

CALL FOR EXPRESSION OF INTEREST FOR PUBLIC AUTHORITIES TO PILOT INTEGRITY PACTS IN PROJECTS CO-FUNDED BY THE EU STRUCTURAL AND COHESION FUNDS

Frequently Asked Questions

QUESTION 1: WHAT IS A MINIMUM SCOPE OF INFORMATION REQUIRED FOR THE APPLICATION UNDER THE CALL FOR EXPRESSION OF INTEREST FOR PUBLIC AUTHORITIES?	2
QUESTION 2: THE TIMING OF THE CALL FOR EXPRESSION OF INTEREST FOR PILOTING INTEGRITY PACTS DOES NOT MATCH WITH THE TIMING OF THE CALLS FOR PROJECTS UNDER THE OPERATIONAL PROGRAMMES. THEREFORE WE DON'T KNOW PROJECTS WHICH WILL BE SELECTED FOR FINANCING YET.....	2
QUESTION 3: WHAT IS MEANT BY THE ELIGIBILITY CRITERION "THE FINANCING FOR THE PROJECT PROPOSED FOR PILOTING AN INTEGRITY PACT IS ENSURED" (PARAGRAPH 3.2.2.)?.....	2
QUESTION 4: WILL THERE BE ANOTHER CALL FOR EXPRESSION OPENED LATER THIS OR NEXT YEAR?	2
QUESTION 5: UNDER WHAT CONDITIONS COULD A PUBLIC AUTHORITY WHICH HAS SUBMITTED THE EXPRESSION OF INTEREST WITHDRAW THE APPLICATION (AFTER THE INITIAL SHORTLISTING)?.....	3
QUESTION 6: REGARDING PROJECTS THAT HAVE NOT YET BEEN FORMALLY APPROVED (BY THE EUROPEAN COMMISSION AND/OR BY NATIONAL INSTITUTIONS) - WHAT HAPPENS IF NONE OF THE PROJECTS PROPOSED BY THE PUBLIC AUTHORITY IN ITS INITIAL APPLICATION GETS FORMAL APPROVAL OR ITS IMPLEMENTATION IS UNEXPECTEDLY DELAYED? COULD IT BE REPLACED BY ANOTHER PROJECT?	3
QUESTION 7: WHAT ADDITIONAL BURDEN MAY AN INTEGRITY PACT CREATE FOR A CONTACTING AUTHORITY/ BENEFICIARY?.....	3
QUESTION 8: WILL THERE BE ANY FINANCIAL BURDEN ON THE BENEFICIARY / CONTRACTING AUTHORITY WHICH WILL PARTICIPATE IN AN INTEGRITY PACT?	4
QUESTION 9: WHICH AREAS ARE MOST SUITABLE FOR THIS INITIATIVE (INTEGRITY PACTS)?.....	4
QUESTION 10: WHAT IF SOME INDIVIDUAL COMPONENTS OR ASPECTS OF AN INTEGRITY PACT MIGHT BE DIFFICULT TO IMPLEMENT IN SOME MEMBER STATES DUE TO SPECIFICS OF THE NATIONAL LEGISLATION?	4
QUESTION 11: WHAT IS MEANT BY BENEFICIARY / APPLICANT BEING A PUBLIC BODY (PARAGRAPH 3.2.3. IN THE CALL AND 4.5. IN THE APPLICATION FORM)?	4
QUESTION 12: WHAT IS CONSIDERED SUFFICIENT CONFIRMATION FROM THE PROJECT BENEFICIARY REGARDING ITS INTENT TO PILOT AN INTEGRITY PACT (ELIGIBILITY CRITERIA IN PARAGRAPH 3.2.4. IN THE CALL FOR EXPRESSION OF INTEREST FOR PUBLIC AUTHORITIES)?.....	5
QUESTION 13: CAN A PROJECT / TENDER PROCEDURE FUNDED BY EUROPEAN SOCIAL FUND (ESF) BE PROPOSED UNDER THIS CALL FOR PILOTING INTEGRITY PACT?.....	5
QUESTION 14: CAN SEVERAL APPLICANTS FROM THE SAME MEMBER STATE SUBMIT THEIR APPLICATIONS UNDER THIS CALL FOR PILOTING INTEGRITY PACT?	5
QUESTION 15: WHO WILL BE SELECTING THE NGOS WHICH WILL BE MONITORING THE PROJECT (TENDER)?	6
QUESTION 16: WILL AUDITS TAKE INTO ACCOUNT THE FACT THAT THERE HAS BEEN AN INDEPENDENT MONITOR IN PLACE FOR THE AUDITED PROJECT?.....	6

Question 1: What is a minimum scope of information required for the application under the Call for Expression of Interest for public authorities?

The Application Form filled in and submitted by the deadline serves as a confirmation of an Expression of Interest to pilot an Integrity Pact. The Application Form is rather simple and the description provided can be brief. However, information provided should be sufficient to allow assessing the application against the eligibility criteria (set in paragraph 3.2 of the Call) and shortlisting criteria (set in paragraph 4.1 of the Call). The Application Form will also be used by the Evaluation Committee of the Call for the purpose of understanding the expected size and complexity of the proposed project as well as rationale for proposing the specific project / sector for piloting an Integrity Pact.

