

FAQs (v.3) on the 5th Call_Date: 12/04/2019

Q.75) I would like to know if a Greek company whose shareholder also participates as a partner in a Bulgarian company, with which the Greek company will cooperate within the framework of an investment plan, is eligible for the Call. The shareholder in the Greek company, which is a S.A., participates with a share of 50% and in the Bulgarian company, which is a single-person Ltd, with a share of 100%.

A.75) In this case it should be examined whether the two companies form a single enterprise. According to the EU Regulation 1407/2013 (de minimis), Article 2, Paragraph 2, the concept of a single enterprise is set out as follows:

“2. ‘Single undertaking’ includes, for the purposes of this Regulation, all enterprises having at least one of the following relationships with each other:

- (a) one enterprise has a majority of the shareholders’ or members’ voting rights in another enterprise;
- (b) one enterprise has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
- (c) one enterprise has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;
- (d) one enterprise, which is a shareholder in or member of another enterprise, controls alone, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders’ or members’ voting rights in that enterprise.

Enterprises having any of the relationships referred to in points (a) to (d) of the first subparagraph through one or more other enterprises shall also be considered to be a single undertaking”.

Since one company is a single-person Ltd, then the shareholder is no longer a physical person but an enterprise. Therefore, what should be checked is whether one of the above - (a) to (d) - relationships exist between the two enterprises. If one of the above conditions applies, then these companies cannot participate.

DESCRIPTION: Two companies are active in the extraction of marble with main activity under the NACE Code 23.70.11.00 “Cutting, Formatting and Finishing of marble” (which is not eligible); and wish to submit an investment plan under the NACE Code 46.73.16.00

“Wholesale Trade of Other Building Materials” (which is eligible), which will be declared as the main activity of both companies until the submission of the proposal.

The Greek Company is active in the production of marble (extracting marble blocks) by creating own quarries. Wishing to expand its activities in new sectors, namely in the trade of processed marble (slabs and tiles), it developed a cooperation with a Bulgarian Company, in which it sells the volumes of marble extracted as raw material and by buying from it processed products (slabs and tiles), satisfying this way its customers.

The Bulgarian Company is active in the production of marble (satisfying partially its needs in raw material), as well as the processing and marketing of marble, limestone, travertine and granite (slabs and tiles) in a privately-owned natural stone processing plant, covering the needs of the market mainly in Bulgaria. Its collaboration with the Greek Company satisfies the needs of supplying qualitative raw material and at the same time increases its extroversion and its sales in plates and tiles.

The investment plan of the two companies is clearly related to the commercial part of the two companies and concerns both storage areas and equipment. The questions are:

GENERAL QUESTIONS

Q.76.a) Is the combination wholesale trade - wholesale trade eligible?

A.76.a) The combination wholesale trade – wholesale trade is eligible and is evaluated according to the criteria of ANNEX V.

Q.76.b) How do we determine the size of a company whose shares are traded on the Athens Stock Exchange and thus we cannot have an image of the participants in the company’s share capital?

A.76.b) The size of an enterprise is determined in accordance with the call’s “SME DEFINITION” set out in ANNEX III and the enterprise submits the declaration of ANNEX IV “FORM FOR THE VERIFICATION OF ENTERPRISE ELIGIBILITY AS AN SME” for the check of its individual components.

QUESTIONS CONCERNING THE BULGARIAN COMPANY

Q.76.c) Is the construction of a warehouse for storing slabs and tiles an eligible expenditure? (plates and tiles as an end product must not be exposed to environmental conditions because their quality is deteriorated)

Q.76.d) Is the purchase and installation of a crane-bridge inside the warehouse eligible? (the crane is necessary for handling efficiently the loading/unloading of the final products of slabs and tiles)

Q.76.e) Is the purchase of a SARD vehicle crane, used for the quality of product packaging, eligible?

