

The Governor

Paris, 20 July 2020

General Rule No. 01/2020

laying down the CEB's competitive procedures to award grants

The Governor of the Council of Europe Development Bank;

HAVING REGARD to Article XI, Section 1.a. of the Articles of Agreement;

HAVING REGARD to Article VII of the Articles of Agreement;

HAVING REGARD to the Loan and Project Financing Policy, adopted by AC Resolution 1617 (2020), which contemplates, in connection with the use of funds held in trust accounts, the possibility to award grants following a competitive procedure;

CONSIDERING that a Rule should lay down in detail competitive procedures to award grants;

DECIDES:

PART I – GENERAL PROVISIONS

Article 1 – Scope of the Rule

1. This Rule lays down the procedures applicable when the Bank is required, pursuant to the terms and conditions governing the use of funds held in a trust account, or considers appropriate, in light of the type of project to be financed, to award grants following a competitive procedure.
2. For the purposes of this Rule, a grant shall constitute a provision of financial assistance by the Bank which is intended to assist a grant beneficiary in implementing an eligible project in accordance with the Loan and Project Financing Policy.
3. This Rule shall not apply to contracts governed by the Guidelines on the internal procurement of services, supplies and works by the Bank.

Article 2 – General principles

Competitive procedures for the award of grants shall be based on the principles of transparency and non-discrimination, as further described below.

Article 2.1 – Principle of transparency

1. Grants shall be awarded following a call for proposals, as referred to in Article 7 of the present Rule.
2. Notwithstanding the provisions of Article 2.1.1 above, grants under this Rule may exceptionally be awarded directly without a call for proposals to a particular grant beneficiary in the following cases:
 - a. exceptional and duly substantiated emergencies (urgency);
 - b. for the purposes of humanitarian/crisis management aid and civil protection projects;
 - c. when the grant beneficiary is a body with a *de iure* or *de facto* monopoly; or
 - d. for projects with special characteristics requiring a particular grant beneficiary on account of its distinctive technical competence, its high degree of specialisation or its specific administrative powers.
3. Information about grants awarded under this Rule shall take place in accordance with the Bank's Public Information Policy.

Article 2.2 Principle of non-discrimination

The competitive procedures for the award of grants shall not discriminate on grounds of gender, disability, age, marital or parental status, colour, ethnic origin, religion, belief, citizenship, nationality, sexual orientation, language, political or other opinion, social origin, association with a national minority, property, birth or other status.

PART II – COMPETITIVE PROCEDURE

Article 3 – Responsibility for the competitive procedure

1. The Director entrusted with the management of the project(s) financed by the grant(s) shall be responsible for the competitive procedure.
2. He/she shall be in charge of:
 - a. approving the publication, when applicable, of the call for proposals;
 - b. appointing an Evaluation Committee, as referred to in Article 13 of the present Rule; or
 - c. deciding on the award of grants on the conditions laid down in Articles 9, 14 and 15.
3. The Procurement Division will be in charge of handling the administrative aspects of the call for proposals, including overall planning and organisation of the applications' reception and evaluation process. To this end, the Head of the Procurement Division will appoint a Chairperson and a Secretary of the Evaluation Committee, who will act independently from the Director entrusted with the implementation of the grant.

Article 4 – Exclusion grounds

4.1 General exclusion criteria

1. Applicants shall be excluded from the grant award procedure where they (or persons having powers of representation, decision making or control over them):
 - a. have engaged in corrupt, fraudulent, coercive or collusive practices to obtain the award;
 - b. have been convicted by a final court decision of one of the following: fraud, corruption, money laundering, participation in a criminal organisation or any other unlawful activity;

- c. are subject to bankruptcy or are being wound up, have suspended their business activities or are having their affairs administered by the courts, have entered into an arrangement with creditors, or are in any analogous situation arising from a similar procedure under national laws or regulations;
 - d. have been convicted of an offence concerning professional conduct by a judgment which has the force of *res judicata*,
 - e. following another grant award procedure, have been declared by a court or an arbitration tribunal to be in serious breach of contract for failure to comply with their contractual obligations;
 - f. have not fulfilled obligations relating to the payment of social security contributions or taxes in accordance with the legal provisions of the country in which they are established or those of the country where the contract is to be performed;
 - g. are not eligible for financing pursuant to the Bank's Policy on Non-compliant/Uncooperative Jurisdictions; or
 - h. have been cross debarred by the Multilateral Development Banks having signed the Agreement for Mutual Enforcement of Debarment Decisions dated 9 April 2010.
2. Applicants shall deliver, when submitting their application, a declaration on their honour certifying that they are not in any of the above-mentioned situations.
 3. The Bank reserves the right to ask applicants to supply, *inter alia*, the following supporting documents:
 - a. for the items set out in paragraphs 1. b), c), and d) above, an extract from the record of convictions or, failing, that an equivalent document issued by the competent judicial or administrative authority of the country where the applicant is established, indicating that these requirements are met; or
 - b. for the items set out in paragraph 1. f), a certificate issued by the competent authority of the country of establishment.

