



## HARMONISED IMPLEMENTATION TOOLS FOR INTERREG PROGRAMMES-TN/CBC

### Factsheet<sup>1</sup>: Subsidy Contract

#### Legal base

- Art. 125.3. c) of the Common Provision Regulations 1303/2013
- Art. 12.5 of the ETC Regulation 1299/2013
- Operational programme
- Other relevant programme documents, e.g. Programme Manual

#### Background information

Subsidy Contract<sup>2</sup> is offered by the Managing Authority (hereinafter MA) of the programme to the lead partner, either in the form of a bilateral contract, or as a unilateral notification (or subsidy order), with an acceptance period for the LP, depending on specific demands. This sole beneficiary or 'lead partner' (hereinafter LP) shall be responsible for ensuring the implementation of the entire project.

The main aim of the Subsidy Contract is to guarantee the project's compliance with the Operational Programme. The Contract stipulates the rights and duties of the LP as well as of the authorities involved in the implementation of the programme (e.g. MA, Joint Secretariat (hereinafter JS), Steering/Monitoring Committee, Certifying Authority, auditing bodies).

#### Preliminary structure of a Subsidy Contract

Introduction / Preamble (what is it and who prepared it)

1. Title
2. Legal basis (all applicable EU, programme documents, national provisions)
3. Signing parts (MA and LP, JS when authorised, person in charge and function, EGTC - sole beneficiary)
4. Allocation of funds (total eligible project budget, maximum ERDF/ENI/IPA II contribution, co-financing rate, etc.)
5. Obligations of both sides (in case of LP also relations with project partners)
6. Conditions applying to the contract (modification, litigation, applicable law & court, language, validity)
7. Annexes (application form, partnership agreements, templates, eligibility rules, State Aid de-minimis declaration, where applicable, etc.)

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<sup>1</sup> Due to the fact that during the previous programming periods programmes have already developed their own templates of the Subsidy Contract, INTERACT decided to publish only the Factsheet on this document which points out all necessary elements to be included in the Subsidy Contract. We suggest using the list as a checklist when verifying whether the programme's Subsidy Contract includes all the information required for further smooth implementation. Additional elements (e.g. provisions on financial instruments) can be added when needed due to the specificity of a project and the operational programme.

<sup>2</sup> Subsidy Contract is in some programmes also called Grant Offer Letter or Grant Notification. To support harmonization, programmes are encouraged to use the term Subsidy Contract.



## Checklist of issues to be included in a Subsidy Contract

The contracts shall regulate:

- ☐ The subject and duration of the contract, i.e. the delivery of the products or services of project;
- ☐ The overall budgetary allocation - total eligible project budget, maximum ERDF/ENI/IPA II contribution, co-financing rate, public contribution, and where applicable, private contribution, planned project's income;
- ☐ Reporting obligations and procedures for partners and MA/JS, including reporting deadlines, final payments, accounts to be used, generated revenue, reporting on outputs indicators (in relation to programme actions and outputs), targets to be reached and consequences for not reaching them;
- ☐ Procedures for the advance and the interim payments for beneficiaries, if allowed by the programme;
- ☐ Obligations of the LP towards the other project partners (e.g. obligation to sign a partnership agreement, timely payment, in full, to assure that only verified expenditure is included in progress report, etc.);
- ☐ Conditions for projects changes, most of all: flexibility rule for the project budget shifts, changes in the partnership;
- ☐ De-commitment arrangements for beneficiaries;
- ☐ Obligation to comply with the applicable eligibility rules at EU, programme and national levels, simplified costs options, if not already regulated at the programme level;
- ☐ Procurement rules (e.g. for direct procurement or IPA II CBC procurement rules), specifying how this applies to private partners (if not included in any of the programme documents);
- ☐ First level control provisions, specifying the rights and obligations of the beneficiaries and MA, on-the-spot checks;
- ☐ Provisions on audit of operations, including deadlines for submission of documents to the auditors, in order for them to be able to conclude their audit work timely;
- ☐ Recovery obligations and procedures, i.e. procedures for reporting irregularities to the Certifying, national and EU authorities, as well as procedures for withdrawal and recovery of unduly paid amounts, information on how long the LP should try to recover from project partner generating the irregularity before asking the MA to recover from the responsible Member State. It shall also specify liabilities for flat rate cuts, due to systemic errors, which cannot be traced back to the partner, as well as arrangements in case of suspension of payments by the European Commission;
- ☐ The use of an electronic monitoring system (e-Cohesion) and provisions on the audit trail, such as the deadlines for keeping documentation;
- ☐ Obligations and rights related to information and publicity, durability;
- ☐ State Aid provisions, if applicable (i.e. State Aid rules paragraph for indirect aid granted to final users/target groups of the project; de-minimis rules; Service of General Economic Interests rules);
- ☐ Closure arrangements, in particular financing for reporting activities after the eligibility period;
- ☐ Rules for amendments to the contract (written form or changes not requiring the written form);
- ☐ Applicable law, intellectual and industrial property rights, other assignments, legal succession and litigation.

***DISCLAIMER:** According to the objectives and nature of INTERACT, this document is by no means legally binding and does not reflect on the views of any institution concerned. The document reflects on some practices in use at cooperation programmes (ETC and IPA CBC), summarised by INTERACT for the benefit of a greater knowledge exchange among programmes. It is not exhaustive and may be on-going updated.*

*Please feel free to share your experiences with us, as well as suggestions for completing this document.*