Q.76.f) Is the purchase of a polishing machine eligible? (the machine is necessary for the qualitative upgrading of the final products of slabs and tiles, it does not concern the processing of the final products since the shape of the slabs and tiles is not altered)

QUESTIONS CONCERNING THE GREEK COMPANY

Q.76.g) Is the stratification of the storage area, where the marble volumes will be unloaded, with asphalt or cement eligible? (the storage area is the same as the plot, an open space of 8 acres, with no building or shelter)

Q.76.h) Is the purchase of a Clark forklift machine eligible? (the machine is necessary for the loading/unloading of marble volumes in a container for transportation to the customers)

Q.76.i) Is the purchase of trucks for the transport of marble volumes from the quarry to the storage area eligible?

A.76.(c-i) In general and in relation to all the questions [Q.76.(c-i)] regarding the proposed actions of the two companies operating under an eligible NACE code e.g. wholesale trade (main activity) and in ineligible activity e.g. primary production; then, it should be ensured, in appropriate ways, such as the separation of activities or cost discrimination, that activities in the sectors excluded from the scope of the de minimis regulation are not receiving aid.

(Where an undertaking is active in the sectors referred to in points (a), (b) or (c) of paragraph 1 and is also active in one or more of the sectors or has other activities falling within the scope of this Regulation, this Regulation shall apply to aid granted in respect of the latter sectors or activities, provided that the Member State concerned ensures, by appropriate means such as separation of activities or distinction of costs, that the activities in the sectors excluded from the scope of this Regulation do not benefit from the de minimis aid granted in accordance with this Regulation).

In any case, costs such as the purchase of a polishing machine, should be appropriately documented in order to be consistent with the above and not be part of the production's final output, since this activity is ineligible.

Q.76.j) What exactly do you mean by this: “...then, it should be ensured, in appropriate ways, such as the separation of activities or cost discrimination...”? And finally, are the costs described above based on the investment plan eligible or not?

A.76.j) The proposed costs should concern and be related to the main activity of the SME, as it is described by the eligible NACE Code. This is proved by the usage of the machinery in the wholesale trade NACE Code and by being recorded in the respective accounting. Under these conditions, the proposed costs may be potentially eligible.

Q.77) According to the Guidelines for applicants, 30% of the budget will be directed to new enterprises. In case one project proposal comprises the following partners - 1) a newly established company (or under establishment) and 2) an established company, will this project fall into the 30% share of the budget of the grant scheme? Or only if 2 newly established companies participate as partners, then they can benefit from the 30% preference?

A.77) Depending on which enterprise (the new or the existing one) has the highest budget in the proposal, this will be used as the criterion on how to treat this proposal, i.e. if the existing one has the highest budget in the proposal, then it will be accounted in the 70% part of the Call's budget and vice versa.

Q.78.a) Is the NACE Code 38.32.39.02 "Crushing, cleaning and sorting other wastes (e.g. from demolitions) for the recovery of non-metallic secondary raw materials" eligible for the Call, taking into consideration that the NACE code 38.32 "Recovery of sorted materials" is eligible?

A.78.a) Yes, the NACE Code 38.32.39.02 is eligible.

Q.78.b) An enterprise established in 2012, modified on 12/11/2018 its main NACE Code from 38.32.39.02 "Crushing, cleaning and sorting other wastes (e.g. from demolitions) for the recovery of non-metallic secondary raw materials" to "Provision of consultancy services in organizational production"; which is the development of the NACE Code 70.22 «Business and other management consultancy activities e.g. quality management system certification services, consultancy services provided by agronomists and other experts on rural economy and agro-food sector, services provided by economists who are experts in rural economy and agro-food matters, consulting services for quality control processes , consultancy services for food safety and quality control, etc. ». Is this business eligible for this Call?

A.78.b) Eligible is the enterprise whose main activity belongs to the eligible NACE codes of the Call and is in force at the submission date.

Q.79.a) In case the land in which we wish to implement the investment plan has not yet been purchased or leased, will our application be considered complete if we submit a private agreement (which has not been attested by the tax office) between the under establishment company/entity and the physical person / land owner? The reason for asking this is to avoid the notary pre-contract, which has high notary costs that will not be recovered if the application is rejected.

