

Interreg CENTRAL EUROPE Programme

SECOND CALL FOR PROPOSALS (2016)

Application manual - Annex V.2:

Template of lead applicant and State aid declarations

Private institutions

Section 1: identification

Project acronym	<input type="text"/>
Index No.	<input type="text"/>
Name of the organisation in original language	<input type="text"/>
Name of the organisation in English language	<input type="text"/>
Partner No	Lead partner

The undersigned, representing the

in view of submitting a project proposal to the Interreg CENTRAL EUROPE Programme hereby certifies the following:

Section 2: lead applicant declaration

1. I am legally authorised to sign this statement on behalf of my organisation;
2. The total budget of my organisation within the project amounts to EUR .

In the event of approval of the project proposal, the organisation I represent commits itself to the project and to provide EUR as national co-financing to the project budget.

3. The legal status of my organisation, as defined in Part B, chapter II.1.1. of the application manual, belongs to the following category (please select):

☐ Private institutions, including private companies, having legal personality

4. The organisation I represent is not in any of the situations referred to in art. 106(1) and 107 of Regulation (EU, Euratom) No 966/2012, applicable by analogy.
5. The organisation I represent is not in difficulty within the meaning of point 24 (in conjunction with point 20) of the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (OJ C 249, 31.07.2014, p. 1);
6. All information concerning the participation of my organisation in the project proposal, as enclosed in the application form, has been verified and it is correct;
7. The organisation I represent has the adequate legal capacity to participate in the Interreg CENTRAL EUROPE call for proposals and especially to submit legally relevant documents;
8. The organisation I represent has the financial capacity to implement the project proposal and in particular:
 - The proposed financial commitment is adequate to the organisation's size and capacity;
 - It has the capacity of providing advanced payments also for considerable amounts;

- Eventual delays in ERDF reimbursement will not undermine the organisation's capacity of implementing the foreseen actions within the project;
 - Its financial involvement in the project does not undermine the organisation's daily activities.
9. The organisation I represent has the administrative and operational capacity to implement the project proposal and in particular:
- It has enough human resources to ensure a sound project implementation and management;
 - It has appropriate technical means to ensure a sound project implementation;
 - Its administrative involvement in the project does not undermine the organisation's daily activities.
10. The project proposal, as described in the application form, is unique in its objective, approach and activities to the best of my knowledge;
11. The information included in the application form is accurate and true to the best of my knowledge;
12. The project proposal, or any part of it, has not and will not receive support from other EU-funded programmes. In the event that any of such funding is received after the submission of this proposal or during the implementation of the project, my organisation will immediately inform the managing authority;
13. The project proposal is in line with the relevant EU legislation, programme rules and - where relevant - national legislation and policies of the countries involved. In particular all necessary approvals and permissions have been obtained;
14. In the event that the project proposal is approved for funding, the programme authorities have the right to publish the name and address of my organisation, the main contents of the project proposal (title, project focus), the amount awarded and the rate of funding.
15. My organisation, and all persons representing it in the project, is familiar with the content of the Interreg CENTRAL EUROPE Cooperation Programme as well as with the conditions for support from the programme as set in the implementation manual and in the model of subsidy contract, and understands what its respective obligations will be in case the project is approved and the subsidy is awarded.¹ In particular my organisation, in its role of lead partner, is aware that:
- It will conclude the subsidy contract with the programme managing authority representing the partnership in the context of the project implementation;
 - It will conclude a partnership agreement with all partners as required by Article 13(2) lit. (a) of Regulation (EU) No 1299/2013;²
 - It will establish a financial guarantee for an amount equal to the total budget of my organisation within the project
 - It will bear the overall financial and legal responsibility for the entire project and for all partners as required by Article 13(2) lit. (b) of Regulation (EU) No 1299/2013.
16. My organisation acknowledges that the project proposal will be rejected when not passing the financial capacity check performed within the assessment of the submitted project proposal in compliance with Part D, chapter V.1 of the application manual.

Section 3: State aid declaration

Introduction

The State aid declaration serves to collect necessary information that the Interreg CENTRAL EUROPE Programme will use in order to ensure that the project, if selected for funding, will comply with the applicable State aid rules.