Question 2: The timing of the Call for Expression of Interest for piloting Integrity Pacts does not match with the timing of the calls for projects under the operational programmes. Therefore we don't know projects which will be selected for financing yet.

This initiative of piloting Integrity Pacts is open to all EU Member States which may be at different stages of implementation of their 2014-2020 operational programmes. However, the **application Form does not require** the project proposed for piloting an Integrity Pact to be already selected through a project selection call nor that it should be already adopted or approved. It is possible to apply under this Call proposing projects that have not yet been selected or approved. In particular, this would refer to cases where projects are not selected through competitive calls. For example, **projects that can already be identified are major projects or projects listed in different sectoral/regional strategies**. Even if such projects have not yet passed all formal steps in their selection and adoption procedure, for the purpose of the Integrity Pact initiative they may be submitted under this Call for piloting an Integrity Pact.

In cases where a competitive open call for project applications is planned and has not yet been implemented, projects will not be known and therefore cannot be proposed for piloting an Integrity Pact.

Question 3: What is meant by the eligibility criterion "The financing for the project proposed for piloting an Integrity Pact is ensured" (paragraph 3.2.2.)?

We understand that in many Member States the implementation of 2014-2020 operational programmes is at an early stage and formal project financing decisions might not yet been taken. However, we would expect that a project proposed for piloting an Integrity Pact has a reasonable assurance that the EU and national co-funding will be granted. For example, this would be the case when a project is included in a major project list in the operational programme or in a national/regional/sectoral strategy.

Question 4: Will there be another call for expression opened later this or next year?

It is not envisaged at this moment.

Question 5: Under what conditions could a Public Authority which has submitted the Expression of Interest withdraw the application (after the initial shortlisting)?

The submitted Expression of Interest has no legal commitment.

An Integrity Pact is a collaborative tool and it cannot be imposed on a project. The European Commission recognises this. Therefore the identification of projects and NGOs for piloting an Integrity Pact have been organised as a two-stage process. First, two Calls for Expression of Interest have been launched which is expected to result in two shortlists: (1) shortlist of projects and respective Contracting Authorities/Beneficiaries and (2) shortlist of NGOs. Second, the shortlisted partners within one country are expected to discuss and work together on the details of the potential Integrity Pact. It is possible that some collaborations will not materialise in an actual Integrity Pact, either because the shortlisted partners fail to find a common ground for collaboration or following unexpected changes (severe delay, cancellation of a project, etc.) affecting the proposed projects. In brief, there is a risk and possibility that some of the shortlisted projects do not materialise in an Integrity Pact. This will not trigger any sanctions for the Public Authority which has submitted the Expression of Interest.

Question 6: Regarding projects that have not yet been formally approved (by the European Commission and/or by national institutions) - what happens if none of the projects proposed by the Public Authority in its initial application gets formal approval or its implementation is unexpectedly delayed? Could it be replaced by another project?

Replacing a project could be rather straightforward in case of the same Contracting Authority and another project in the same sector or a project identified under the same strategy. More complex cases will be assessed on a case by case basis.

Question 7: What additional burden may an Integrity Pact create for a Contracting Authority/ Beneficiary?

It is essential to note that **an Integrity Pact should not create additional burden or workload** for the Public Authorities (Contracting Authority/ Beneficiary) involved. There should be **no need for additional reporting and/or production of additional documents** specifically for the Integrity Pact. Of course, in the initial phase of establishing an Integrity Pact, there could be some additional workload related to setting up the Integrity Pact, such as: discussions on proposed working relations between the Monitor (NGO) and Contracting Authority/ Beneficiary; discussions on the content of the Integrity Pact Agreement to be signed. However, most of the preparatory work is expected to be handled by the selected NGOs.

In addition, experience also shows that Integrity Pact monitor can provide valuable assistance to the Beneficiary / Contracting Authority by bringing in an additional expertise in public procurement, preventing possible mistakes, facilitating communication with the wider public and contactors/sub-contractors during the project implementation and the like.

Question 8: Will there be any financial burden on the Beneficiary / Contracting Authority which will participate in an Integrity Pact?

No. No additional funding will be required from either the Managing Authority which will submit the Expression of Interest or from the Beneficiary / Contracting Authority which will participate in piloting an Integrity Pact.

Within the scope of the project “Integrity Pacts - civil control mechanisms for safeguarding EU funds”, the Commission will finance costs of Integrity Pact monitoring done by a civil society organisation for the selected pilot projects.

Question 9: Which areas are most suitable for this initiative (integrity pacts)?

So far the analysis of the previous experience with implementation of Integrity Pacts has shown that there are no areas or sectors or projects where an Integrity Pacts cannot be used. The Integrity Pact as a tool allows for adaptation to different sectors, sizes, types of contracts and contexts; it is also flexible for adaptation to different legal frameworks.

The choice is given to the Member States and their public authorities in selecting areas/sector where they wish to test an Integrity Pact or where more transparency could be beneficial. The project should, however, be realistic, feasible and the implementation of the project (launch of tender procedures) should be expected not much later than the 1st quarter of 2016.