A.79.a) Please refer to ANNEX VII: REQUIRED APPLICATION DOCUMENTATION of the Direct Assistance Guidelines, point 13: Preliminary agreement for the sale of land/building. The binding legal preliminary agreement will be required with the signing of the “Grant Contract”.

Q.79.b) Is it possible to change the location where the investment plan will be implemented, after the approval of the proposal?

A.79.b) As long as the proposed change does not affect the investment plan, its physical object, the objectives, the terms and conditions of the call and, in addition, all the necessary supporting documents - as provided by the national laws of the two countries - are available, then the modification/change of the land-location can be accepted.

Q.79.c) Is it obligatory for both the Greek and Bulgarian companies to employ at least one employee (apart from the shareholder / owner)? Does the same apply for an under establishment branch of an existing company and for an under establishment company? If it is obligatory, at what stage of the investment plan have these employments to take place and until when should they be maintained?

A.79.c) The requirement of at least one employee (apart from the shareholder / owner) concerns the participation of an existing branch.

Q.79.d) The connection of the solar plants to the grid is sometimes delayed by the power companies although the investors may have completed the construction works and may have filed the application forms for connecting to the grid. In such a case, what documentation would be required for proving that the investment plan of the 2 solar plants (one in Greece and one in Bulgaria) has been completed? Are just the receipts of payment of the suppliers / subcontractors sufficient, or would it be necessary to provide proof that the solar plants have been connected to the grid and already supplying electrical power?

A.79.d) The second case applies; proof should be provided that the solar plants have been connected to the grid and are already supplying electrical power.

Q.79.e) Is it possible to extend the deadline for the completion of the investment plans due to force majeure? For example due to the delay of a Public Authority to issue some kind of license without the investor being responsible?

A.79.e) If it appears that there is force majeure in ways that the case law of each Member State provides for, then an extension may be granted.

Q.79.f) Is it acceptable to provide private preliminary agreements signed by the enterprises and the private person / owner of the land, for the acquisition / lease / renting of the land where the investment plans will take place, instead of notary's contracts? Many agricultural pieces of land do not have notary's titles of ownership but they have just been declared by their owners at their income tax declarations.

A.79.f) Please refer to ANNEX VII: REQUIRED APPLICATION DOCUMENTATION of the Direct Assistance Guidelines, page 111, point 13: Preliminary agreement for the sale of land/building. The binding legal preliminary agreement will be required with the signing of the "Grant Contract".

Q.79.g) Is it possible to replace the piece(s) of land that has/have been declared at the application of the investment plans, with another one(s) at a different location but within the eligible area?

A.79.g) As long as the proposed change does not affect the investment plan, its physical object, the objectives, the terms and conditions of the call and, in addition, all the necessary supporting documents - as provided by the national laws of the two countries - are available, then the modification/change of the land-location can be accepted.

Q.80.a) According to the manual "The eligible contribution from ERDF to land/building purchase expenses should not exceed 10% of the total eligible investment cost". If a given project has equal distribution between the partners i.e. the eligible expenses are 300.000 € for each partner, and only one of the partners envisages to purchase buildings/land, does it mean, that he can be eligible to spend 60.000 € on that purchase, under the project?

A.80.a) Yes.

Q.80.b) Are there any limits for the eligible expenses for the rent of buildings/offices? Under which budget line we should envisage those expenses? Buildings, installations, landscaping expenses (tangible assets); machinery, equipment, vehicles expenses (tangible assets); personnel expenses (operating assets), software expenses (intangible assets); software expenses (intangible assets); promotion, marketing, networking expenses (intangible assets); technical / consulting, support expenses (intangible assets) or technology/knowhow (intangible assets)?

A.80.b) Please refer to the Paragraph 9.4. "BUDGET BREAKDOWN" of the Call document "Direct Assistance Guidelines".

Q.81.a) Regarding the requirement of p. 8.2.1. , Expenses incurred before the date of the announcement of the Call are NOT ELIGIBLE. Please confirm that expenses incurred after the date of the announcement of the Call and before the signature of the subsidy will be eligible, since this is in line with EU regulation 1303/2013. In this case please confirm that also the expenses for procurement procedures will be eligible before the date of subsidy contract signature.

