



PL-BY-UA
2014-2020

ENI CROSS-BORDER COOPERATION PROGRAMME
POLAND-BELARUS-UKRAINE 2014-2020

**PROJECTS ADDRESSING MIGRATORY
CHALLENGES
DIRECT AWARD
MANUAL**

LIST OF ACRONYMS

AaE check	Administrative and eligibility check
CBC	Cross-border Cooperation
EC	European Commission
ENI	European Neighbourhood Instrument
ENPI	European Neighbourhood and Partnership Instrument
EU	European Union
FAF	Full Application Form
JTS	Joint Technical Secretariat
IR	Commission Implementing Regulation (EU) No 897/2014 of 18 August 2014 laying down specific provisions for the implementation of cross-border cooperation programmes financed under Regulation (EU) No 232/2014 of the European Parliament and the Council establishing a European Neighbourhood Instrument with further amendments
JMC	Joint Monitoring Committee
JOP	Joint Operational Programme
MA	Managing Authority

LIST OF ANNEXES

- Annex no. 1. Concept note
- Annex no. 2. Full Application Form (simplified, based of Project Description and Project Budget)
- Annex no. 3. Budget of the project
- Annex no. 4. Other annexes to the FAF
- Annex no. 5. Full Application Form assessment checklist

1. Background, legal basis, indicative activities

1.1. Background & general conditions

As a result of the Russian unprovoked military aggression against Ukraine, supported by Belarus, the European Union and its eastern regions in particular, as well as the western parts of Ukraine are facing a substantial inflow of displaced persons. That inflow poses an additional challenge to the Member States and other countries bordering Ukraine, which could spread further to other Member States, especially at a time when their economies are still recovering from the impact of the COVID-19 pandemic.

Additionally Ukraine's economy is severely impacted by Russia's war of aggression. Exports in particular have been drastically constrained due to the blockade of Ukrainian Black Sea ports by the Russian navy as these ports accounted for 90% of export of grain and oilseeds before the war. Following the Commission communication¹ on an action plan for EU-Ukraine Solidarity Lanes to facilitate Ukraine's agricultural export and bilateral trade with the EU, the Programme is committed to supporting Ukraine's economy and economic recovery, as well as to contributing to stabilizing world food markets and improving global food security.

Taking into consideration the significance of migratory challenges in Ukraine, Poland and Ukrainian-Polish border, as well as supporting Ukraine's economy and economic recovery, based on the provisions of article 11 of the Regulation (EU) No 2022/2192, the Programme responds to these challenges by selecting projects under a direct award procedure.

Projects addressing migratory challenges, including the actions described under the "Action plan for EU-Ukraine Solidarity Lanes", as a result of the Russian military aggression against Ukraine may be approved for financing under this procedure by the Joint Monitoring Committee without a prior call for proposals.

Those projects may be approved for financing from 1st December 2022 till 31st December 2023, provided that **all project activities are carried out from 24th February 2022 until 31st December 2023.**

Project proposals may cover all Thematic Objectives and Priorities available within the PBU Programme, provided that the planned activities fall under the list described under point 1.3 of this Manual.

The financial envelope for the projects addressing migratory challenges depends on the level of available funds within the Programme and shall be determined by the Managing Authority in cooperation with the Joint Technical Secretariat.

Without prejudice to the specific conditions set in this Manual the respective provisions applicable for the 1st call for Proposals and set in the *Programme Manual Part I* and *Programme Manual Part II*, **are applicable.**

1.2. Legal framework

The direct award procedure is based on the following legal documents:

- Regulation (EU) No 2022/2192 of the European Parliament and of the Council of 9 November 2022 laying down specific provisions for the 2014-2020 cooperation programmes supported by the European Neighbourhood Instrument and under the European territorial cooperation goal, following programme implementation disruption.
- Regulation (EC) No 232/2014 of the European Parliament and of the Council of 11 March 2014 establishing a European Neighbourhood Instrument (ENI Regulation);
- Regulation (EU) No 236/2014 of the European Parliament and of the Council of 11 March 2014 laying

¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions (An action plan for EU-Ukraine Solidarity Lanes to facilitate Ukraine's agricultural export and bilateral trade with the EU) 12/05/2022; COM(2022) 217

down common rules and procedures for the implementation of the Union's instruments for financing external action;

- Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012;
- Commission Implementing Regulation (EU) No 897/2014 of 18 August 2014 laying down specific provisions for the implementation of cross-border cooperation programmes financed under Regulation (EU) No 232/2014 of the European Parliament and the Council establishing a European Neighbourhood Instrument (IR);
- Commission Implementing Regulation (EU) 2020/879 of 23 June 2020 amending Implementing Regulation (EU) No 897/2014 as regards specific provisions to align the provisions for the implementation of cross-border cooperation programmes financed under the European Neighbourhood Instrument with specific measures in response to the COVID-19 pandemic;
- Programming document for EU support to ENI Cross-Border Cooperation (2014-2020);

1.3. List of eligible actions and indicators

The projects within the direct award procedure shall correlate with the following indicative list of activities and related indicators:

1. Accommodation organised by Beneficiaries within their facilities/buildings/premises under their disposals (schools, gyms, other premises etc.) – costs related to functioning of accommodations places (electricity, heating, water consumption etc.)
 - number of people using the accommodation,
 - number of created/activated places of accommodation.
2. Refurbishing/upgrading/equipping (furniture, household items, sanitary items etc.) of existing reception facilities/accommodation within the disposal of Beneficiaries
 - number of people using the newly created or improved social services,
 - number of equipped/adapted infrastructure supporting people fleeing from Ukraine,
 - number of created/activated places of accommodation.
3. Transport services (public), including tickets, to next reception (local/regional) and/or accommodation places, as well as to other host countries (as part of relocation or given the destination of choice of the people fleeing Ukraine), public institutions, medical facilities and other places necessary to visit for formal or health-related reasons, including responding to the needs of persons with disabilities.
 - number of people using transport services.
4. Basic needs support for target groups (food, non-food items and basic material assistance, such as hygiene kits, blankets, clothes, food packages, sleeping bags, nappies, baby bottles, tents, power banks, lighters, baby strollers, suitcases etc.).
 - number of people assisted by basic support,
 - value of purchased food,
 - value of purchased non-food and basic material assistance.
5. Purchase of other specialized equipment (power generators, chainsaws, specialized clothes, mobile showers, mobile toilets etc.)
 - number of people using specialized equipment,

- number of purchased specialized equipment.
6. Purchase of pharmaceutical and medical products or equipment.
 - number of people assisted by pharmaceutical and medical support,
 - number of purchased pharmaceutical and medical products or equipment.
 7. Access to health care services including mental health and psychological care, primary care and preventive care.
 - number of people assisted by health care support,
 - number of newly created or adapted health care services.
 8. Access to social services, day care services, legal services.
 - number of people assisted by services,
 - number of newly created or adapted services.
 9. Information packages (e.g. brochures) / information services.
 - number of dissemination/information materials, packages.
 10. Activities within action plan for EU-Ukraine Solidarity Lanes to facilitate Ukraine's agricultural export and bilateral trade with the EU. Actions supporting Ukraine's economy and economic recovery, as well as to contributing to stabilizing world food markets and improving global food security
 - population benefiting...
 - number of purchased/amended/rebuild...
 11. Other deliveries or services
 - population benefiting
 - value of ...
 - number of purchased ...

1.4. Non eligible activities/expenditures

The following activities/expenditures are considered within the call ineligible:

- direct financial transfers/payments for recipients of assistance;
- transfer of deliveries and equipment abroad to the undefined addressee/organization.

2. Formal requirements

2.1 Eligibility of beneficiaries

As an exception from the partnership rules, described in the *Programme Manual part I*, due to programme implementation disruption, based on article 9 of the 2022/2192 Regulation, no cross-border partnership is required in projects addressing migratory challenges. This means that the Lead Beneficiary of a project addressing migratory challenges may be a sole beneficiary.

The lead beneficiary represents the project and shall:

- submit the full application form to the JTS;
- sign a grant contract with the MA;
- receive the grant from the MA for the implementation of the project;
- assume responsibility for ensuring implementation of the entire project;
- in partnership projects also:
 - lay down the partnership arrangements with the beneficiaries in the partnership agreement;

- create a well working consortium ensuring the proper and sound implementation of the project;
- ensure that beneficiaries receive their parts of the grant as quickly as possible and in full in accordance with the arrangements of the partnership agreement. Lead beneficiary shall not deduct or withheld any amount and shall not levy any specific charge with equivalent effect that would reduce parts of the grant for the beneficiaries;
- ensure that the expenditures presented by the beneficiaries have been incurred for the purpose of implementing the project and correspond to activities set in the contract and agreed between all beneficiaries;
- verify that the expenditure presented by the beneficiaries has been examined pursuant art. 32(1) of IR
- act as the direct contact between the project and the management bodies of the Programme.

Only following types of organizations may receive grant within the Programme:

- a) institutions of national, regional, local governments or association of such institutions;
- b) bodies governed by public law or by private law established for the specific purpose of meeting needs in the general interest, not having industrial or commercial character, and having legal personality and financed for the most part by the state, regional or local authorities or other bodies governed by public law or that are subject to management supervision by those bodies or having an administrative, managerial or supervisory board with more than half of whose members are appointed by the state, regional or local authorities or other bodies governed by public law, or
- c) non-governmental organization with legal personality.

In case of Polish institutions falling within the category a) eligible are entities:

- having legal personality under the applicable national law;
- entities without legal personality:
 - if their superior unit (having legal personality) grants them power of attorney and also assumes financial responsibility for the project implemented; or
 - on behalf of which the superior unit will apply for financing (with indication which entity will implement the project).

In addition to requirements mentioned above the lead beneficiary/beneficiary must:

- not fall under any of the exclusion situations set out in Article 106(1) and Article 107 of Regulation (EU, Euratom) No 966/2012²;

and

- be established in Poland or Ukraine.

2.2 Eligibility of projects

2.3.1 General rules

Definition: a project (action) is a series of activities defined and managed in relation to the objectives, outputs, results and impacts which it aims at achieving within a defined time-period and budget. The objectives, outputs, results and impacts shall contribute to the actions identified in section 1.3 of this Manual and one of the Priorities of the Programme.