The State aid declaration is also to be regarded as a tool helping applicants in self-assessing the State aid relevance of the activities they are planning within the project. This self-assessment goes along the following key questions, in line with the principles described in Part B, chapter II.7.7 of the application manual and as further detailed in chapter C.1.5.2 of the programme implementation manual:³

1. *Is the applicant acting as an undertaking carrying out an economic activity in the context of*

the project?

2. *If yes, does the aid give an economic advantage (a benefit) selectively to the undertaking, which it would not have obtained under normal market conditions?*

Furthermore, the State aid declaration collects necessary information on indirect aid potentially granted by the project to final beneficiaries (e.g. target groups) as well as on the status of the applicant vis-à-vis the State aid discipline.

Prior filling in this declaration, applicants are warmly invited to consult the programme implementation manual which, as mentioned, in chapter C.1.5.2 contains detailed information on how the Interreg CENTRAL EUROPE Programme applies the State aid discipline.

3.1 Economic activities implemented by the applicant within the project

State aid occurs when the recipient of the aid is an “undertaking”. Undertaking is an entity engaged in an “economic activity” in the context of the project. Any project partner offering goods or services on a market in the context of the project is an undertaking, regardless of its legal status (public or private) and whether its aim is to make profit or not. An undertaking can be a SME, a large company, a public body, a charity, a NGO, an association, a university, etc.

An “economic activity” is broadly defined as offering goods or services on a given market. If the project partner carries out non-economic activities in the project, there is no State aid even if this organisation normally (i.e. outside the Interreg project) carries out activities of economic nature. The contrary (i.e. economic activities are performed in the project by an organisation that normally does not carry out economic activities) can also occur, thus resulting in State aid relevance.

In order to assess whether there is an economic activity, the key question is: “could in principle this activity be carried out by a body in order to make a profit?” If so, the activity will most likely be considered “economic” and thus, the partner will be considered an “undertaking”.

- 3.1.1 In the context of the project, does your organisation undertake any activities and/or develop/offer goods/services for which a market exists?⁴

☐ YES as further described below

☐ NO

- 3.1.2 In the context of the project, does your organisation implement activities or provide goods/services that could be carried out or provided by an operator in order to make profit (even if this is not the intention of your institution)?

☐ YES as further described below

☐ NO

- 3.1.3 In case your organisation, within the project, plans to carry out any activities involving construction of infrastructure, will this infrastructure be exploited commercially and/or will it be not available for public use for free?⁵

- ☐ YES as further described below
- ☐ NO
- ☐ Not applicable

In case that in any of the above questions the answer is “yes”, please describe the concerned activities carried out in the project by your organisation. Please also include in the description the reference (code) to the concerned project activity(ies), deliverables and outputs as listed in section D of the full application form (e.g. activity A.T1.1, output O.T1.1, deliverable D.T1.1.1).

Work package	Description of activities, outputs, deliverables (max 1000 characters per cell)
WP management	

WP communication	
Thematic WP 1	

Thematic WP 2	
Thematic WP 3	

Thematic WP 4	
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3.2 Advantage gained by the applicant within the project

(to be filled in only if any of the questions under section 3.1 is marked as yes)

In order to qualify as State aid relevant, project activities carried out by your organisation which are identified as “economic” (section 3.1 above) shall bring a selective advantage to your organisation which you would not have obtained under normal market conditions. This might also take the shape of relieved costs that your organisation would normally bear. If there is no selective advantage or benefit to the applicant, then there is no State aid.

Please note that in case of State aid relevance of activities carried out by your organisation in the context of the project, contractual conditions may be set in the subsidy contract which may include:

- *Obligation in implementing the concerned activities through third parties selected according to public procurement rules;*
- *The respect of the open-access principle.*

3.2.1 Does your organisation gain any benefits from the economic activities mentioned under section 3.1, which would not have received in the normal course of business, i.e. in the absence of funding granted through the project?

☐ YES as further described below

☐ NO

3.2.2 Is your organisation relieved of any costs from the economic activities mentioned under section 3.1, which would not have happened in the normal course of business, i.e. in the absence of funding granted through the project?