The Integrity Pact is a collaborative tool. When selecting a project for an Integrity Pact we suggest reflecting on the benefits that the implementation of the Integrity Pact would bring for each actor (contracting authority, economic operators and society).

Question 10: What if some individual components or aspects of an Integrity Pact might be difficult to implement in some Member States due to specifics of the national legislation?

The Integrity Pact as a tool is flexible. It allows for adaptation to procurement in different sectors, sizes, types of contracts and contexts. Integrity Pact is also **flexible for adaptation to different legal frameworks**. National context should always be taken into consideration in setting up an Integrity Pact.

Question 11: What is meant by beneficiary / applicant being a public body (paragraph 3.2.3. in the Call and 4.5. in the Application Form)?

A definition of 'Public body' is provided in the Article 2(16) of the Common Provisions Regulation No 1303/2013:

"'public law body' means any body governed by public law within the meaning of point 9 of Article 1 of Directive 2004/18/EC of the European Parliament and of the Council[6] and any European grouping of territorial cooperation (EGTC) established in accordance with Regulation (EC) No 1082/2006 of the European Parliament and of the Council[7], regardless of whether the EGTC is considered to be a public law body or a private law body under the relevant national implementing provisions".

Point 9 of Article 1 of Directive 2004/18/EC stipulates that:

<...> "a "body governed by public law" means any body:

(a) established for the specific purpose of meeting needs in the general interest, not having an industrial or commercial character;

(b) having legal personality; and

(c) financed, for the most part, by the State, regional or local authorities, or other bodies governed by public law; or subject to management supervision by those bodies; or having an administrative, managerial or supervisory board, more than half of whose members are appointed by the State, regional or local authorities, or by other bodies governed by public law.

Question 12: What is considered sufficient confirmation from the project beneficiary regarding its intent to pilot an Integrity Pact (eligibility criteria in paragraph 3.2.4. in the Call for Expression of Interest for public authorities)?

In cases where the Application Form has been filled in and submitted by body other than the Beneficiary (Contracting Authority), as a minimum, we would like to be assured that the initiative to pilot an Integrity Pact has been discussed with the Beneficiary/ Contracting Authority **AND** that the Beneficiary / Contracting Authority is willing in principle to explore further the possibility of a pilot.

The submitted Expression of Interest has no legal commitment.

An Integrity Pact is a collaborative tool and it cannot be imposed on a project. Therefore the identification of projects and NGOs for piloting an Integrity Pact have been organised as a two-stage process. First, two Calls for Expression of Interest have been launched which is expected to result in two shortlists: (1) the shortlist of projects and respective Contracting Authorities/Beneficiaries and (2) the shortlist of NGOs. Second, the shortlisted partners within one country are expected to discuss and work together on the details of the potential Integrity Pact. It is possible that some collaborations will not materialise in an actual Integrity Pact. This will not trigger any sanctions for the Public Authority which has submitted the Expression of Interest.

Question 13: Can a project / tender procedure funded by European Social Fund (ESF) be proposed under this Call for piloting Integrity Pact?

Yes, the ESF project can be proposed for piloting an Integrity Pact. In this initiative, we are looking for different types of projects, sectors, countries in order to test the tool of Integrity Pacts.

Question 14: Can several applicants from the same Member State submit their applications under this Call for piloting Integrity Pact?

Yes, the number of applicants per Member State is not limited. It is also possible for a Beneficiary/ Contracting Authority to submit several projects for piloting Integrity Pacts (maximum 3). However, please note that as stipulated in the Call (paragraph 4.2), DG Regional and Urban Policy seeks to pilot Integrity Pacts in different Member States/regions, sectors and types of projects in order to learn from the experience.

Question 15: Who will be selecting the NGOs which will be monitoring the project (tender)?

An Evaluation Committee will be established for assessment of the received expressions of interest. As stipulated in the paragraph 5.2 of the Call, the Evaluation Committee will consist of representatives of the European Commission and the Transparency International Secretariat. The final decision on a shortlist will be taken by the European Commission.

The shortlisted NGOs will be matched with the shortlisted public authorities and will be requested to develop more detailed applications for piloting an Integrity Pact. The final decision on pilot projects to be financed will be taken by the European Commission which finances the initiative.

Question 16: Will audits take into account the fact that there has been an independent monitor in place for the audited project?

It is not the intention of this initiative that Integrity Pacts will replace existing controls, management verification mechanisms or audits put in place in accordance with the regulations. Integrity Pacts are not intended as an additional control tool. By its design the Integrity Pact is meant to be a preventive and constructive tool, not a punitive one.

The current pilot initiative aims at exploring the use of an Integrity Pact as a tool that increases transparency and accountability, enhances trust in authorities and government contracting, contributes to a good reputation of contracting authorities, brings cost savings and improves competition through better procurement. We hope that everyone involved in this pilot during its implementation will learn some useful lessons. So, theoretically, it is possible that audit bodies could use some of outcomes / lessons learned during a specific Integrity Pact or that they could take into account that there has been an independent monitor in place for the project.