The Lead Beneficiary (in some cases, in partnership with other beneficiaries) will develop and submit a project application form to the JTS. Projects may receive grants from the Programme provided they meet all the

² Replaced by Regulation (EU, Euratom) 2018/1046 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012

following conditions:

- a) they deliver a clear cross-border cooperation impact and response for migratory challenges;
- b) they are implemented in the Programme area.

NOTE: In duly justified cases, agreed with the MA, projects may be partially implemented outside the Programme area³ provided that the project undertakings are relevant to the activities described in section 1.3 and the link to the migratory challenges on the Programme area is distinctly presented.

- c) they fall within one of the following categories:
 - **integrated projects** where each beneficiary implements a part of the activities of the project on its own territory;
 - **symmetrical projects** where similar activities are implemented in parallel in the participating countries;
 - **single-country projects** where projects are implemented mainly or entirely in one of the participating countries but corresponds to the current call assumptions.
- d) they contribute to at least one of the output indicators, listed in section 1.3.

Duration

Eligibility period for the project expenses starts on **February 24, 2022**.

All project activities financed by the Programme shall end on December 31, 2023 at the latest. Expenditures shall be incurred and paid no later than December 31, 2023.

Financing

The grant will constitute 100% of the total eligible costs of the project.

No profit principle

Grants shall not have the purpose or effect of producing a profit for any beneficiary! Profit is defined as a surplus of receipts (i.e. EU contribution, revenues, interest from pre-financing, other contributions) over the eligible costs approved by the Managing Authority when the request for payment of the balance is made.

Revenues are cash inflows directly paid by users for the goods or services provided by a project, such as charges borne directly by users for the use of infrastructure for participating with products or services in fairs, exhibitions, etc., or payments for services (ex. participation in trainings).

Net revenues are revenues as defined above – less any operating costs incurred during the corresponding period.

Location

The area of the Programme covers the following regions:

- in Poland: Krośnieński, Przemyski, Rzeszowski, Tarnobrzski, Chełmsko-zamojski, Puławski, Lubelski, Bialski, Ostrołęcko-siedlecki, Łomżyński, Białostocki, Suwalski sub-regions;
- in Ukraine: Lvivska, Volynska, Zakarpatska, Rivnenska, Ternopilaska and Ivano-Frankivska Oblasts.

2.3.2 Character of projects

Three types of projects may be financed within the Programme:

■ Infrastructure project

- project which requires building permission or its equivalent (e.g. notification of works component – zgłoszenie robót budowlanych, declaration on the beginning of construction works etc.) according

³ Activities may take place in other regions from the outside Programme area, but on the territory of Poland or Ukraine.

- to the national legislation in force for the country where works take place or
- project including infrastructure activities (defined in the Budget heading 6 Infrastructure component) with a total value over 50 000 EUR.

The Infrastructure component shall include the total costs of:

- works and services related to (re)construction, renovation, installation of infrastructure and its supervision
- other activities related to planned works like e.g.: costs of preparation of the technical documentation, costs of supplies including purchase of fixed assets.

The total amount of costs foreseen in the Infrastructure component (Budget heading 6) **shall be lower than 2 500 000 EUR.**

■ Investment project

project with supplies of fixed assets within the budget line for equipment (e.g. equipment like: computers, machines, tools, licences etc.) worth more than 50 000 EUR.

If a project can be defined at the same time as infrastructure and investment, its categorisation should be decided basing on the costs proportion in the budget (i.e. if more costs are related to works or to purchase of equipment). Nevertheless any project which meets the definition of infrastructure project **is obliged to submit all relevant annexes** to the Full Application Form (please see section 3.2.2).

■ Soft project

Other projects not defined as “infrastructure” or “investment” are regarded as soft.

Durability

Every project including an infrastructure component – regardless of its value – shall repay the European Union contribution if, within **five years** of the project closure (or within the period of time set out in state aid rules, where applicable), it is subject to a substantial change affecting its nature, objectives or implementation conditions which would result in undermining its original objectives.

Sums unduly paid in respect of such project shall be recovered by the MA proportionally to the period for which the durability requirement has not been fulfilled.

Special condition for the infrastructure in Ukraine

If an infrastructure component of a project was destroyed due to the war activities before verifications could be carried out, the beneficiary may declare the related expenditure for clearance of accounts on the basis of a declaration of honour stating that the project before its destruction corresponded to the content set out in invoices or documents of equivalent probative value.

Projects including an infrastructure component located in Ukraine shall not be required to repay the Union contribution where it is not possible to satisfy the obligation not to be subject to substantial changes within five years of the project closure.

E.g. if an infrastructure component of a project was destroyed due to the war activities before the end of the durability period, the beneficiary may declare this fact on the basis of a declaration of honour. In this case no proportional recoveries shall be conducted by the MA.

2.3.3 Ineligible projects

The following types of projects are **ineligible**:

- actions that have already been approved for financing from other sources, including other EU programmes. If the action or its separate activities have been proposed for financing from other sources, the MA should be informed about this fact by the lead beneficiary.
- actions that have the purpose or effect of producing a profit for the lead beneficiary or beneficiary(ies).
- actions concentrated only or mainly on charitable events.;

- actions in which the lead beneficiary and beneficiary(ies) re-grant the funding;
- actions in which beneficiaries act as intermediaries i.e. are not directly responsible for the implementation of the action but hire a third party responsible for the implementation of project activities on their behalf.
- regular events.
- actions with negative impact on environment or not respecting other EU horizontal policy rules.
- actions constituting state aid.

State aid

According to Article 107 of the Treaty on the Functioning of the European Union, State aid is defined as “any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods”, therefore affecting trade between Member States.

The definition of State aid includes several criteria. These criteria are cumulative, meaning that all five elements must be met for the measure to be considered aid:

- the existence of an undertaking,
- financing of the measure through State resources,
- the granting of an advantage,
- the selectivity of the measure, and
- its potential effect on competition and trade within the Union.

The most important step is to establish whether a lead beneficiary/beneficiary acts as an undertaking in the context of the project. From the remaining criteria the decisive one most often will be whether an advantage is granted to the lead beneficiary/beneficiary.

2.3.4 Project proposals submission

Proposals of the projects addressing migratory challenges shall be provided by:

- from Poland: the Marshall offices i.e. Lubelskie, Mazowieckie, Podkarpackie and Podlaskie voivodeships and the Managing Authority. The Managing Authority may also invite other organizations/institutions to submit the concept note for the call.
- from Ukraine: the Regional State Administrations, i.e. Lvivska, Volynska, Zakarpatska, Rivnenska, Ternopilska and Ivano-Frankivska Oblasts, and the National Authority. The National Authority may also invite other organizations/institutions to submit the concept note for the call.

3. Evaluation and selection procedures

The project evaluation procedure consists of two stages:

1. At the first stage all lead beneficiaries should submit Concept Notes (CNs) which include general information about the project. CNs are submitted in a e-version only.
2. The JTS will conduct initial check and examine the concept notes on the relevance of suggested undertakings to the call.
3. JTS prepares report on submitted CNs including findings and recommendations concerning CNs. The report is submitted to the JMC.
4. The lead beneficiaries whose Concept Notes passed the verification step will be invited to submit the Full Application Forms with a comprehensive description of the project with all necessary supporting

documents. The Full Application Forms will undergo the full Administrative and Eligibility check and Assessment of the project relevance to the direct award procedure assumptions. If the Full Application Form meets all criteria, the Managing Authority shall sign the Grant Contract with the relevant Lead Beneficiary.

3.1 Concept Notes

3.1.1 Basic information on Concept Notes

The Concept Note shall be submitted in order to pre-agree the project ideas against their relevance to the expectations of the call.

Submission requirements of the Concept Note:

1. The applicants shall submit their Concept Notes to the JTS in electronic version of the document,
2. The Concept Note shall be filled in **only in English**. Concept Note submitted in language(s) other than English will be declined.

3.2 Full Application Forms

3.2.1 Basic information on Full Application Forms

The Lead Beneficiaries whose Concept Notes passed the verification will be invited to submit the Full Application Forms. Full Application Forms shall include the comprehensive description of the project and all necessary supporting documents. The Applicant will be informed about the deadline in a letter informing about the results of evaluation of the Concept Note.

The invitation to submit the Full Application Form means that the project is awarded the grant, provided that it submits a Full Application Form and meets the assessment criteria. Only then shall the Managing Authority sign the Grant Contract.

The content of the Full Application Form has to be based on the approved Concept Note. Some changes in the project might occur, however no major changes are acceptable.

Submission requirements of the Full Application Form:

1. The applicants may use the following ways to submit the Full Application Form to the JTS:
 - a) **signed and stamped paper version sent via regular post.**
 - b) electronic files of the Full Application Form (scan of the signed documents and the editable ones).
2. The Full Application Form shall be filled in only in English. The Full Application Form submitted in language(s) other than English will be declined.

3.2.2 Required annexes to the Full Application Form

Each Full Application Form should be provided with **the Budget for the project**. Additionally supporting documents shall be submitted. The following list includes all annexes which may be required by the JTS along the FAF. The applicable documents for particular projects shall be listed in the JTS letter with invitation to submit FAF.