☐ YES as further described below

☐ NO

In case that in any of the question in this section (section 3.2) the answer is “yes”, please describe the selective advantage gained by- and/or the relieved costs for- your organisation for each of the activities identified in section 3.1.

Work package	Description of the advantage (max 1000 characters per cell)
WP management	
WP communication	

Thematic WP 1	
Thematic WP 2	

Thematic WP 3	
Thematic WP 4	

3.3 Indirect aid to third parties

State aid is granted to third parties in the case of an advantage granted by the project (usually in the form of services, trainings, consultancy, etc.) to an undertaking outside the project partnership that it would not have received under normal market conditions. It may be the case of project target groups which benefit of activities performed within the project. Examples are:

- *Consultancy or other services (e.g. energy audits) provided for free to companies;*
- *Training courses provided for free to companies;*
- *Use for free of research facilities by companies.*

In such case the project partner may not receive State aid within the project, but it transfers the aid to third parties outside the project partnership.

3.3.1 Does any economic operator (e.g. SMEs) that is outside the project partnership (i.e. not listed as project partner in the application form) receive an advantage through activities carried out by your organisation within the project?

☐ YES as further described below

☐ NO

In case that the answer to the above question is yes, please describe the concerned activities carried out in the project by your organisation, also including information on who will be the possible final beneficiary of the aid (e.g. SMEs of a certain sector located in a certain region). Please also include in the description the reference (code) to the concerned project activity(ies), deliverables and outputs as listed in section D of the full application form (e.g. activity A.T1.1, output O.T1.1, deliverable D.T1.1.1).

Work package	Description of activities, outputs, deliverables and the respective recipients of aid (max 1000 characters per cell)
WP management	

WP communication	
Thematic WP 1	

Thematic WP 2	
Thematic WP 3	

Thematic WP 4	
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3.4 Status of the applicant *vis-à-vis de minimis* aid

Public support given to undertakings in the framework of the Interreg CENTRAL EUROPE Programme is granted under the de minimis rule.⁶ This implies that undertakings can receive grants from the programme only if they have not received public aid under the de minimis rule totalling more than EUR 200.000 within three fiscal years from the date of granting the aid.⁷ This ceiling is reduced to EUR 100.000 in the road transport sector while other sectors as agriculture, aquaculture and fisheries have even lower ceilings. Furthermore, aid to export-related activities and aid contingent upon the use of domestic over imported good cannot be granted under the de minimis rule.

The de minimis threshold counts per “single undertaking”. In case a project partner is part of a group, the entire group is considered as one single undertaking and the de minimis threshold applies to the entire group.⁸ This could be for example the case of a company owning (or controlling) one or more companies, or the different departments of one university. The notion of single undertaking includes all enterprises having at least one of the following relationships with each other, as provided for in Article 2(2) of Regulation (EU) No 1407/2013 on de minimis aid:

- a. One enterprise has a majority of the shareholders’ or members’ voting rights in another enterprise;
- b. One enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
- c. One enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;
- d. One enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders’ or members’ voting rights in that enterprise.

Enterprises having any of the relationships referred to in the above points through one or more other enterprises shall also be considered to be a single undertaking.

It is to be noted that in the framework of State aid, an “enterprise” is to be understood as any entity engaged in an economic activity irrespective to its legal status. This could include public bodies, associations, charities, universities, etc.

The amount of de minimis aid granted to an undertaking within an Interreg CENTRAL EUROPE project is ultimately linked to the respect of the de minimis threshold at the moment of granting

the aid. Information concerning previous aid received under the de minimis rule is to be provided with this declaration. An updated self-declaration on previous de minimis aid is to be provided in case the project proposal is selected for funding, prior to signing the subsidy contract.

