

# Other important contractual provisions

## Financial guarantee

If the financial capacity is considered weak, the National or Executive Agency may require any beneficiary which has been awarded a grant exceeding 60 000 EUR to lodge a guarantee in advance in order to limit the financial risks connected with the pre-financing payment. This guarantee can be requested for up to the same amount of the pre-financing payment(s).

The purpose of such guarantee is to make a bank or financial institution stand as irrevocable collateral security or first-call guarantor of the beneficiary's obligations deriving from the grant agreement.

This financial guarantee, in euro, shall be provided by an approved bank or financial institution established in an EU Member State. When the beneficiary is established in a non-EU country, the National or Executive Agency may agree that a bank or financial institution established in such country provides the guarantee, if it considers that the bank or financial institution offers equivalent financial security and characteristics as those offered in an EU Member State.

The guarantee may be replaced by a joint third-party guarantee, or from several third-party guarantees from the participating organisations who are parties to the same grant agreement.

The guarantee will be released after the pre-financing is gradually cleared against an interim payment or payment of the balance to the beneficiary, in accordance with the conditions laid down in the grant agreement. In case the payment of the balance takes the form of a recovery, either the guarantee will be released after the beneficiary is notified or will remain explicitly in force until the final payment and, if the final payment takes the form of a recovery, until three months after the debit note is

notified to a beneficiary.

## Subcontracting and award of procurement contract

The beneficiary may resort to subcontracting for specific technical services requiring specialised skills (relating to the legal, accounting, tax, human resources fields, IT, etc.) or implementation contracts. The costs incurred by the beneficiary for this type of services may therefore be considered eligible costs provided they meet all the other criteria described in the grant agreement.

Where implementation of the project requires the procurement of goods, works or services (contract), beneficiaries must award the contract to the economically most advantageous offer, i.e. the bid offering the best value for money, or, as appropriate to the tender offering the lowest price, ensuring that there is no conflict of interests and that documentation is retained in case of audit.

In the event of implementation contract exceeding a value of 60 000 EUR, the National or Executive agency may impose special rules on the beneficiary, in addition to those referred to in the previous paragraph. Those special rules would be published on the websites of the National Agencies or the Executive Agency.

## Information on the grants awarded

In line with the principle of transparency and the requirement for ex-post publicity, information on the recipients of the Union funds must be published on the website of the Commission, the Executive Agency and/or the National Agencies during the first half of the year following the closure of the financial year for which they were awarded.

The information may also be published in any other appropriate medium, including the Official Journal of the European Union.

The National Agencies and the Executive Agency will publish the following information:

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

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

As far as personal data referring to natural persons are concerned, the information published shall be removed two years after the end of the financial year in which the funds were awarded.

The same shall apply to personal data indicated in the official titles of legal persons (e.g. an association or company having as title the names of their founders).

This information shall not be published for scholarships paid to natural persons and other direct support paid to natural persons in most need (refugees and unemployed persons). Also the beneficiary organisations are not authorised to publish this type of information in relation to persons receiving a mobility grant under Erasmus+.

## Publicity

Apart from the requirements regarding the visibility of the project and for the sharing of project results and project impact (which are award criteria), there is an obligation of minimal publicity for each granted project.

Beneficiaries must clearly acknowledge the European Union's support in all communications or publications, in whatever form or whatever medium, including the Internet, or on the occasion of activities for which the grant is used.

This must be done according to the provisions included in the grant agreement. If these provisions are not fully complied with, the beneficiary's grant may be reduced.