Annex A1 Partnership statements of beneficiaries (**applicable for the projects implemented in partnership**);

Annex A2 Statutes or other relevant documents e.g. internal regulations of the lead beneficiary and all beneficiaries included in the project – **not applicable for public institutions**. If necessary for conducting a reliable evaluation the JTS and the PSC may ask for additional

clarifications/documents regarding the legal status of each lead beneficiary/beneficiary;

Annex A3 If applicable, authorisation from the lead beneficiary that the person has the right to sign the Full Application Form (if the Full Application Form shall be signed not by the Head of the organisation). In case of Polish entities without legal personality a written statement on having the capacity to undertake legal obligations (including signing the grant contract) issued by supervisory institution shall be provided;

Annex A4 Register document applicable for the lead beneficiary/beneficiaries:

FOR POLISH LEAD BENEFICIARIES/BENEFICIARIES:

effective (up to date) extract from the National Court Register- Krajowy Rejestr Sądowy (not applicable for public institutions);

FOR UKRAINIAN LEAD BENEFICIARIES/BENEFICIARIES:

for public and non-public institutions – one of the following documents:

- copy or the original of an extract (витяг) from the Unified State Register of legal entities and individuals, or
- copy or the original of excerpt (виписка) from the Unified State Register of legal entities and individuals

and for non-public institutions additionally:

- an extract from the Register of non-profit institutions issued by Tax Inspection of Ukraine;

Annex A5 Declaration on the entitlement to the recovery of VAT (**Polish beneficiaries; if applicable**);

Annex A6 Building permission documentation (**applicable only for infrastructural projects as mentioned in point 2.3.2**)

FOR POLISH LEAD BENEFICIARIES/BENEFICIARIES:

A self-declaration that either the building permission or its equivalent (e.g. notification of works component – *zgłoszenie robot budowlanych*) will be submitted in case of project award not later than 5 months after the date of the award notification letter. If the project implementation does not require a building permission or its equivalent a self-declaration with the reference to the relevant national regulation should be annexed that the works activities are not the subject of a building permission or its equivalent.

FOR UKRAINIAN LEAD BENEFICIARIES/BENEFICIARIES:

A self-declaration that the following documents (depending on the construction object complexity as listed below) will be submitted in case of project award not later than 6 months after the date of the award notification letter:

- for construction objects falling under CC1 category of complexity: positive Decision of expertise should be provided before signature of the grant contract, and then after the grant contract signature once available a registered Declaration on the beginning of construction works should be provided;
- for construction objects falling under CC2 and CC3 complexity: positive Decision of expertise should be provided before signature of the grant contract, and then after the grant contract signature once available a Building permission should be provided.

If the project implementation does not require a building permission or its equivalent (Declaration on the beginning of construction works) a self-declaration with the reference to the relevant national regulation should be annexed that the works activities are not the subject of a building permission or its equivalent.

Annex A7 Declaration of the lead beneficiary/beneficiary on the right for the land/real estate disposal for the construction/supplies purposes. (**for all investment and infrastructural projects as**

mentioned in point 2.3.2, if applicable)

Annex A8 The Declaration of the lead beneficiary/beneficiaries on maintaining the projects results and objectives for at least five years after project completion **(applicable for all infrastructural projects as mentioned in point 2.3.2).**

3.2.3 Project evaluation system

Full Application Form, submitted to the JTS, will be evaluated in one step, containing Administrative and Eligibility check and Assessment of the project relevance to the direct award procedure assumptions. The evaluation is performed by the JTS.

Main steps of Administrative and Eligibility check and Assessment of the project relevance to the direct award procedure assumptions:

1. The JTS verifies the completeness and correctness of the submitted documents. The verification is carried out in accordance with the evaluation criteria by JTS.
2. During the assessment of the project relevance to the direct award procedure assumptions the applications are not scored (yes/no principle is applied).
3. If some of the criteria are not fulfilled, the applicants will be asked to submit clarifications and/or corrections to their Full Application Forms.

Clarifications will be requested when information provided is unclear, missing or is incorrect. In this case the lead beneficiary will be asked to provide clarifications within the deadline set by the JTS. In case the applicant fails to correct the application/submit the clarification or submitted clarification/ correction are not adequate, the application will be declined. If any potential lead beneficiary/ beneficiary proves to be ineligible, the project will be declined. The JTS informs the Beneficiary in writing.

4. If the Full Application Form meets all criteria, the JTS on behalf of the MA will present the project to the Joint Monitoring Committee (JMC) for the final confirmation of the direct award. The JMC may award the grant to the project giving recommendations. If the recommendations are not fulfilled by the lead beneficiary in the given timeframe before signing the grant contract with the MA, the project shall not be supported under the Programme.

Following the JMC decision on the grant award, the JTS informs the Beneficiary in writing.

3.3 Appeals

Lead beneficiaries believing that they have been harmed by an error or irregularity during the assessment or in case the lead beneficiary does not agree with the final decision of the JMC is entitled to file a complaint.

The complaint can be sent after each evaluation stage. The complaint can be filed in case the decision:

- infringes the rights stipulated in the Programme legal basis and Regulations of the European Union;
- presents an encroachment to the published direct award procedure or the procedures regulating the evaluation process.

The MA shall be responsible for handling the complaint. Therefore, all the complaints shall be submitted to the MA via the JTS not later than 21 calendar days (as evidenced by the date of dispatch, the postmark or the date of the deposit slip) after the respective letter from the JTS was sent by fax or e-mail. Any complaint submitted after the deadline will be rejected.

The complaint has to be:

- written in English;
- sent to the MA via the JTS by fax (+48 22 201 97 25) or e-mail (pbu@pbu2020.eu) which should be followed by original sent by the regular mail at the address of the JTS;
- signed by the legal representative of the lead beneficiary;
- contain a clear and articulate reference to the nature of the encroachment based on the Programme legal basis, EU Regulations, and procedures for the direct award projects.

The MA shall answer within 45 calendar days of receipt of the complaint by fax or e-mail (which should be followed by the regular mail). The reply to the appeal represents the final decision of the MA regarding the application.

4. Payments

Lead beneficiaries of projects selected for financing will have to choose one of the following options of receiving funds from MA.

Option 1

Pre-financing EUR representing maximum 85% of the grant foreseen for the implementation of the Project will be paid by the MA within 30 days as from the date of approval by the Joint Technical Secretariat of correct documents provided along with the signed Contract:

- i) request for payment conforming to the model which is provided on the Programme website;
- ii) partnership agreement signed by all Beneficiaries (applicable for the projects implemented in partnership);
- iii) the financial guarantee if required.
- iv) valid building permission or its equivalent, for project including infrastructure component of at least EUR 1 million.

Final balance payment resulting from the expenditures incurred within the project during its whole period of implementation and the prior pre-financing, paid by the MA within 60 days as from the date of approval by the Joint Technical Secretariat of correct:

- i) request for payment conforming to the model which will be provided on the Programme website;
- ii) final progress report (narrative and financial parts) submitted to the MA not later than 3 months after the implementation period as defined in the Grant Contract;
- iii) expenditure verification certificate(s) of (all) project Beneficiary/-ies.

Each payment date might be prolonged if the documents delivered to the Joint Technical Secretariat require correction.

Option 2

In case of all activities the Project will be pre-financed by the Lead Beneficiary/Beneficiaries and the expenditures incurred will be reimbursed (applicable only at the request of the Lead Beneficiary).

A maximum of 100% of the sum referred to in Annex IV and in § 5 section 2, paid by the Managing Authority within 60 days as from the date of:

Final balance(one-off) payment:EUR representing the difference between 100% of the grant foreseen for the implementation of the Project and the expenditures incurred within the project during its whole period of implementation , paid by the MA within 60 days as from the date of approval by the Joint Technical Secretariat of correct:

- i) request for payment conforming to the model which will be provided on the Programme website;
- ii) project final report (narrative and financial parts) submitted to the MA not later than 3 months after the implementation period as defined in the Grant Contract;
- iii) expenditure verification certificate(s) of (all) project Beneficiary/-ies.

The payment date might be prolonged if the documents delivered to the Joint Technical Secretariat require correction.

5. Cost eligibility criteria

The budget headings and related eligibility rules of the Programme are structured according to the requirements of the applicable EU regulations, in particular the Regulation (EU) No 236/2014, The Regulation (EU) No 232/2014 and the Regulation (EU) No 897/2014. The eligibility rules laid down in this Manual on the basis of art. 4 of the Regulation (EU) No 897/2014 cannot be overruled.

5.1. Settlement of costs incurred by beneficiaries

In order to simplify implementation of projects, the following forms of settlement of costs incurred by beneficiaries may be used:

- a) settlement of the eligible costs actually incurred (real costs). Eligible costs shall be calculated in advance in the project budget on the basis of costs which will be actually incurred by the beneficiary. When claiming those costs beneficiaries shall prove by relevant supporting documents that the expenditures have been incurred and paid;
- b) lump sums. Grants shall cover certain specific categories of eligible costs (staff costs) which shall be clearly identified in advance in the project budget. Beneficiaries can claim those costs only up to the certain threshold, in this case beneficiaries will not need to prove by relevant documents that the expenditures have been incurred and paid;

In any case, grants shall not have the purpose or effect of producing a profit within the framework of the project.

5.2. Eligible Costs

Only “eligible costs” can be financed by the grant. The costs must be presented in the project budget. The categories of costs considered as eligible and non-eligible are indicated below. The budget is both a cost estimate and a ceiling for “eligible costs”. Please note that the eligible costs must be based on real costs based on supporting documents.

5.2.1 General rules regarding the cost eligibility

Eligible costs are costs actually incurred by the lead beneficiary/beneficiary which meet all of the following criteria:

- a) they are incurred in the period between February 24, 2022 and the end of the implementation period of the project. In particular:
 - i. Signature of a contract, placing of an order, or entering into any commitment for expenditure within the implementation period for future delivery of services, works or supplies after expiry of the implementation period do not meet this requirement; cash transfers between the lead beneficiary and the other beneficiaries may not be considered as costs incurred;
 - ii. costs incurred (i.e. services/supplies/works contracted, invoiced and accepted) should be paid before the submission of the final project reports;
 - iii. an exception is made for costs relating to final project reports, including expenditure verification, audit and final evaluation of the project, which may be incurred after the implementation period of the project;
 - iv. procedures to award contracts, as referred to in Art. 52 of the IR⁴ and following, may have been initiated and contracts may be concluded by the beneficiary(ies) before the start of the implementation period of the project, provided the provisions of Art. 52 of the IR and following have been respected;

- b) they are indicated in the project's estimated overall budget;
- c) they are necessary for the project implementation;
- d) they are identifiable and verifiable, in particular being recorded in the accounting records of the beneficiary (separate accounts shall be created for the project purpose) and determined according to the accounting standards and the usual cost accounting practices applicable to the beneficiary;
- e) they comply with the requirements of applicable tax and social legislation;
- f) they are reasonable, justified, and comply with the requirements of sound financial management, in particular regarding economy and efficiency;
- g) they are supported by invoices or documents of equivalent probative value.