4.2 Other exclusion grounds

1. Applicants shall also be excluded from the grant award procedure:
 - a. if they fail to comply with the arrangements for the submission of their applications as set out in the call for proposals;
 - b. if they are subject to a conflict of interest;
 - c. in case of misrepresentation.
2. The Bank reserves the right to add other exclusion grounds pursuant to the terms and conditions governing the use of funds held in the relevant trust account.

Article 5 – Eligibility and award criteria

1. The eligibility criteria set out in the call for proposals shall be such as to make it possible to assess the applicant's ability to implement the proposed project.
2. The award criteria set out in the call for proposals shall be such as to make it possible to assess the quality of the applications submitted in the light of the objectives and priorities set. Award criteria shall be weighted.
3. The eligibility and award criteria shall be objective, in the sense that they shall not confer any unfair advantage on an applicant and shall not constitute an unjustified obstacle to competition.

Environmental and social criteria, in line with the Bank's Environmental and Social Safeguards Policy, may also be taken into account.

4. In accordance with the principle of equal treatment, the eligibility criteria, once made public, shall not be changed. The same rule applies to the weighting of each of the award criteria.

Article 6 – Eligible costs

1. Grants shall not exceed an overall ceiling expressed in terms of an absolute value which shall be established on the basis of estimated eligible costs. Grants shall not exceed the eligible costs.
2. To be eligible, costs must:
 - a. be necessary for the purpose of the grant;
 - b. comply with the principles of sound financial management, in particular best value for money, and cost-effectiveness;
 - c. have actually been incurred by the grant beneficiary during the implementation period as defined in the grant agreement, unless the terms and conditions governing the use of funds held in the relevant trust account permit otherwise;
 - d. be identifiable and verifiable, in particular being recorded in the grant beneficiary's accounts and determined according to the accounting standards applicable to the grantee;
 - e. comply with the requirements of applicable tax and social security legislation;
 - f. be backed up by originals or certified copies of supporting documents; and
 - g. be indicated in the estimated overall budget of the project.
3. The eligible costs for each project will be specified on the basis of the criteria set forth in the Bank's Handbook for the preparation and implementation of projects. Additional criteria may apply based on the terms and conditions governing the use of the funds held in the relevant trust account.

Article 7 – Publication of calls for proposals

1. Subject to the provisions of Article 2.1.2, calls for proposals shall be published.
2. The means of publication chosen shall target relevant audience, be non-discriminatory in nature and shall not have the effect of restricting the access of applicants to the award procedure. Besides the Bank's website, the call for proposals may also be published in official journals (such as the Official Journal of the European Union) or, when appropriate, in local newspapers or electronic media, depending on the specificities of the call for proposals.
3. The call for proposals will include a document called "Guidelines for applicants" that shall specify as a minimum:
 - a. the purpose of the project to be implemented;
 - b. the grounds for exclusion, and the list of relevant supporting documents to be submitted by applicants;
 - c. the eligibility criteria, including the financial and operational capacity required for the implementation of the project, and the list of relevant supporting documents to be submitted by applicants;
 - d. the award criteria that will be used to evaluate the proposals, their respective weighting, and the relevant supporting documents to be submitted by applicants, as may be appropriate given the nature of the grant to be awarded;
 - e. the eligible costs, the maximum amount of the grant and, if applicable, the maximum percentage of the project eligible costs that can be financed by the grant; and

- f. arrangements for the submission of applications, including details about the way in which applications are going to be received and registered by the Bank, about any information sessions open to all potential applicants, if applicable, about the deadline to submit request for supplementary information and about the planned indicative timetable for the evaluation of applications and signature of the related grant agreement.
4. The Guidelines for applicants will include, as a minimum, the following annexes:
 - a. an application form that applicants need to fill in to apply for the grant, instructions on how to fill it in and supporting documents required to apply; and
 - b. a draft grant agreement, drawn up on the basis of the model grant agreement established by the Bank for this purpose.
5. Applicants shall be given, at least, sixty (60) calendar days to submit applications. This period of time can be shortened to a minimum of fifteen (15) calendar days only in cases of urgency or humanitarian aid related grants which by nature of the simplicity of the operations that are to be financed by the grant allow a short period of time for preparation of proposals. The approval of the shortening of this period of time is to be obtained by the competent Director from the Chief Compliance Officer, who shall give, if applicable, its consent within one week from the receipt of the Director's request.
6. Potential applicants may request supplementary information, in accordance with the conditions specified in the Guidelines for applicants, not later than fifteen (15) calendar days before the deadline to submit applications. The information given to that applicant shall be made available to all potential applicants not later than ten (10) days before the deadline to submit applications.
7. If information sessions for potential applicants are held, these shall take place at the latest twenty-one (21) days before the deadline to submit applications.