3.4.1 Please select those statements that apply to State aid relevant activities (as identified in section 3.1) carried out in the project by your organisation (please select only one option):

- ☐ State aid relevant activities carried out in the project by my organisation belong to the road freight transport sector.⁹
- ☐ State aid relevant activities carried out in the project by my organisation are related to the primary production of agricultural products.¹⁰
- ☐ State aid relevant activities carried out in the project by my organisation concern the processing¹¹ and marketing¹² of agricultural products.
- ☐ State aid relevant activities carried out in the project by my organisation fall in the fishery and aquaculture sector.
- ☐ In the context of the project my organisation carries out export-related activities towards third countries or Member States. The project budget is directly linked to the quantities exported, to the establishment and operation of a distribution network or to other current costs linked to the export activity.
- ☐ My organisation seeks support for aid contingent on the use of domestic over imported goods.
- ☐ None of the above statements apply to my organisation.

3.4.2 Please select those statements that apply to your organisation (please select only one option):

- ☐ My organisation is subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market.
- ☐ My organisation is an undertaking in difficulty.¹³
- ☐ None of the above statements apply to my organisation.

3.4.3 For my organisation the fiscal year covers the following period of every year:

<p>From:</p> <table border="1" style="margin-left: 40px; border-collapse: collapse;"> <tr> <td style="width: 50px; height: 30px; border: 1px solid black;"></td> <td style="width: 50px; height: 30px; border: 1px solid black;"></td> </tr> </table> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> dd mm </div>			<p>To:</p> <table border="1" style="margin-left: 40px; border-collapse: collapse;"> <tr> <td style="width: 50px; height: 30px; border: 1px solid black;"></td> <td style="width: 50px; height: 30px; border: 1px solid black;"></td> </tr> </table> <div style="display: flex; justify-content: space-around; margin-top: 5px;"> dd mm </div>		

3.4.4 My organisation and all other entities belonging to the same group as my organisation (according to the notion of “single undertaking” as defined in Article 2(2) of Regulation (EU) No 1407/2013 on *de minimis* aid) benefited of the following public aid under the *de minimis* regime in the current and in the two previous fiscal years (to be filled in only if applicable):

Organisation granting the <i>de minimis</i> aid	Member State which granted <i>de minimis</i> aid	Beneficiary of the <i>de minimis</i> aid	Amount of the granted aid (EUR)	Date of granting the aid (dd.mm.yyyy)
Total				

Amount of aid indicated in the above table shall be expressed as cash grant and shall be gross, i.e. before any deduction of tax or other charge. Where aid is granted in a form other than a grant (e.g. guarantees and loans), the aid amount shall be expressed as gross grant equivalent, calculated in compliance with Article 4 of Regulation (EU) No 1407/2013 on *de minimis* aid.

Section 4: Signature

- In case of project approval, I commit myself - under penal law - to inform the managing authority and joint secretariat of the Interreg CENTRAL EUROPE Programme if, after the date of signature of this declaration, the conditions underlying this declaration have changed.
- I acknowledge that untruthful/false declarations, in addition to the administrative sanctions and the request for refunding unduly received contribution charged with the interests, can also be prosecuted by the penal code.

Place/date:

Signature(s) and official stamp of the organisation:

Name(s) and status of signatory(ies)
(Legal representative)¹⁴:

Notes

1. The Interreg CENTRAL EUROPE Cooperation Programme, the programme implementation manual and the standard template of subsidy contract are available for download at www.interreg-central.eu.
2. The standard template of partnership agreement is available for download at www.interreg-central.eu.
3. The programme implementation manual is available for download at www.interreg-central.eu.
4. The decision of an institution not to acquire from third parties a certain service (e.g. because it wishes to implement the service in-house) does not rule out the existence of an economic activity. In spite of such market closure, an economic activity can exist where other operators would be willing and able to provide the service in the market concerned. More generally, the fact that a particular service is provided in-house has no relevance for the economic nature of the activity.
5. The future use of infrastructure (for an economic activity or not) determines whether the funding of its construction falls within the scope of State aid. The construction of any type of infrastructure that is meant to be exploited economically, is an economic activity in itself. This implies that State aid rules apply to the way in which it is funded. Public funding of general infrastructure such as public roads, bridges or canals which are made available for public use without any charge and not for commercial exploitation are non-economic.
6. As provided for in Regulation (EU) No 1407/2013 on de minimis aid.
7. Date of signature of the subsidy contract.
8. The European Court of Justice has ruled that all entities which are controlled (on a legal or on a de facto basis) by the same entity should be considered as a single undertaking [Case C-382/99 Netherlands v Commission [2002] ECR I-5163].
9. Please note that the provision of an integrated service where the actual transportation is only one element such as removal services, postal or courier services or waste collection or processing services, should not be considered a transport service.
10. Agricultural products means products listed in Annex I to the Treaty, with the exception of fishery and aquaculture products covered by Regulation (EC) No 104/2000.
11. Processing of agricultural products means any operation on an agricultural product resulting in a product which is also an agricultural product, except on-farm activities necessary for preparing an animal or plant product for the first sale.
12. Marketing of agricultural products means holding or display with a view to sale, offering for sale, delivery or any other manner of placing on the market, except the first sale by a primary producer to resellers or processors and any activity preparing a product for such first sale; a sale by a primary producer to final consumers shall be considered as marketing if it takes place in separate premises reserved for that purpose.
13. As defined in point 24 (in conjunction with point 20) of the "Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty" (Communication from the Commission No. 2014/C 249/01 of 31.07.2014).
14. In case the Signatory is different than the legal representative, an official delegation has to be provided.