5.2.2 Eligibility of direct costs

The following direct costs of the beneficiary shall be eligible:

- a) the costs of staff assigned to the project under the following cumulative conditions:
 - I. they relate to the costs of activities which the beneficiary would not carry out if the project was not undertaken;
 - II. they must not exceed those normally borne by the beneficiary unless it is demonstrated that this is essential to carry out the project;
 - III. they relate to actual gross salaries including social security charges and other remuneration-related costs;
- b) travel and subsistence costs of staff and other persons taking part in the project, provided they exceed neither the costs normally paid by the beneficiary according to its rules and regulations nor the rates published by the Commission at the time of the mission if reimbursed on the basis of lump sums, unit costs or flat rate financing;
- c) purchase or rental costs for equipment (new or used) and supplies specifically for the purpose of the project, provided they correspond to market prices;
- d) the cost of consumables specifically purchased for the project;
- e) costs entailed by contracts awarded by the beneficiaries for the purposes of the project;
- f) costs deriving directly from requirements imposed by the IR and the project (such as information and visibility operations, evaluations, external audits, translations) including financial service costs (such as costs of bank transfers and financial guarantees).

5.2.3 Eligibility of indirect (administrative) costs

Indirect costs are not eligible within the Direct Award procedure.

5.3. Non-eligible Costs

5.3.1 List of non-eligible costs

The following costs relating to the implementation of the project shall not be considered eligible:

- a) debts and debt service charges (interest);
- b) provisions for losses or liabilities;
- c) costs declared by the beneficiary and already financed by the Union budget;
- d) purchases of land or buildings for an amount exceeding 10% of the eligible expenditure of the project concerned;
- e) exchange-rate losses;
- f) duties, taxes and charges, including VAT, except where non-recoverable under the relevant national tax

- legislation, unless otherwise provided in appropriate provisions negotiated with CBC partner countries;
- g) loans to third parties;
 - h) fines, financial penalties and expenses of litigation;
 - i) contributions in kind (as defined in Art. 14(1) of the IR), including any provision of non-financial resources free of charge by a third party;
 - j) other costs specified as ineligible in the budget heading description.

5.4. Competition and public procurement

5.4.1 Beneficiaries based in Poland

Beneficiaries based in Poland have to comply with Polish law on public procurement. This law is compliant with the Union legislation applicable to procurement procedures.

Preparing and conducting public procurement, as well as awarding a contract within the project, should be carried out in a manner that guarantees compliance with the principle of transparency, fair competition and equal treatment of contractors, including potential contractors. In addition, with respect to all contracts awarded within the project, regardless of their value, the manner of selecting a contractor and awarding authority, it is required that the principle of sound financial management is complied with. Thus, this must be in accordance with the principles of economy, efficiency and effectiveness and the reasonability of spending public funds as well as with other conditions for the eligibility of expenditures as specified in the Programme.

In order to implement competition and public procurement principles referred to above, contracts within the project have to be awarded pursuant to EU and national regulations on tendering and awarding contracts if the regulations are applicable in awarding the given contract.

5.4.2 International organisations

Where the **beneficiary is an international organisation**, it may apply its own procurement rules if they offer guarantees equivalent to internationally accepted standards.

5.4.3 General requirements for Beneficiaries from Ukraine

Beneficiaries from Ukraine have to comply with rules set in Art. 52-56 of the IR, namely:

- a) the contract shall be awarded to the tender offering best value for money, or as appropriate, to the tender offering the lowest price, while avoiding any conflict of interests;
- b) for contracts with a value of more than EUR 60 000⁶, the following rules shall also apply:
 - i. an evaluation committee shall be set up to evaluate applications and/or tenders on the basis of the exclusion, selection and award criteria published by the beneficiary in advance in the tender documents. The committee must have an odd number of members with all the technical and administrative capacities necessary to give an informed opinion on the tenders/applications;
 - ii. sufficient transparency, fair competition and adequate ex-ante publicity must be ensured;
 - iii. equal treatment, proportionality and non-discrimination shall be ensured;
 - iv. tender documents must be drafted according to best international practice;
 - v. deadlines for submitting applications or tenders must be long enough to give interested parties a reasonable period to prepare their tenders;
 - vi. candidates or tenderers shall be excluded from participating in a procurement procedure if they fall

⁶ Please note, that the limit, foreseen by the IR, has been decreased by the Programme to **EUR 20 000**.

within one of the situations described in Art. 106(1) of Regulation (EU, Euratom) No 966/2012. Candidates or tenderers must certify that they are not in one of these situations. In addition, contracts may not be awarded to candidates or tenderers which, during the procurement procedure fall within one of the situations referred to in Art. 107 of Regulation (EU, Euratom) No 966/2012⁷;

vii. procurement procedures set out in art. 53 to 56 of the IR shall be followed.

5.4.4 Special requirements for Beneficiaries from Ukraine

Depending on the form of ownership of the Beneficiary and **alongside with the relevant provisions of the sub-chapter 6.4** the following special requirements shall apply to beneficiaries based in Ukraine:

- public entities **have to comply with Ukrainian law on public procurement**. When procuring services, supplies and works **below the threshold stipulated in the Ukrainian law** on public procurement for the use of Prozorro, the contracting authorities have to comply with the *General Rules of Procurement* set in the Annex 10 to this Manual.
- all private entities have to comply with the requirements of the *General Rules of Procurement* set in the Annex 10 to the Programme Manual part 1 (first call for proposals).

5.4.5 The principle of competitiveness

Preparing and conducting public procurement, as well as awarding a contract within the project, should be carried out in a manner that guarantees compliance with the principle of fair competition and equal treatment of contractors.

5.4.5.1 Specific rules for Polish beneficiaries.

Beneficiaries based in Poland have to comply with the following specific rules of awarding contracts under the project:

1.1. Contracts awarded under projects

- 1) The beneficiary is obliged to prepare and conduct the procedure of awarding contracts with an estimated value exceeding PLN 50,000. PLN net⁸, i.e. excluding value added tax (VAT), in the manner ensuring transparency and maintaining fair competition and equal treatment of contractors. The above requirements are met by means of Public Procurement Law (further: PPL) application or the competition principle, described in Section 1.2 of this Sub-chapter⁹
- 2) Expenditures under the project must be incurred in a transparent, reasonable and effective manner.

⁷ Replaced by Regulation (EU, Euratom) 2018/1046 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012

⁸ Determination of the value of the contract shall be made no earlier than 3 months before the date of initiation of the contract award procedure, if the subject of the contract are deliveries or services, and not earlier than 6 months before the date of initiation of the contract award procedure, if the subject of the contract are construction works. Whenever in this subsection the value is expressed in the euro, the average exchange rate of the zloty against the euro constituting the basis for the conversion of the value of orders is determined based on the provisions issued on the basis of Article 35 (3) PPL.

⁹ In accordance with the rules governing the disbursement of ESIF funds, EU funds are aimed at implementing a strategy for smart, sustainable and inclusive growth. These goals are implemented by spending funds in a way that ensures the creation of, among others, high quality jobs or environmental protection. In relation with the above for contracts which value exceed the amounts specified in §1 point 1 of the Regulation of the Minister of Development and Finance of 22 December 2017 on the value of orders and competitions, on which the obligation to submit notices to the Publications Office of the European Union is required, it should be considered to oblige contractors to comply with labor law, social law, environmental law.

- 3) If the beneficiary is a public administration body, in accordance with Article 5(2)(1) of the Act of 24 April 2003 on public benefit activity and voluntary work it may entrust the implementation of public tasks under the procedure specified in the Act. In case of above mentioned entrustment the procedures specified in Section 1.2 of this Sub-chapter shall not apply.
- 4) If, pursuant to effective regulations other than the PPL, provisions of the PPL no longer apply, the beneficiary referred to in Article 3 of the PPL conducts a public procurement procedure in compliance with those regulations. In such a case the procedures specified in Section 1.2 shall not apply.
- 5) The procedures specified in Section 1.2 of this Sub-chapter do not apply to:
 - a) contracts referred to in Article 4 of the PPL, except for contracts referred to in Article 4(8) of the PPL, whereas the award of a contract for the acquisition of ownership or other rights to the existing buildings or real property by an entity other than the contracting authority within the meaning of the PPL without application of the principle of competitiveness is only possible when no personal or capital ties referred to in Section 1.2(2)(a) exist,
 - b) contracts specified in Article 4d of the PPL;
 - c) expenditures settled by simplified methods referred to in the Programme Manual;
 - d) contracts awarded by the beneficiaries selected in accordance with the procedure specified in the Act on public-private partnership or in the Act on concession for construction works or services in order to implement the project under a public- private partnership (hybrid project¹⁰)
 - e) contracts, subject of which are services provided in the scope of research and development works carried out in the project by persons constituting the human resources of the beneficiary indicated in the approved FAF.
- 6) Contracting authorities may be exempt from the obligation to follow the procedures specified in Section 1.2 of this Sub-chapter with regard to awarding contracts in the following cases:¹¹
 - a) where, as a result of a proper implementation of principle of competitiveness specified in Section 1.2 of this Sub-chapter, no offer fulfilling request for proposal was received; conclusion of an agreement on the implementation of the contract with the exception of the principle of competitiveness is possible when the original terms of the contract have not been substantially changed,
 - b) where the contract may only be performed by a sole contractor for any of the following reasons:
 - i. lack of competition for technical reasons of objective nature; i.e. there is only one contractor who is the only one who can execute the order,
 - ii. the subject of the contract is covered by the protection of exclusive rights, including intellectual

¹⁰ Detailed regulations regarding hybrid projects can be found in the Guidelines on issues related to the preparation of investment projects, including income-generating projects and hybrid projects for the years 2014-2020.

¹¹ The circumstances specified in Points 7 and 8 of this Section allowing for non-application of the procedures should be interpreted in the context of the interpretation of relevant provisions of the PPL, i.e. Articles 62 and 67, which permit to apply a non-competitive procedure if specific conditions are met.

property rights; i.e. there is only one contractor who has the exclusive right to dispose of the object of the contract, and this right is subject to statutory protection.