Article 9 – Direct award

1. In accordance with Article 2.1.2, the competent Director may decide to directly award a grant to a particular grant beneficiary. For this purpose, he/she shall obtain prior consent from the Chief Compliance Officer confirming that the conditions set out in Article 2.1.2 are effectively met. The Chief Compliance Officer shall give, if applicable, its consent within one week from the receipt of the Director's request.
2. The Director's decision must be duly substantiated, in light of the criteria set out in Article 2.1.2.

Article 10 – Submissions of applications

1. Applications shall be submitted in accordance with the requirements of the call for proposals.
2. An estimated budget for the project shall be attached to the application, indicating the estimated eligible costs of the project.
3. Applicants shall further be required to indicate whether they have received or applied for any additional funding from other sources in respect of the same project and what are the respective amounts of additional funding.
4. Applicants may be asked to submit their proposals in two stages. In this case, they shall be first asked to submit a concept note. The applicants whose concept notes successfully pass the first-stage evaluation shall be asked to develop their respective concept notes and to submit a detailed proposal for the second-stage evaluation.

5. Applications submitted after the deadline shall automatically be excluded from the procedure, unless the applicant proves that his/her application could not be submitted in time because of *force majeure*. The Evaluation Committee shall indicate in its consensus report to the Director concerned whether it considers that there has been a situation of *force majeure* or not.

Article 11 – Receipt of applications

1. The reception process shall ensure that the integrity of data, the confidentiality of applications and the protection of personal data protection in accordance with the Bank's legal framework concerning data protection are observed.
2. Applications shall only be opened after the deadline for their submission. They shall be opened by the Chairperson of the Evaluation Committee in the presence of the Evaluation Committee. A record of the applications shall be established and signed by the members of the Evaluation Committee.
3. The applications shall be given identification numbers and an acknowledgment of receipt shall be provided to each applicant.

Article 12 – Exclusion and eligibility check

1. The Chairperson, with the assistance of the Secretary, shall make a preliminary evaluation of the applications against the exclusion and eligibility criteria set out in the call for proposals. A draft report shall be drawn up and, together with all the applications, shall be handed over to the Evaluation Committee.
2. In accordance with the principle of proportionality and equal treatment, the Evaluation Committee may decide to ask an applicant to provide additional information or to clarify the supporting documents submitted in connection with the application, provided that such information or clarification does not substantially change the application. Records of such contacts shall be kept.

Article 13 - Evaluation Committee

1. The Evaluation Committee shall be made up of an odd number of persons. Only staff members with no hierarchical link between them may be appointed to sit in the Evaluation Committee.
2. Members of the Evaluation Committee shall:
 - a. act objectively and impartially and shall treat all applicants equally;
 - b. not disclose any information other than that intended to be made available to applicants;
 - c. protect the confidentiality of the information imparted by applicants;
 - d. declare any conflict of interests and withdraw in case of such a conflict.
3. They shall be considered as faced with a conflict of interest if they are in particular in any of the following situations:
 - a. were involved in the preparation of a proposal;
 - b. benefit directly or indirectly if a proposal is accepted;
 - c. have a family or personal relationship with an applicant;
 - d. are involved in the management of an applicant;
 - e. are employed or contracted by an applicant or any of its subcontractors.

4. All members of the Evaluation Committee shall sign a declaration on the absence of any conflict of interests and a declaration of confidentiality.

Article 14 – Evaluation of applications

1. The Evaluation Committee shall adopt the report on exclusion and eligibility criteria referred to in Article 12.1.
2. Only applications considered eligible shall be evaluated against the announced award criteria.
3. Each member of the Evaluation Committee shall give scores and elaborate on their attribution of points to each proposal. Members' individual reports shall be communicated to the Chairperson. If needed, the members of the Evaluation Committee may seek advice from contributors with specific technical expertise. If so, such contributors shall also sign a declaration on the absence of any conflict of interests and a declaration of confidentiality. The contributors' draft report shall be verified and validated by the Evaluation Committee.
4. On the basis of members' individual reports the Chairperson, with the assistance of the Secretary, shall prepare a draft consensus report representing the view of the Evaluation Committee. The draft consensus report shall contain an assessment of each proposal and rank the proposals according to the scores obtained and announced weighting. An arithmetic average (median value) of the individual scores shall be taken as the final score for each application. If necessary, a meeting of the Evaluation Committee may be organized to agree on the final score and comments.
5. Once adopted by the Evaluation Committee, the consensus report shall be transmitted to the competent Director who shall take a decision on:
 - a. The overall amount of funding;
 - b. The list of selected proposals;
 - c. The list of non-selected proposals.
6. The decision of the Director shall be documented in a written note to the file, shall provide for reasons of his/her choices, particularly if those depart from the consensus report transmitted by the Evaluation Committee, and shall be based on whether:
 - a. The grant(s) is(are) in line with the objectives pursued;
 - b. The costs and other aspects appear reasonable;
 - c. That sufficient funds are available;
 - d. The consensus report is fully justified and documented.
7. If a call for proposals has elicited no applications or if, in the opinion of the Evaluation Committee, no application meets the minimum required standards, the Director may decide that the grant shall not be awarded, that the grant shall be awarded directly, or that a new call for proposals shall be launched.

