

Eligibility of beneficiaries and activities

1.1.1. Eligibility of partnership

Each project shall designate one lead beneficiary to represent the partnership. Other organisations participating in the project shall be regarded as beneficiaries. All beneficiaries shall actively cooperate in the development and implementation of projects. In addition, they shall cooperate in the staffing and/or financing of projects. Each beneficiary shall be legally and financially responsible for the activities that it is implementing and for the share of the Programme funds that it receives. The specific obligations as well as the financial responsibilities of the beneficiaries shall be laid down in the partnership agreement.

The lead beneficiaries and beneficiaries have the possibility to award contracts. Contractors are not regarded as beneficiaries and are subject to the tendering rules.

Lead beneficiaries

Only the lead beneficiary (representing the partnership) submits the FAF, signs a grant contract with the MA and shall:

- receive the financial contribution from the MA for the implementation of project activities;
- ensure that the beneficiaries receive the total amount of the grant as quickly as possible and in full in accordance with the arrangements of the partnership agreement. No amount shall be deducted or withheld and no specific charge with equivalent effect shall be levied that would reduce these amounts for the beneficiaries;
- lay down the partnership arrangements with the beneficiaries in an agreement comprising, provisions that, inter alia, guarantee the sound financial management of the funds allocated to the project including the arrangements for recovery of funds unduly paid;
- assume responsibility for ensuring implementation of the entire project;
- ensure that the expenditure presented by the beneficiaries has been incurred for the purpose of implementing the project and corresponds 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.

The lead beneficiary shall act as the direct contact between the project and the management bodies of the Programme. It is the responsibility of the lead beneficiary to create a well working consortium ensuring the proper and sound implementation of the project. The possibility to initiate projects and to act as a lead beneficiary will be open for all eligible organisations.

Beneficiaries

Beneficiaries participate in designing and implementing the project, and the costs they incur are eligible in the same way as those incurred by the lead beneficiary. They must therefore satisfy the same eligibility criteria as applicable to the lead beneficiary himself, listed in section

All beneficiaries shall actively cooperate in the development and implementation of projects. In addition, they shall cooperate in the staffing and/or financing of projects. Each beneficiary shall be legally and financially responsible for the activities that it is implementing and for the share of the Union funds that it receives. The specific obligations as well as the financial responsibilities of the beneficiaries shall be laid down in the partnership agreement.

Composition of the partnership

The lead beneficiaries and beneficiaries in every project must establish one of the following compositions:

- Poland-Ukraine or
- Poland-Belarus or
- Poland-Belarus-Ukraine.

There may be more than one beneficiary in the project from any of the above countries and the costs they incur are eligible as those incurred by the lead beneficiary.

The criteria „At least three out of four cooperation criteria are met by the proposal”¹ are interpreted in the following way:

For each project at least three of the following four cooperation criteria must be met:

- **Joint project preparation (obligatory)**
 - All partners contribute to the creation of a project concept;
 - Partners determine how the project will be managed, e.g. through the establishment of common objectives and outcomes, financial plan, implementation schedule and the division of responsibilities for project activities in order to achieve the project objectives;
 - Each partner defines what knowledge and experience may be involved and what are partner’s expectations of project realization.
- **Joint project implementation (obligatory)**
 - The lead beneficiary is responsible for the implementation of the entire project. Beneficiaries assume responsibility for parts of the project implementation;
 - Each beneficiary responsible for some part of the project shall ensure the coordination and implementation of planned activities, reaching the objectives and solvency of unexpected problems;
 - Few beneficiaries may contribute to the implementation of one part of the project.
- **Joint project staff (optional)**
 - All project beneficiaries take over some roles in the project and engage staff for this purpose;
 - Employees of beneficiaries coordinate their tasks among themselves and exchange information on a regularly basis;
 - Unnecessary duplication of functions in partner institutions shall be avoided.
- **Joint project financing (optional)**
 - The project has a joint financial plan with funds allocated for beneficiaries according to their participation in the project;
 - At least one Polish and at least one Belarusian and/or Ukrainian beneficiary contribute to the finan-

1 Clarifications to point 5 of the AaE check grid, part II „Eligibility check”.

cial plan through their own contributions;

- The financial plan shall include the responsibilities of the beneficiaries.