The exemption may apply, unless there is an alternative or substitutive solution and lack of competition results from artificial narrowing down of the parameters of the contract;

- c) where the supplies, services or construction works may only be provided by one contractor, in the case of contracts relating to creative or artistic activity;
- d) in the case of contracts to which the principle of competitiveness applies, where the deadlines referred to in Section 1.2 of this Sub-Chapter cannot be kept due to the urgent need to award the contract which could not have been foreseen, such urgent need have not resulted from any action or negligence of the contracting authority;
- e) in the case of contracts to which the principle of competitiveness applies, where the contract must be performed immediately and the deadlines referred to in Section 1.2 of this Sub-Chapter cannot be met due to the extraordinary situation which could not have been foreseen (e.g. natural disasters, catastrophes, breakdowns, unexpected accidents), and such extraordinary situation have not resulted from any action or negligence of the contracting authority;
- f) where the contract for supplies concerns items produced solely for research, experimentation, scientific or development purposes, which do not lead to mass production by the contracting authority aimed at achieving economic viability or coverage of research and development costs;
- g) where the contracting authority awards contracts for additional supplies to a contractor selected in accordance with the principle of competitiveness, and contracts consist in partial replacement of the supplied products or installations or in increasing the current supplies or in development of the existing installations, and a change of contractor would lead to a purchase of materials of different technical properties, which would result in technical incompatibility or disproportionately serious technical problems with the use and maintenance of such products or installations. Duration of an agreement on additional supplies cannot exceed three years;
- h) where the contracting authority awards supplementary contracts for services or construction works provided for in the request for quotation to a contractor selected in accordance with the principle of competitiveness within three years from the date of award of the main contract, supplementary contracts consisting in repetition of similar services or construction works;
- i) where the contract concerns supplies on particularly favourable conditions due to liquidation of operations of a third entity, or due to enforcement or bankruptcy proceedings;
- j) where the contract for supplies is executed on a commodity market within the meaning of regulations on commodity markets, including commodity markets of other European Economic Area member states;
- k) where the contract is awarded by a foreign service post within the meaning of foreign service regulations;
- l) where the contract is awarded for the exclusive purposes of a military unit within the meaning of regulations governing the use or stay of the Polish Armed Forces outside the territory of the Republic of Poland.

- 7) Contracting authorities may be exempt from the obligation to follow the procedures specified in this Sub-chapter in the cases specified in Article 67(1)(12) through (15) of the PPL. Such option applies solely to the entities specified in that provision.
- 8) Fulfilment of the conditions allowing for exemption from the obligation to follow the procedures specified in Points 6 and 7 must be proved in writing.
- 9) The basis for determining the value of the contract is the total estimated net remuneration of the contractor, excluding value added tax (VAT), determined with due diligence, taking into account possible orders referred to in point 6 (h). (e.g. in the approved FAF or in the note from the estimation). Understatement of the estimated value of the contract or its division resulting in the lowering of its estimated value is forbidden. In determination of the value of the contract, the three identities must be jointly met¹²:
- a) services, supplies and construction works are identical in terms of type or function (subject identity);
 - b) contract may be awarded at the same time (time identity);
 - c) contract may be performed by a sole contractor (contractor identity).
- If a contract is awarded in parts (for specific economic, organisational or functional reasons), contract value is determined as total value of its respective parts¹³.
- 10) In the case of contracts performed by beneficiaries who are not contracting authorities within the meaning of the PPL, contract value is determined with regard to a specific project. Entities that are awarding entities in the meaning of the PPL shall as first step assess the value of the contract in accordance with the provisions of the PPL. After finding that the estimated value of the contract determined on the basis of the PPL does not exceed the value indicated in article 4 (8) of the PPL or in the case of sector contracts - the value indicated in the regulations issued on the basis of article 11(8) of the PPL, determine the value of their contracts in relation to a given project.
- 11) If the beneficiary violates the terms and procedures of soliciting a public contract defined in this Subchapter, all or part of the expenditures related to this public contract may be considered ineligible by the FLC, pursuant to the Ordinance of the minister competent for regional development issued on the basis of Article 24(13) of the implementation act.

1.2. Specific conditions for the performance of public contracts by entities obliged to apply the principle of competitiveness

- 1) The beneficiary awards the contract under the project in accordance with the principle of competitiveness in a situation:
- a) where the beneficiary is not the contracting authority within the meaning of the PPL and the value of the contract exceeds PLN 50,000 net, i.e. excluding value added tax (VAT);
 - b) where the beneficiary is the contracting authority within the meaning of the PPL and the value of the contract is equal to or lower than the amount specified in Article 4(8) of the PPL, while exceeds PLN 50,000 net, i.e. excluding value added tax (VAT), or where the contract is a sectoral

¹² The listed circumstances should be interpreted in line with the interpretation of the provisions of the PPL relating to estimation of the value of the contract.

¹³ In the case of beneficiaries obliged to apply the PPL, it does not concern the contracts referred to in Article 6a of the PPL.

contract with the value that is lower than the amount specified in the regulations issued on the basis of Article 11(8) of the PPL while exceeds PLN 50,000 net, i.e. excluding value added tax (VAT).

- 2) In order to prevent a conflict of interests:
 - a) in the case of beneficiaries not being the contracting authorities within the meaning of the PPL, contracts cannot be awarded to entities with personal or capital ties to such beneficiaries, excluding sectoral contracts and the contracts referred to in Sub-chapter 1.1(6)(g) or (h)
 - b) persons carrying out the activities relating to contractor selection procedure on behalf of the contracting authority, in particular persons participating in the tender evaluation process, cannot have any personal or capital ties to the contractors who submitted tenders. Such persons should be impartial and objective.
- 3) Capital or personal ties mean mutual relationships between the beneficiary or persons authorised to undertake obligations on behalf of the beneficiary, or persons carrying out the activities relating to contractor selection procedure on behalf of the beneficiary, and the contractor, consisting in particular in:
 - a) participation as a partner in a partnership or a civil law partnership;
 - b) holding of at least 10% of shares or stocks, unless the effective regulations provide for a lower threshold;
 - c) performance of the function of a member of the supervisory or management body, a proxy or an attorney;
 - d) being a spouse, relative by lineal consanguinity or affinity, secondary relative in the second degree of consanguinity or the second degree of affinity, or in a relationship of adoption, care or guardianship.

In the case the FLC finds the award of the contract to an entity with ties other than those listed in (a) through (d), the FLC is obliged to demonstrate the existence of a breach of the principle of competitiveness through an existing link prior to reducing the eligible expenditure.

- 4) In the case of beneficiaries being the contracting authority within the meaning of the PPL, the principle of competitiveness will be considered satisfied if the public contract procedure is conducted based on the PPL.
- 5) The subject of the contract is described in an unambiguous and exhaustive way, using precise and understandable terms, taking into account all requirements and circumstances that may affect the preparation of the offer. The subject of the contract cannot be described by indicating the trademarks, patents or origin, source or special process that characterizes products or services provided by a specific contractor, if this could lead to privilege or elimination of some contractors or products, unless justified by the specificity of the subject of the contract and the contracting authority cannot describe the subject of the order by means of sufficiently precise terms, and the indication is accompanied by the words "or equivalent".
- 6) For business confidentiality reasons, it is possible to limit the scope of the description of the subject of the contract, but the contracting authority is obligated to share the supplemented description of the subject of the contract to a potential contractor who has committed to confidentiality in relation to the information provided, in a timely manner to prepare and submit the offer.
- 7) The subject of the contract is described by the names and codes specified in the Common Procurement Vocabulary referred to in Regulation (EC) No. 2195/2002 of the European Parliament and of the Council

of 5 November 2002 on the Common Procurement Vocabulary (CPV) (OJ L 340 of 16.12.2002, p. 1, as amended; Special edition in Polish: Chapter 06, Volume 005, p. 3)¹⁴.

- 8) Conditions of participation in the contract award procedure and description of the methodology of evaluation of their fulfilment, provided such conditions are included in the request for quotation referred to in Point 11 (a), are determined proportionally to the subject of the contract so as to ensure fair competition and equal treatment of contractors. The beneficiary cannot specify any conditions that would exceed the requirements sufficient for proper performance of the contract.
- 9) The criteria for the evaluation of tenders submitted under the contract award procedure are formulated in the manner guaranteeing fair competition and equal treatment of contractors, whereas:
 - a) each tender evaluation criterion must refer to a specific subject of the contract;
 - b) each criterion (and description of its application) must be formulated in a clear and precise manner so that all well-informed tenderers could interpret it identically with due diligence;
 - c) the weights (significance) of respective criteria should be defined in the manner allowing for selection of the best possible tender;
 - d) tender evaluation criteria cannot relate to the properties of the contractor, in particular to their economic, technical or financial credibility. This reservation does not apply to contracts for social services and other special services¹⁵, nor to non- priority contracts in the field of defence and security¹⁶;
 - e) price can be the only criterion for the evaluation of offers. Apart from the price requirements, it is recommended to include other requirements relating to the subject of the contract, such as quality, functionality, technical parameters, environmental, social, innovative aspects, maintenance, contract performance deadline, operating costs and organization, professional qualifications and experience of persons appointed to perform the contract, if they can have a significant impact on the quality of the contract.
- 10) The deadline for submitting an offer (the date when the offer is received by the contracting authority decides) is at least 7 days for deliveries and services, at least 14 days for construction works and for sectorial contracts with a value lower than the amount specified in the regulations issued on the basis of Article 11 (8) of PPL. For contracts with an estimate value equal to or greater than the amounts specified in §1 point 1 of the Regulation of the Minister of Development and Finance of 22 December 2017 on the value of orders and competitions, on which the obligation to submit notices to the Publications Office of the European Union is required, the deadline is at least 30 days. The period starts on the day following the day the offer inquiry is made public and ends on the last day. If the deadline ends on a Saturday or a public holiday, the due date is the day following the day or days off from work.
- 11) In order to comply with the principle of competitiveness, the beneficiary should:

¹⁴ Common Procurement Vocabulary is available e.g. at: <http://kodv.uzp.gov.pl>

¹⁵ The list of social services and other special services forms Annex XIV to Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (OJ L 94 of 28.03.2014, p. 65) and Annex XVII to Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94 of 28.03.2014, p. 243).