8. The Head of the Procurement Division shall inform the successful and the unsuccessful applicant(s) of the award in writing. The letter shall indicate the reasons for their rejections, and modalities for enquiries by the unsuccessful applicants. The deadline for the introduction of such an enquiry shall not be shorter than 7 (seven) calendar days after reception of the abovementioned letter.

Article 15 - Enquiries and complaints procedure

1. Unsuccessful applicants can request an explanation on the reasons for rejection from the contact point indicated in the notification letter. The explanation will be provided in written format.
2. If the applicant is not satisfied with the given answer and believes that there have been shortcomings in the handling of its proposal, and that these shortcomings have jeopardized the outcome of the evaluation process, the applicant may submit a written complaint within ten (10) calendar days after receiving the answer to the inquiry referred to under Article 15.1. The complaint shall indicate the reference of the call, the identification number of the proposal and shall be duly substantiated.
3. The Head of the Procurement Division shall acknowledge receipt of the complaint and shall promptly examine it. If he/she concludes that a manifest error was committed during the evaluation procedure, the issue shall be brought up to the Evaluation Committee. The Evaluation Committee shall re-evaluate the application and make a new recommendation to the competent Director who shall decide on the appropriate means of redress.
4. In all other cases, the Head of Procurement Division shall refer the complaint to the internal Review Board without delay.
5. The Review Board shall be appointed by the Chief Compliance Officer and consist on an odd number of persons. The members of the Review Board shall be members of the Bank's staff and will be appointed based on their expertise, relevance and experience. The Review Board members shall not be in any type of conflict of interest regarding the grant, applicant or the Evaluation Committee.
6. The Review Board shall work independently. It shall provide opinions on the implementation of the evaluation process on the basis of all the available information related to the application and its evaluation. The Review Board shall not evaluate the proposal but shall ensure a coherent interpretation of exclusion, eligibility and award criteria as well as equal treatment of applicants. If the Review Board considers that there has been a failing in the assessment of the exclusion or eligibility criteria or in the evaluation process that is likely to have jeopardised the decision not to fund the proposal, it may recommend a re-evaluation of the proposal by the Evaluation Committee which should be made aware of the initial evaluation's shortcomings. The opinion of the Review Board and, where relevant, the results of re-evaluation by the Evaluation Committee shall be submitted to the competent Director who shall decide on the appropriate means of redress.
7. The decision of the Director shall be notified to the complainant.

Article 16 – Allegations of fraud, corruption or misconduct

Article 15 shall not be interpreted as preventing applicants from reporting to the Chief Compliance Officer any allegation of fraud, corruption or misconduct of a person involved in the grant award procedures in accordance with the Bank's applicable Codes of Conduct.

Article 17 – Grant agreement

1. Grants shall be instrumented through a written grant agreement concluded between the Bank and the grant beneficiary/ies.
2. The Bank and the grant beneficiary/ies shall enter into a grant agreement drawn up on the basis of the standard grant agreement established by the Bank for this purpose.
3. The grant agreement shall allow for the project to be clearly identified and specify at least the subject, the grant beneficiary/ies, the implementation period, the maximum amount of funding, a detailed provisional budget, the procedure for disbursement of the grant, the obligations of the grant beneficiary and the events that may give rise to the suspension, cancellation or early reimbursement of the grant.

Article 18 – Record-keeping

The competent Directorate shall establish a file in respect of each grant award procedure under this Rule in which it shall store all documents mentioned hereby. These documents shall be kept by the administrative entity concerned, for a minimum of ten (10) years.

PART III - FINAL PROVISIONS

Article 19 – Interpretation

The Rule shall be interpreted in good faith, in accordance with the ordinary meaning to be given to the terms used in the Rule and in the light of its preamble.

Article 20 – Entry into force

This Rule shall enter into force on the day of its signature by the Governor.

The Governor



Rolf Wenzel