1.1.2. Eligibility of lead beneficiaries and beneficiaries²

In order to be eligible for a grant, lead beneficiaries and beneficiaries **must**:

- a) be institutions of national, regional, local governments or association of such institutions;
- b) be 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;
 - 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 966/2012;
- and
- be nationals³ of any of the participating countries, or legal persons who are effectively established in the Programme area or international organisations⁴

Beneficiaries that do not meet establishment requirement shall fulfill all following conditions:

- they are established in Poland, Ukraine or Belarus;
- their participation is required by the nature and by the objectives of the project and as necessary for its effective implementation;
- the total amount allocated under the project to these beneficiaries does not overcome 20%.

1.1.3. Eligibility of projects

Definition: a project (action) is composed of a set of activities.

Using the application documents for particular CfPs, the beneficiaries will jointly develop and submit a project to the JTS. Projects may receive financial contribution from a Programme provided they meet all the following conditions:

- a) they deliver a clear cross-border cooperation impact and benefits as described in the Programming document and demonstrate added value to the strategies and programmes of the EU, Poland, Belarus and Ukraine;
- b) they are implemented in the Programme area. In special cases, projects may be partially implemented out-

² Clarifications to point 7 of the AaE check grid, part II „Eligibility check”.

³ Such nationality being determined on the basis of the organisation’s statutes which should demonstrate that it has been established by an instrument governed by the national law of the country concerned. In this respect, any legal entity whose statutes have been established in another country cannot be considered an eligible local organisation, even if the statutes are registered locally or a “Memorandum of Understanding” has been concluded.

⁴ International organisations are international public-sector organisations set up by intergovernmental agreements as well as specialised agencies set up by them; the International Committee of the Red Cross (ICRC) and the International Federation of National Red Cross and Red Crescent Societies, European Investment Bank (EIB) and European Investment Fund (EIF) are also recognized as international organisations.

side the Programme area⁵ provided that all the following conditions are met:

- the projects are necessary for achieving the Programme's objectives and they benefit the Programme area;
 - the total amount allocated under the Programme to activities outside the Programme area does not exceed 20% of the Union contribution at Programme level;
 - activities outside the Programme area cannot be of investment and/or infrastructure character;
- 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 for the benefit of all or some of the participating countries and where cross-border impacts and benefits are identified.
- d) They contribute to at least one of the output indicators defined in the list of indicators for each priority.

Duration

The planned duration of the project may not exceed 24 months. All project activities financed by the Programme shall end on 31 December 2022 at the latest.

Range of grants

The minimum grant for regular projects is 100 000 EUR.

The maximum grant for regular projects is 2 500 000 EUR.

Location

The area of the Programme covers the following regions:

- **in Poland:** Krośnieński, Przemyski, Rzeszowski, Tarnobrzeski, Białostocki, Łomżyński, Suwalski, Puławski, Lubelski; Białski, Chełmsko-zamojski, Ostrołęcko-siedlecki sub-regions;
- **in Belarus:** Grodno, Brest, Minsk (including the city of Minsk) and Gomel Oblasts;
- **in Ukraine:** Lvivska, Volynska, Zakarpatska, Rivnenska, Ternopil'ska and Ivano-Frankiv'ska Oblasts.

⁵ Activities may take place in other regions from the outside Programme area, but on the territory of Poland, Belarus or Ukraine.



Map 1. Area of the Cross-border Cooperation Programme Poland - Belarus - Ukraine 2014-2020

When applying for Programme funding, institutions from all regions will be treated equally.

1.1.3.1. Character of projects

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

– Investment project:

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

– Soft project

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

1.1.3.2. Ineligible projects

Within all the above mentioned TOs and priorities, 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 beneficiaries;
- actions concentrated only or mainly on charitable events;
- actions in which the lead beneficiary and beneficiaries 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. Please note that as a rule, regular events can be supported only during their start-up phase. Regular editions of events are eligible only if innovative elements are included in the project schedule. Such activities must be duly described in the FAF;
- actions with negative impact on environment or not respecting other EU horizontal policy rules.