¹⁶ The list of non-priority services in the fields of defence and security forms Annex II to Directive 2009/81/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of procedures for the award of certain works contracts, supply contracts and service contracts by contracting authorities or entities in the fields of defence and security, and amending Directives 2004/17/EC and 2004/18/EC (OJ L 2009.216.76, as amended).

- a) publish the request for quotation in line with the conditions referred to in Point 12 or 13, including at least:
- i. description of the subject of the contract,
 - ii. conditions of participation in the procedure and description of the methodology of evaluation of the fulfilment of those conditions, whereas determination of participation conditions is not mandatory;
 - iii. tender evaluation criteria;
 - iv. information about the weights in points or per cent attributed to respective criteria of tender evaluation;
 - v. description of the methodology of awarding points for the fulfilment of a specific criterion of tender evaluation;
 - vi. deadline for submitting offers;
 - vii. agreement performance deadline;
 - viii. information about the required lack of personal or capital ties referred to in Point (2)(a) (i-ii)¹⁷;
 - ix. determination of conditions of material amendment of the agreement executed as a result of the contract award procedure, if the contracting authority allows it;
 - x. information about the possibility of awarding a contract in the form of separate lots, if the contracting authority allows it;
 - xi. description of how to present variant offers and the minimum conditions that variant offers must meet, along with selected assessment criteria, if the contracting authority requires or permits their submission;
 - xii. information about the planned contracts referred to in Section 1.1 (6)(h), about their scope and the conditions on which the contracts will be awarded, if the contracting authority allows it.
- b) select the best tender from the tenders submitted by the contractors who meet the conditions of participation in the procedure, based on the evaluation criteria defined in the request for quotation. Tender selection is documented by the report on the contract award procedure referred to in point 16. The procedure may end with the selection of several contractors, when the contracting authority allows separate lots.
- 12) Publication of the request for quotation by the beneficiary involves registration of such request in the competitiveness database^{18 19}. In case the operational functionality of such database is suspended, which has been confirmed by a relevant communication of the minister competent for regional development – the beneficiary directs the request for quotation to at least three potential contractors, if three potential contractors for a given contract exist on the market, and publishes the request at least on the beneficiary's

¹⁷ Not applicable to entities being contracting authorities within the meaning of the PPL.

¹⁸ Website indicated in the communication of the minister competent for development, used for publication of requests for quotation (<https://bazakonkurencyjnosci.funduszeuropejskie.gov.pl/>).

¹⁹ Publication of request for quotation in the competitiveness database takes place in the module "I want to add an advert - I am an Applicant (Ordering - Applicant). In the "Call for proposal number (* required)" field, enter the following number: PLSK.01.01.00-IP.01-00-PBU/16

website, if the beneficiary has such website. **Publication of the request for quotation means initiating the procurement procedure under the project**

- 13) Where due to the specific nature of the project an entity, that applies for the funds, begins to implement the project at its own risk before signing the subsidy contract, publication of the request for quotation by the entity involves registration of such request in the competitiveness database²⁰. In case the operational functionality of such database is suspended, which has been confirmed by a relevant communication of the minister competent for regional development – the entity directs the request for quotation to at least three potential contractors, if three potential contractors for a given contract exist on the market, and publishes the request at least on the beneficiary's website. **Publication of the request for quotation means initiating the procurement procedure under the project.**
- 14) The request for quotation may be amended before the end of deadline for submission of tenders provided for in the request for quotation. In such situation, information about the amendment should be included in the request for quotation published in accordance with Point 12 or 13. Such information should contain at least the date of publication of the amended request for quotation and the description of the amendments. The contracting authority extends the deadline for the submission of tenders for the period required for tender adjustment if it is necessary due to the scope of the amendments.
- 15) The content of questions regarding the request for quotation along with the explanations of the contracting authority is published in accordance with points 12 or 13.
- 16) The report on the contract award procedure (in writing) should include at least:
 - a) list of tenders submitted in response to the request for quotation with indication of the dates when the tenders were received by the contracting authority;
 - b) information about the fulfilment of the condition referred to in Point (2)(a);
 - c) information about the fulfilment of the conditions of participation in the procedure by contractors, if such conditions were formulated;
 - d) information about the weights in points or per cent attributed to respective criteria of tender evaluation and the methodology of awarding points to respective contractors for the fulfilment of a specific criterion;
 - e) identification of the selected tender with justification of such selection,
 - f) date of preparation of the report and signature of the contracting authority,
 - g) the following appendices:
 - i. confirmation of publication of the request for quotation in the manner specified in Point 12 or 13, along with amendments to the request for quotation referred to in point 14, if they have been made;
 - ii. submitted tenders,
 - iii. declarations of lack of ties with the contractors who submitted tenders, signed by the contracting authority and persons carrying out the activities relating to contractor selection

²⁰ Publication of request for quotation in the competitiveness database takes place also in the module "I want to add an advert - I am an Applicant (Ordering - Applicant). In the "Call for proposal number (* required)" field, enter the following number: PLSK.01.01.00-IP.01-00-PBU/16

procedure on behalf of the contracting authority, including participation in the tender evaluation process (i.e. the ties referred to in Point 2(b)).

- 17) Information about the result of the procedure is published in the same manner as the request for quotation. Information about the result of the procedure should include at least the name of chosen contractor, its location and price of the contract. Upon request of the contractor who submitted tender, the contracting authority is obliged to provide access to the report on the contract award procedure for such contractor, excluding the tenders covered by business confidentiality²¹.
- 18) After the completion of the procedure described in this Section, an agreement with the contractor is **concluded in a written or electronic form (together with a qualified electronic signature)**. If the contracting authority allows awarding a contract in the form of separate lots, the procedure may result in selection of more than one contractor. If the selected contractor withdraws from the execution of the agreement with the contracting authority, the agreement can be concluded with other contractor with the second highest number of points awarded in the contract award procedure.
- 19) Provisions of the executed agreement may not be materially amended²² with regard to the content of tender on the basis of which the contractor was selected, unless:
 - a) possibility to amend the agreement was provided for by the contracting authority in the request for quotation and conditions of such amendment were specified, unless they result in a change of the nature of the agreement;
 - b) the amendments relate to additional supplies, services or construction works by the current contractor that had not been covered by the main contract, provided such supplies, services or construction works are necessary and the following conditions are jointly met:
 - i. contractor cannot be changed for economic or technical reasons, in particular due to replacement potential or interoperability of the equipment, services or installations covered by the main contract;
 - ii. change of contractor could cause serious inconvenience or significant increase in costs for the contracting authority;
 - iii. the value of each subsequent amendment does not exceed 50% of the value of the contract initially determined in the agreement;
 - c) the amendment does not change the nature of the agreement and the following conditions are jointly met:
 - i. the agreement must be amended for reasons the contracting authority could not have foreseen when acting with due diligence;

²¹ Business confidentiality should be understood in accordance with the regulations on combating unfair competition (Act of 16 April 1993 on combating unfair competition, Dz. U. of 2018, item 419)

²²An amendment is considered material if it changes the general nature of the agreement with regard to the nature of the agreement in its initial wording, or if it does not change the general nature of the agreement and at least one of the following circumstances occurs: the amendment introduces conditions which, were they formulated in the course of the contract award procedure, would result in a situation where other contractors participated or could have participated in the procedure, or other tenders could be accepted, or the amendment affects the economic balance of the agreement to the benefit of the contractor in the manner originally unforeseen in the agreement, or the amendment significantly broadens or narrows the scope of services and obligations resulting from the agreement, or consists in the replacement of the contractor to whom the contracting authority awarded the contract with a new contractor in cases other than listed in (d).

- ii. the value of the amendment does not exceed 50% of the value of the contract initially determined in the agreement;
- d) the contractor to whom the contracting authority awarded the contract is to be replaced by a new contractor:
 - i. on the basis of the contractual provisions referred to in (a);
 - ii. as a result of a merger, division, transformation, bankruptcy, restructuring or acquisition of the current contractor or their enterprise, provided that the new contractor meets the conditions of participation in the procedure, is not subject to exclusion and the replacement does not require any other material amendments to the agreement;
 - iii. as a result of taking over the contractor's obligations towards their subcontractors by the contracting authority; in case of change of subcontractor, the contracting authority may conclude a contract with a new subcontractor without changing the terms of the contract, taking into account payments made for the work carried out so far,
- e) the amendment does not change the nature of the agreement and the total value of amendments does not exceed the amounts specified in §1 point 1 of the Regulation of the Minister of Development and Finance of 22 December 2017 on the value of orders and competitions, on which the obligation to submit notices to the Publications Office of the European Union is required, and at the same time it does not exceed 10% of the value of the contract initially determined in the agreement in the case of supplies and services or, in the case of construction works, it does not exceed 15% of the value of the contract initially determined in the agreement.

1.3. The most common breaches in the area of awarding public contracts are related to the:

- a) dividing or underrating the estimated value of the contract in order to avoid the application of the law;
- b) conducting the procedure in the wrong manner (e.g. the award of contracts using non-competitive procedures where there are no grounds for applying such procedures; in the case of priority services, the application of the procedure dedicated to non-priority services);
- c) non-competitive description of the subject of the contract by the groundless indication of trademarks, patents or the origin of goods, without allowing the equivalent tender submission and description of equivalence;
- d) setting improper deadlines for tender submission or illegal shortening of deadlines for the tender submission;
- e) determining improper conditions of participation in the public contract award procedure, leading to discrimination of contractors;
- f) determining the conditions of participation in the public contract award procedure that exceed the needs necessary to achieve contract objectives;
- g) demanding from consortium members to jointly meet all conditions of participation in the procedure;
- h) demanding submission of documents not required by the regulations;
- i) demanding proof of experience in the performance of contracts co-financed from EU or national funds where it is not necessary to confirm the contractor's abilities to perform the contract;

- j) non-compliance with the regulations on publishing the contract notice or any amendments thereto;
- k) illegal restriction of subcontracting;
- l) setting the improper tender evaluation criteria;
- m) conducting the procedure in breach of the principle of transparency, fair competition or equal treatment of contractors;
- n) illegal amendment of the content of the agreement concluded with the contractor.

