which can create an economic advantage to an economic operator arises.</p>

14	If the participants in training are children, do they have to sign declarations of de-minimis?	The State aid case law always considers if the granted measure confers to an economic undertaking. It is important to analyse if the recipient of the aid is an undertaking – and undertaking can be any entity engaged in an economic activity, regardless of its legal status. An undertaking can be either an individual or a legal body since it provides services or supplies goods to a certain market and in these means performs an economic activity. The application of the state aid rules consists of assessment whether a certain entity carries out an economic activity in the content of a particular project activity.
15	How is the amount of the state aid calculated for each single participant in training under a project?	<p>The question is answered in point 12 above.</p> <p>“Under some projects a certain amount is granted in the form of de minimis aid for implementation of particular activity/activities by a particular project partner. These conditions for each project are reflected in Article 6 of the Subsidy Contract. When the partner is not the final user of the aid, i.e. implementation of this activity/activities will give advantage to third parties the undertakings which represent third parties can receive de minimis aid under the project only if they have not received public aid under the de minimis rule totalling more than 200 000 EUR within three fiscal years from the date of granting the aid.</p> <p>In cases when the indicated in the Subsidy Contract activity/activities is related to organizing trainings each participant in the training should present a de minimis declaration. It is the responsibility of project partner to ensure that the declarations are signed in order to verify that the conditions related to compliance with state aid and de minimis rules are met”.</p> <p><b>The partners located on the territory of Republic of Turkey shall follow the applicable national regulations regarding state aid.</b></p>
16	Is it necessary of all the contracts ( excluding the contracts under PRAG), accounting documents, acceptance protocols, timesheets and other supporting documents to be supported by English translation? Is it necessary the English version to be verified by a certified translator?	<p>All contracts, accounting documents, acceptance protocols, timesheets and other supporting documents have to be prepared in accordance with the national legislation.</p> <p>It is acceptable the supporting documents to be supplied with English translation, prepared, stamped and signed by the legal representative of the respective organization.</p>