1.1.3.3. Number of applications and grants per lead beneficiary

A lead beneficiary may at the same time be a beneficiary in another project proposal. Where several proposals submitted by the same lead beneficiary are selected for financing, but the lead beneficiary does not prove to have the necessary capacity required to implement all selected proposals for which grants may be awarded, the proposal(s) which has (have) been awarded a lower score shall be rejected, and the proposal(s) that the lead beneficiary has the capacity to implement shall be select.

Beneficiaries may take part in more than one application.

A decision may be taken to limit the number of grants awarded to one lead beneficiary.

1.1.3.4. Required annexes to the FAF

The following supporting documents shall be submitted in a paper form and as an electronic file:

Annex A Full Application Form

Annex A1 Partnership statements of beneficiaries

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 from Poland and Ukraine. For Belarusian public bodies – a copy of relevant national resolution (relevant legislative act relating to establishing and functioning of the institution) should be provided. 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 Copies of the profit and loss account and the balance sheets or other relevant fiscal documents for the last 3 years (if available) for the lead beneficiary and all beneficiaries with financial contribution to the project, showing their financial standing (not applicable for public institutions);

Annex A4 The lead beneficiary declaration on ensuring the funds necessary to project implementation (one document for the total amount of project co-financing, including also co-financing provided by other beneficiaries). Please note that this annex will be generated automatically with the use of the Programme e-application software. An unique checksum shall be attributed to the document.

Annex A5 If applicable, authorisation from the lead beneficiary that the person has the right to sign the FAF (if the FAF 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 A6 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;

FOR UKRAINIAN LEAD BENEFICIARIES/BENEFICIARIES:

for public institutions – one of the following documents:

- a copy of the Certificate of state registration of legal person certified as a true to the original by the relevant issuing authority or by a notary; or

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

- notarized copy or the original of excerpt (виписка) from the Unified State Register of legal entities and individuals.

for non-public institutions:

1. a copy of the Certificate of state registration of legal person certified as a true to the original by the relevant issuing authority or by notary, *or* notarized copy or the original of an extract (витяг) from the Unified State Register of legal entities and individuals, *or* notarized copy or the original of excerpt (виписка) from the Unified State Register of legal entities and individuals;

and

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

FOR BELARUSIAN LEAD BENEFICIARIES/BENEFICIARIES: a copy of the Certificate of state registration of legal person certified as a true to the original by the relevant issuing authority or by a notary (not applicable for public institutions);

Annex A7 Declaration on the entitlement to the recovery of VAT (applicable only for Polish lead beneficiaries/beneficiaries). Please note that this annex will be generated automatically with the use of the Programme e-application software. An unique checksum shall be attributed to the document;

Annex A8 (for projects including an infrastructure component of at least 1 million EUR, described in budget as works – line ...) – A full feasibility study to be prepared in line with Annex ... *Guidelines for drafting Feasibility Study*. The document shall be submitted in English. To be submitted also as an electronic file (doc

or pdf format);

Note: Projects including an infrastructure component amounting from 50 000 EUR up to 1 million EUR have to fill in the point 3.3.2 *Brief Feasibility Study* of the FAF.

Annex A9 (only for infrastructural projects as mentioned in point ... of the Guidelines) – These annexes will be generated automatically with the use of the Programme e-application software. An unique checksum shall be attributed to the document.

FOR POLISH AND BELARUSIAN 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 either the building permission or its equivalent (depending on the construction object complexity as listed below) will be submitted in case of project award not later than 5 months after the date of the award notification letter:

- for construction objects of IV and V category of complexity: positive Decision of expertise should be provided before signature of the grant contract, and then after signing of grant contract but before the first installment the Building permission should be provided.

- for construction objects of I - III category of complexity: registered Declaration on the beginning of construction works should be provided after signing of grant contract but before the first installment.