## Checks and audits

The National or Executive Agency and/or the European Commission may carry out technical and financial checks and audits in relation to the use of the grant. They may also check the statutory records of the beneficiary (or co-beneficiary) for the purpose of periodic assessments of lump sum, unit cost or flat-rate financing. The beneficiary (or co-beneficiary) will undertake, with the signature of its legal representative, to provide proof that the grant has been used correctly. The European Commission, the Executive Agency, National Agencies and/or the European Court of Auditors, OLAF, EPPO or a body mandated by them, may check the use made of the grant at any time up to five years, or for up to three years for grants not exceeding 60 000 EUR, starting from the date of payment of the balance or execution of the recovery by the National or Executive Agency. Therefore, beneficiaries shall keep records, original supporting documents, statistical records and other documents connected with the grant during this period.

For projects managed at centralised level by the Executive Agency, different types of audit procedures may be applied according to the type of Action concerned, the size of the grant awarded and the form of the grant. More information is available on the website of the Executive Agency.

The detailed provisions concerning checks and audits are described in the grant agreement.

## Data protection

Any personal data included in the application form or in the grant agreement/decision shall be processed by the National or Executive Agency, or by the European Commission in accordance with:

- For all processing that is required by any official guidance or instructions from the European Commission or necessary for the implementation of the Erasmus+ Programme: Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018[1] on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (Text with EEA relevance.);
- For all processing for other purposes, not required by any official guidance or instructions from the European Commission nor necessary for the implementation of the Erasmus+ Programme:
  - the General Data Protection Regulation (GDPR or EU Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016[2]) for:
    - all personal data processed by a controller or processor in the EU/EEA;
    - all personal data on data subjects who are in the EU/EEA at the start of the processing;
  - the national data protection legislation for all other processing.

In these cases the entity deciding on the means and purposes of the processing for these other purposes shall replace the European Commission as accountable and responsible Data Controller under their applicable data protection legislation.

Unless marked as optional, the applicant's replies to the questions in the application form are necessary to evaluate and further process the grant application in accordance with the Erasmus+ Programme Guide. Personal data will be processed solely for that purpose by the department or Unit responsible for the Union grant programme concerned (entity acting as data controller). Personal data may be transferred on a need to know basis to third parties involved in the evaluation of applications or in the grant management procedure, without prejudice of transfer to the bodies in charge of monitoring and inspection tasks in accordance with European Union law or to bodies mandated to undertake evaluations of the Programme or any of its Actions. In particular, for the purposes of safeguarding the financial interests of the Union, personal data may be transferred to internal audit services, to the European Court of Auditors, to the Financial Irregularities Panel or to the European Anti-Fraud Office and

between authorising officers of the Commission and the executive agencies. The applicant shall have the right of access to his/her personal data and the right to rectify any such data. Should the applicant have any queries concerning the processing of his/her personal data, he/she shall address them to the Agency that has selected the project. In case of conflicts; the applicant also has the right of recourse at any time to the European Data Protection Supervisor.

Concerning the processing of personal data under the Erasmus+ Programme, a detailed privacy statement, including contact information, is available on the website of the Commission and Executive Agency:

[https://ec.europa.eu/programmes/erasmus-plus/help/erasmus-and-data-protection\\_en](https://ec.europa.eu/programmes/erasmus-plus/help/erasmus-and-data-protection_en)

For actions managed by EACEA:

[https://ec.europa.eu/research/participants/data/support/legal\\_notice/h2020-ssps-grants-sedia\\_en.pdf](https://ec.europa.eu/research/participants/data/support/legal_notice/h2020-ssps-grants-sedia_en.pdf)

The applicant shall inform the individuals whose personal data is contained in the proposal of the relevant privacy statement as indicated above, before submitting their proposals.

Within the framework of centralised actions managed by the Executive Agency, applicants – and, if they are legal entities, persons who are members of the administrative, management or supervisory body of that applicant or who have powers of representation, decision or control with regard to that applicant, or natural or legal persons that assume unlimited liability for the debts of that applicant – are informed that their personal data (name, given name if natural person, address, legal form and name and given name of the persons with powers of representation, decision-making or control, if legal person) may be registered in the Early Detection and Exclusion System (EDES) by the Authorising Officer of the Agency, should they be in one of the situations mentioned in 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.