Abstract¹ of the
Regulation (EU, Euratom) 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 and repealing
Council Regulation (EC, Euratom) No 1605/2002
(OJ L 298 of 26/10/2012, p.1.)
Articles 106(1) and 107

Article 106

Exclusion criteria applicable for participation in procurement procedures

1. Candidates or tenderers shall be excluded from participation in procurement procedures if:
 - (a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
 - (b) they 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 contracting authority 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 contracting authority or those of the country where the contract 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's financial interests;
 - (f) they are subject to an administrative penalty referred to in Article 109(1).

Points (a) to (d) of the first subparagraph shall not apply in the case of the purchase of supplies on particularly advantageous terms from a supplier which is definitively winding up its business activities or from the receivers or liquidators of a bankruptcy, through an arrangement with creditors, or through a similar procedure under national law.

Points (b) and (e) of the first subparagraph shall not apply where the candidates or tenderers can demonstrate that adequate measures have been adopted against the persons having powers of representation, decision making or control over them, who are subject to a judgement as referred to in points (b) or (e) of the first subparagraph.

2. In the case of a negotiated procedure where, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the contract can be awarded only to a particular economic operator, the institution may decide not to exclude the economic operator concerned on the grounds referred to in points (a), (c) and (d) of the first subparagraph of paragraph 1, if it is indispensable to do so in order to ensure the continuity of service of the institution. In such cases, the institution shall duly justify its decision.

¹This is a complimentary abstract for information purposes only. The only legally valid text is the one published on the Official Journal of the European Union.

3. Candidates or tenderers shall certify that they are not in one of the situations listed in paragraph 1. However, the contracting authority may refrain from requiring such certification for very low value contracts.

For the purpose of the correct application of paragraph 1, the candidate or tenderer, whenever requested by the contracting authority, shall:

- (a) where the candidate or tenderer is a legal person, provide information on the ownership or on the management, control and power of representation of the legal person and certify that they are not in one of the situations referred to in paragraph 1;
 - (b) where subcontracting is envisaged, certify that the subcontractor is not in one of the situations referred to in paragraph 1.
4. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on:
 - (a) the exclusion criteria applicable for participation in calls for tenders, including rules on illegal activities giving rise to exclusion;
 - (b) what evidence may be satisfactory to show that an exclusion situation does not exist;
 - (c) the duration of an exclusion. Such exclusion shall not exceed 10 years.

Article 107

Exclusion criteria applicable to awards

1. A contract shall not be awarded to candidates or tenderers who, during the procurement procedure for that contract:
 - (a) are subject to a conflict of interests;
 - (b) are guilty of misrepresenting the information required by the contracting authority as a condition of participation in the procurement procedure or fail to supply that information;
 - (c) find themselves in one of the situations of exclusion, referred to in Article 106(1), for the procurement procedure.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on the exclusion criteria applicable during the procurement procedure, and the establishment of what evidence may be considered satisfactory to show that an exclusion situation does not exist. Furthermore, the Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning the duration of an exclusion.