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;

Annex A10 (for all investment and infrastructural projects as mentioned in point ... of the Guidelines) – Declaration of the lead beneficiary/beneficiary on the right for the land/real estate disposal for the construction/supplies purposes. Please note that this annex will be generated automatically with the use of the Programme e-application software. An unique checksum shall be attributed to the document.

Annex A11 (for infrastructural project as mentioned in point ... of the Guidelines) – maps, project location sketches (simply presenting the location of the project). This annex will be generated automatically with the use of the Programme e-application software. An unique checksum shall be attributed to the document.

Annex A12 (for infrastructural project as mentioned in point ... of the Guidelines):

FOR POLISH LEAD BENEFICIARIES/ BENEFICIARIES: Decyzja o środowiskowych uwarunkowaniach. If not applicable – written statement issued by the relevant institution must be provided.

FOR UKRAINIAN LEAD BENEFICIARIES/BENEFICIARIES:

1. Conclusion of the State Ecological Expertise issued by the relevant public body (EN) Висновок державної екологічної експертизи виданий відповідним державним органом (UKR) and
2. Environmental Impact Assessment (EIA) as the part of Technical Documentation according to National Construction Standards A.2.2-1-2003 (ДБН А.2.2-1-2003) (EN) – Оцінка впливу на навколишнє середовище як частина технічної документації згідно ДБН А.2.2-1-2003 (UKR)

If not applicable – written statement issued by the relevant institution must be provided.

FOR BELARUSIAN LEAD BENEFICIARIES/ BENEFICIARIES:

1. Conclusion of the State Ecological Expertise issued by the Ministry (or its regional bodies) for Natural Resources and Environmental Protection of the Republic of Belarus (Russian: Заключение государственной экологической экспертизы, выданное Министерством природных ресурсов и охраны окружающей среды Республики Беларусь либо его территориальными органами) and
2. Report on the Environmental Impact Assessment (Russian: Отчет о результатах проведения оценки воздействия на окружающую среду).

In case the above mentioned documents are not obligatory, the relevant letter, issued by the Ministry for Natural Resources and Environmental Protection of the Republic of Belarus (or its regional bodies), should be submitted.

ADDITIONAL REMARK FOR UKRAINIAN AND BELARUSIAN LEAD BENEFICIARIES/BENEFICIARIES:

If the project is listed in Annex I to the Directive 2011/92/EU of the European Parliament and of the Council 13 December 2011 on the assessment of the effects of certain public and private projects on the environment, the following documents as proof of the compliance with the 2011/92/EU should be provided:

- a) a copy of the non-technical summary - a document which has been used during the public consultations,
- b) information about the consultation with the public (when, where, information about public hearings, etc) and the environmental authorities, as well as other Member States, if transboundary consultations are applicable;
- c) a copy of the development consent, the information about mitigation and compensatory measures, and main considerations on which the decision is based including information about the public participation process.

EIA should be also in line with the UN/ECE Espoo Convention on Environmental Impact Assessment in a Transboundary Context of 25 February 1991.

If the project is covered by Annex II and the competent authority has determined that there is no need for the full EIA procedure for the project, the beneficiaries have to provide an explanation on the reasons and to give the thresholds, criteria or case by case examination carried out to reach the conclusion that the project has no significant environmental effects.

Annex A13 (for all infrastructural and investment projects as mentioned in point ... of the Guidelines) - Declaration of the lead beneficiary/beneficiaries on maintaining the projects results and objectives for at least five years after project completion. Please note that this annex will be generated automatically with the use of the Programme e-application software. An unique checksum shall be attributed to the document.

Annex A14 (for projects including an infrastructure component of at least 1 million EUR, described in budget as works – line ...) - a detailed description of the capacity building component

JTS remark: further information will be provided later

Annex A15 Other necessary documents required by Polish/Belarusian/Ukrainian law – please specify and add next point e.g. A15, A16 etc.

A set of supporting documents (annexes A1-A15) to be attached to the FAF depends on the nature of the project (soft, investment or infrastructure).