1.4. The most common breaches in the area of awarding contracts in accordance with the principle of competitiveness are related to the:

- a) dividing or underrating the estimated value of the contract in order to avoid the application of the principle of competitiveness;
- b) failure to publish the request for quotation on a dedicated website if such website was created;
- c) if no website dedicated to the publication of requests for quotation was created, failure to send the request for quotation to the required number of potential contractors, or failure to publish the request for quotation on the contracting authority's website, if the contracting authority has such website;
- d) failure to define the tender evaluation criteria;
- e) setting deadlines for tender submission in the manner preventing potential contractors from submitting their tenders;
- f) execution of an agreement with an entity having personal or capital ties to the contracting authority, if other potential contractor for a given public contract exists on the market;
- g) failure to publish or improper publishing of information about the selection of the best tender;
- h) concluding a verbal agreement.

5.4.6. The conflict of interests

In order to avoid a conflict of interests, persons who conduct the activities associated with the procedure of selecting the contractor on behalf of the contracting party, including participating in the evaluation of tenders, may not have **personal or capital ties** with the contractors. They should be impartial and objective.

A conflict of interests exists where the impartial and objective conducting the activities associated with the procedure of selecting the contractor by the project partner and persons authorised to incur liabilities on behalf of the project partner or persons performing actions connected with preparing and conducting the contractor selection procedure on behalf of the project partner is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other interest shared with the contractors.

Capital or personal ties are understood as mutual ties between the project partner and persons authorised to incur liabilities on behalf of the project partner or persons performing actions connected with preparing and conducting the contractor selection procedure on behalf of the project partner and the contractor which consist in particular of:

- a) acting as a partner in a civil partnership or a partnership,
- b) holding at least 10% of stocks or shares,
- c) acting as a member of the supervisory or management board, proxy, plenipotentiary,
- d) being a spouse, relative by lineal consanguinity or affinity, secondary relative in the second degree of consanguinity or the second degree of affinity, in a relationship of adoption, care or guardianship.

5.4.7. The rules of nationality and origin

The beneficiaries should follow the rules of **nationality and origin** set in Articles 8 and 9 of Regulation (EU) No 236/2014 of the European Parliament and of the Council.

1. The rule of nationality, that is, the eligibility conditions for the participation of economic operators in procurement procedures, is the same as the one applied in the Member States. Therefore, there is no restriction on nationality of tenderers.
2. The Common Implementing Rules (EC Regulation 236/2014) make reference to the threshold of the competitive negotiated procedure, which corresponds to EUR 100 000. When the value of the supplies to be purchased is below EUR 100 000 per purchase, the supplies do not have to originate from an eligible country (full untying).
3. In case of actions implemented under shared management with a Member State (as it is the case of the Programme), countries that are eligible under the rules of that Member State are also eligible. Since no restrictions regarding origin are foreseen by the Polish national rules, there is no restriction on the origin of supplies above EUR 100 000 per purchase²³.

5.4.8. The financial corrections

In case of **breach of the regulations or principles on the award of public contracts** (this applies to all project partners) or the Programme procurement principles, the relevant expenditure will be deemed, in whole or in part, ineligible and the financial correction will be made. According to the Art. 71 of the IR the Managing Authority shall make the financial corrections taking into account the nature and gravity of the irregularities and the financial loss and shall apply a proportionate financial correction. **The criteria for establishing the level of financial correction to be applied are indicated in Guidelines for determining financial corrections to be made to expenditure financed by the Union under shared management, for non-compliance with the rules on public procurement.**

Following Art. 48 point 3 of the IR, according to which the grant may be awarded retroactively, the beneficiaries who **launch the project before signing the grant contract** are obliged to follow the above regulations and principles on the award of public contracts. In case of breach of the regulations or principles on the award of public contracts the rules regarding the financial corrections mentioned above also apply.

Please be advised that public procurement procedures have to be well documented. Documents such as public procurement notes, terms of reference, offers/quotes, order forms, and contracts have to be available for financial control and audit purposes.

5.5. Project Budget and Description of the Budget Headings

5.5.1. Staff costs

Definition

Budget Heading “Staff costs” shall include costs related to the project management (e.g. costs of project coordinator, project manager, financial manager, project manager assistant etc.).

It includes costs of management staff members employed by the lead beneficiary/beneficiary organisation, who are formally engaged to work on the project on:

- labour contract- full-time basis (an individual dedicates 100% of his/her working time to the project);
- labour contract- part-time basis:
 - part-time with a fixed percentage of time dedicated to the project per month
 - part-time with a flexible number of hours worked on the project per month

²³ In case any restrictions regarding origin are imposed in the Member State, they shall be followed both in the Member State and in the Programme countries as well.

- additional remuneration related to the temporary extension of duties
- contracts other than a labour contract

Staff already employed in the organisation on the basis of labour contracts could be assigned to action by written orders of head of organization to carry out new tasks related to the project.

Specific requirements:

- Staff costs must relate to activities which the partner organisation would not carry out if the project was not undertaken.
- Costs must not exceed those normally borne by the beneficiary unless it is demonstrated that this is essential to carry out the project.
- Staff costs cover real costs paid out based on supporting documents.
- The following costs are eligible components of staff costs:
 - salary payments fixed in the labour contract, or an appointment decision/contract considered as an employment document or by law.
 - any other costs directly linked to the salary payments, incurred and paid by the employer, such as employment taxes and social security as long as they are obligatory in accordance with the legislation in the employer's country.
- The salary payments must relate to responsibilities specified in a job description of the individual staff member.
- Holidays and sick leaves covered by beneficiaries as resulting from the labour legislation in the employer's country are eligible.
- In exceptional duly justified cases overtime is eligible, provided it is in conformity with the national legislation and the employment policy of the beneficiary organisation, and it is actually paid to the staff member. Number of hours and information on tasks related to the project shall be clearly indicated in the written order to work in overtime.
- Staff costs must be calculated and reflected in the project budget individually for each staff position. If staff are not working full time on the project, the percentage should be indicated alongside the description of the item and reflected in the number of units (not the unit rate).
- Salaries of project management staff (project coordinator / project manager and financial manager) incurred during 3 months after the implementation period of the project shall be treated as costs relating to final reports and are eligible.
- Bonus payments are non-eligible, excepting cases when they are an obligatory component of salary in accordance with the employment policy of the beneficiary organisation or legislation in the employer's country.
- Unpaid voluntary work is non-eligible.
- Service contracts with legal entities cannot be concluded under this budget line. Forms of reimbursement

Staff costs can be settled by the programme either on the basis of:

- I. Lump sum (staff costs up to 50 000 EUR of eligible costs per project), or
- II. Real costs

Every beneficiary must decide on the reimbursement option and indicate the choice in the project budget. The same reimbursement option will apply to all project management staff members employed by all beneficiaries. It will be set for the entire project duration. The level of staff costs assigned to the every beneficiary participating in the project (including the lump sum share) should be stipulated in the Partnership Agreement.

I. Lump sum.

Beneficiaries may indicate an amount of up to 50 000 EUR of eligible costs per project as the project management staff costs in the budget line 1.1 Salaries of project management staff. By applying the lump sum option, beneficiaries do not need to prove by relevant documents that the expenditure has been incurred and paid, or that the lump sum corresponds to the reality.

II. Real costs.

In case the project management staff costs exceed 50 000 EUR they shall be settled on the basis of real costs. All the positions of management staff shall be indicated in project budget in a separate line providing number of units and unit cost. Depending on type of staff assignment beneficiaries shall prove that the expenditures have been incurred and paid by supporting documents as provided below. In such case, the following documents must be available for control purposes (examples of supporting documents):

Full-time assignment

- Labour contract or an appointment decision.
- Job description providing information on responsibilities related to the project.
- Payslips, payrolls or other documents of equivalent probative value.
- Written order to work in overtime.
- Proof of payment of salaries and the employer's contribution.
- No registration of the working time (e.g. timesheets) is required.

Part-time assignment with a fixed percentage of time worked on the project per month

- Labour contract or an appointment decision.
- Document setting out the percentage of time to be worked on the project per month (if not specified in the contract).
- Job description providing information on responsibilities related to the project.
- Payslips, payrolls or other documents of equivalent probative value.
- Written order to work in overtime.
- Proof of payment of salaries and the employer's contribution.
- No registration of the working time (e.g. timesheets) is required.

Part-time assignment with a flexible number of hours worked on the project per month

- Labour contract or an appointment decision/contract considered as an employment document (including information on the monthly working time).
- Job description including information on tasks related to the project.
- Payslips, payrolls or other documents of equivalent probative value.
- Written order to work in overtime.
- Data from the working time registration system, e.g. time sheets, providing information on the number of hours spent per month on the project. The time registration system must cover 100% of the actual working time of the individual.
- Proof of payment of salaries and the employer's contribution.

Part-time assignment - additional remuneration related to the temporary extension of duties

- Labour contract or an appointment decision.
- Job description providing information on responsibilities related to the project.
- Payslips, payrolls or other documents of equivalent probative value.
- Written order to work in overtime.
- Proof of payment of salaries and the employer's contribution.
- No registration of the working time (e.g. timesheets) is required.

Contract other than a labour contract

- Evidence of the procurement process (announcement, selection, award) in line with the national procurement rules (in case of beneficiaries from Poland) or procurement rules set up in the Art. 52.2 of the IR (in case of beneficiaries from Ukraine) depending on the amount of the contract.
- Contract with clear reference to the project and the programme.
- Invoice providing all relevant information in line with the applicable accountancy rules.
- Service acceptance note.
- Proof of payment.

5.5.2. Travel and subsistence costs

Definition

Expenditure on travel and accommodation costs of the management staff of the lead beneficiary/beneficiary organisation related to the project implementation.

Budget sub-heading	Examples of eligible costs
2.1 Per diems for missions	
2.1.1. Abroad missions	Cost of accommodation, daily allowance and/or meals of staff employed by the beneficiaries related to abroad missions
2.1.2. Local missions	Cost of accommodation, daily allowance and/or meals of staff employed by the beneficiaries related to missions within the beneficiary country
2.2 International travel	Cost of transportation (e.g. bus tickets, train tickets, flight tickets - economy class (first/business class is eligible just in exceptional duly justified cases), other travel tickets for the use of public transport (taxi is non-eligible), checked baggage, travel insurance, car insurance, fuel, parking fees) and visa cost (if needed) of staff employed by the beneficiaries related to abroad missions
2.3 Local transportation	Cost of transportation (please see above) of staff employed by the beneficiaries related to missions within the beneficiary country

Specific requirements:

- Travel and accommodation costs must clearly link to the project and be essential for effective implementation of the project activities.
- Costs must be borne by the lead beneficiary/beneficiary organisation. Direct payment by a staff member of the partner organisation must be supported by a proof of reimbursement from the employer.
- The principles of sound financial management and cost-efficiency should apply to the choice of transport and accommodation.
- Any expenditure item defined as travel costs, accommodation costs, costs of meals or visa costs that is already covered by a daily allowance, cannot be eligible in addition to the daily allowance, i.e. no double funding is allowed.
- Travel and accommodation costs of external experts and service providers as well as natural persons (e.g. speakers, teachers, etc.) engaged in the project events cannot be included under this budget line; they must be reported as service costs.
- Travel and accommodation costs must be justified by activities carried out within the project, e.g. participation in project meetings, project site visits, etc.
- In duly justified cases costs of travel and accommodation related to activities outside the programme area²⁴ are eligible.
- Maximum daily rates for hotel and subsistence should be respected, in accordance with the national legislation or internal policy of the beneficiary organisation. In any case, per diem rates cannot exceed the rates published by the EC. To be comparable with EC rates²⁵, per diems reflected in the project budget shall cover accommodation, meals and local travel within the place of the mission and sundry expenses and should be understood as “overnight stays”, that is, “per night”.
- Travel and accommodation cost should be properly documented in line with the national legislation or internal policy of the partner organisation.

Examples of supporting documents.

The following documents must be available for control purposes:

- Agenda of the event (e.g. meeting/seminar/conference).
- Paid invoices (e.g. hotel bills, travel tickets).
- Appropriate calculation of daily allowance.

²⁴ Please note that activities may take place in other regions from the outside Programme area, but on the territory of Poland or Ukraine.

²⁵ http://ec.europa.eu/europeaid/work/procedures/implementation/per_diems/index_en.htm_en

- Boarding passes.
- Appropriate calculation of car expenses (in case of travelling by company car).
- Mission report.
- Proofs of payment.
- Proofs that staff was assigned to the project activities (applicable in case of lump sum option for the staff costs settlement).

5.5.3. Equipment and supplies

Definition

Expenditure for the financing of equipment purchased or rented by a partner, necessary to achieve objectives of the project.

Budget sub-heading	Examples of eligible costs
3.1 Purchase or rent of vehicles	Purchase or rent of vehicle (including rent of vehicle for local and abroad missions), fuel to run vehicles, maintenance and repair of vehicles, re- placement/spare parts for vehicles needed for the project, cost of insurance.
3.2 Furniture	Furniture (including office furniture).
3.3 Computer equipment	Desktop computers, laptops, tablets, monitors, keyboards, mice, printers, scanners, IT software, digital projectors, digital/video cameras, mobile phones, maintenance and repairs of computer equipment, replacement/ spare material for computer equipment needed for the project.
3.4 Other (please specify)	Laboratory equipment, machines, instruments, tools, exhibition equipment, chemicals for a research activity, other goods needed for the project (not necessarily assimilated to equipment).

Specific requirements:

- All costs are subject to applicable public procurement rules and each lead beneficiary/beneficiary is responsible for ensuring that these rules have been respected.
- Purchase cost of equipment is eligible, if it is used solely for the purpose of the project or the target group in line with objectives of the project and incurred within the eligible period.
- Full purchase cost of equipment (including cost of delivery and installation) is eligible, i.e. depreciation is non-eligible.
- Purchase cost of used equipment is eligible, provided the equipment complies with applicable norms and standards.
- Equipment cannot be purchased or rented from another project beneficiary.

Examples of supporting documents.

The following documents must be available for control purposes:

- Evidence of the procurement process (announcement, selection, award) in line with the national procurement rules (in case of beneficiaries from Poland) or procurement rules set up in the Art. 52.2 of the IR (in case of beneficiaries from Ukraine) depending on the amount of the contract.
- Supply contract
- Invoice providing all relevant information in line with the applicable accountancy rules.
- Delivery note.
- Proof of payment.

5.5.4. Services

Definition

Cost of expertise and services related to the project implementation, with exception project management costs, provided by a public or private law body or a natural person other than the beneficiary.

Budget sub-heading	Examples of eligible costs
4.1 Salaries of technician staff (gross amounts)	Salary payments and other costs directly linked to the salary payments of technician staff assigned by the lead beneficiary/beneficiary for the project purpose.
4.2 Publications	Publication of strategies, handbooks, research reports etc. not related to visibility actions.
4.3 Studies, research	Evaluations (other than the evaluation of the project), external research, design plans, technical documentation (except in case when both design and execution of works are foreseen within the same project, in such case cost of technical documentation shall be included under the budget sub-heading 6. Infrastructure component), environmental impact assessment of an investment, investment feasibility study, other external expertise and services related to investments, travel and accommodation for service providers, etc.,.
4.4 External audit costs	Cost of project expenditure verification.
4.5 Evaluation costs	Evaluation of the project.
4.6 Translation, interpreters	Translations (written or oral) not related to conferences, meetings and seminars .
4.7 Financial services (bank guarantee costs, etc.)	Provision of guarantees by a bank or other financial institution, bank fees for opening and administrating the account(s) where the separate account is opened.
4.8 Costs of conferences/seminars	Services related to organisation and implementation of events or meetings (e.g. rent of venue; catering, interpretation, external speakers), travel and accommodation for participants and speakers.
4.9 Visibility actions	Services on promotion, communication, publicity, information (e.g. design, edit, print, distribution of brochures, leaflets, publications, etc., publishing of promotion articles, inserts in newspapers, press releases, visibility items, etc.), website development, modifications and update.
4.10 Other (please specify)	Notarial services, intellectual property rights, other services related to the project activities.

Specific requirements:

- Costs shall be strictly related to the project activities or derive directly from requirements imposed by the IR.
- Cost must be specifically incurred for the project, clearly identifiable and not covered by any other heading of cost.
- Costs are eligible if they have been approved in the project budget.
- Service costs are subject to applicable public procurement rules and each lead beneficiary/beneficiary is responsible for ensuring that these rules have been respected.
- Communication and visibility activities should be properly planned and budgeted at each stage of the project planning. These activities shall be in line with the relevant EU information and publicity requirements, set up in the Communication and Visibility Manual for EU External Actions²⁶ and ENI CBC Communication Guide²⁷.
- Service contract cannot be awarded to another project beneficiary.

Examples of supporting documents.

The following documents must be available for control purposes:

- Evidence of the procurement process (announcement, selection, award) in line with the national procurement rules (in case of beneficiaries from Poland) or procurement rules set up in the Art. 52.2 of the IR (in case of beneficiaries from Ukraine) depending on the amount of the contract.
- Contract laying down the service to be provided, with clear reference to the project and the programme.

²⁶ http://ec.europa.eu/europeaid/work/visibility/index_en.htm

²⁷ http://admin.staging.enpi.interact-eu.net/downloads/8403/INTERACT_ENPI_ENI_CBC_Communication_Guide_06_2015.pdf

- Invoice providing all relevant information in line with the applicable accountancy rules.
- Service acceptance note.
- Proof of payment.
- Sample of service contract results (e.g. visibility item, publication, handbook, published article etc.).
- Proofs of organised event (e.g. agenda, list of participants signed for the each day of event, photos, sample of distributed materials, presentations etc.).
- Examples of supporting documents related to the technician staff employed by beneficiaries on the basis of labor law are listed in the chapter 6.5.1 „Staff costs” (applicable for the “real costs” option).

5.5.5. Infrastructure component (works, services, other activities related to planned works)

Definition

Expenditures for the financing of infrastructure and construction works. “Infrastructure and construction works” also covers costs related to creation of infrastructure that do not fall into the scope of other budget lines. This includes costs for site preparation, delivery, handling, installation, renovation, and purchase of land or building, other costs related to planned works, e.g.: costs of preparation of the technical documentation (applicable only in case when both design and execution of works are foreseen in the same project, in other cases cost of technical documentation shall be included under the budget line 4.3. Studies, research), costs of supplies including purchase of fixed assets etc., when applicable.

Specific requirements:

- All costs are subject to applicable public procurement rules and each lead beneficiary/beneficiary is responsible for ensuring that these rules have been respected.
- Full costs of infrastructure and construction works that form part of the project are eligible, i.e. no depreciation is eligible.
- Documents specifying the ownership of land and/or buildings where the works will be carried out must be provided.
- Purchase of land or buildings cannot exceed 10% of the total eligible expenditure of the project.
- All compulsory requirements set by the EU and national legislation related to the respective investment in infrastructure must be fulfilled (e.g. feasibility studies, environmental impact assessments, building permission, etc.).
- EU visibility requirements regarding infrastructure-related actions shall be respected.
- Any project including an infrastructure component shall repay the Union contribution if, within five years of the project closure it is subject to a substantial change affecting its nature, objectives or implementation conditions which would result in undermining its original objectives. Sums unduly paid in respect of the project shall be recovered by the Managing Authority in proportion to the period for which the requirement has not been fulfilled.

Examples of supporting documents.

The following documents must be available for control purposes:

- Evidence of the procurement process (announcement, selection, award) in line with the national procurement rules (in case of beneficiaries from Poland) or procurement rules set up in the Art. 52.2 of the IR (in case of beneficiaries from Ukraine) depending on the amount of the contract.
- Contract laying down the works/infrastructure to be provided, with clear reference to the project and the programme.
- Invoice providing all relevant information in line with the applicable accountancy rules.
- Proof of works acceptance (interim and final).
- Proof of payment.

6. Project implementation phase, closure

Without prejudice to the special provisions, set by this Manual, further steps of the project cycle (project implementation, closure) of the current call projects describe the Programme Manual, Part II, applicable for

the 1st call for Proposals.

Important!

In case of using 1st option of payment described in chapter 4. of this Manual (one tranche of prefinancing; 85% of grant) the provisions of chapters 2.3 and 2.4 of the Programme Manual, Part II **are not applicable**.