A.81.a) According to Paragraph 8.2 of the "Direct Assistance Guidelines" of the Call: Eligibility of expenses starts at the date of Call announcement (21/12/2018).

Q.81.b) According to p. 9.2. of the call, the aid intensity is subject to Regulation EU 1407/2013 (de minimis) and no aid recipient (single undertaking) can receive total assistance in excess of 200.000€ over a rolling 3 year period (i.e. during the 2 years preceding the submission of the proposal and the year of the proposal submission). Please clarify whether the rolling 3 year period refers to fiscal years within which the single undertaking has actually received payments under Regulation EU 1407/2013, no matter on which date the contract/decision for granting the aid was concluded/issued.

A.81.b) In case an enterprise is approved for funding by applying the EU Regulation 1407/2013 (de minimis) during the 6th month of 2019, then the cumulation for the years 2019, 2018 and 2017 shall be considered.

Q.81.c) Regarding Annex V Evaluation criteria, Group of criteria 1, criterion "have all required attachments been included by the project beneficiary enterprise", it is written that technical design documentation or decision that it is not needed should be included (eligibility criteria). At the same time there is criteria form Group 3 "Does the investment

plan include all necessary technical designs / authorizations/ licensing or permits / technical specifications / patents or royalties / strategic agreements / etc ? (Application Form Part II, par. 2.1.3)" which measures where the technical designs are available or yet to be completed - it should be clarified whether the technical designs are eligibility criteria or they bring more scores for evaluation.

A.81.c) The technical designs must be submitted along with the application form if they are needed based on the institutional framework of the two countries. The technical designs should not be confused with the licenses for which there is a specific provision in the Call. The overall maturity of the proposal is assessed, according to the criteria set in Annex V of the Call.

Q.82) I am an owner of a small hotel in Bansko, Bulgaria. I want to organize children's language summer camps in the hotel. The Idea is kids from Bulgaria to join the summer camp with kids from Greece and in this way they can make friendships and talk English between them. The kids will study English during their stay in the camp and will enjoy the nature and the culture in the region through proper programs that we will develop. I have a partner, a tour agent in Greece who will cooperate.

In order to manage and to create as proper environment for the kids as possible, I would like to build a swimming pool, Hall for education equipped with computers and media, as well as space for table tennis in the hotel; also we want to buy a mini bus so we can transport the kids to different landmarks.

Do you think that we can assure sufficient funds for this project through the 5th call for proposals of the CP Intereg V-A?

A.82) Hotels as a business activity do not belong to the eligible NACE Codes of the 5th Call.

Q.83) Regarding the methodology applied for the calculation of the 10% of the turnover in our branch, based on the total turnover of the undertaking company which is established in Belgium.

More detailed: The branch in Serres has already submitted an Income Tax Declaration for the fiscal year 2018. However, the parent-company in Belgium will submit the corresponding Declaration for 2018 in July 2019 (the month is set by the Belgian law); when the date for submitting a project proposals for the 5th Call will have been expired.

The question that arises is: (a) can we use for the Greek branch the financial data of 2018 and for the company in Belgium the financial data of 2017; or (b) we must also use for both, the branch and parent-company, financial data concerning year 2017?

A.83) The financial data of the fiscal year 2018 will be used for the branch as well as the company's balance sheets (signed by the responsible person) for the same fiscal year (2018), plus the financial data for year 2017 explaining the reason why.

Q.84.a) Which 3 fiscal years are taken into account for the rating of the financial criteria? The fiscal years 2017, 2016, 2015?

A.84.a) Yes and if the financial data of fiscal year 2018 is also available, then the fiscal years that will be taken into account are: 2016, 2017 and 2018.

Q.84.b) Which is the difference between exclusive sales promotion / sales agreements and the strategic cooperation agreement?

A.84.b) Both procedures certify the cooperation between the consortium's SMEs.

Q.84.c) How is the term projected production interpreted?

A.84.c) The term "projected production" is mentioned in the 'Direct Assistance Guidelines' (point 6 of page 91 - table of evaluation criteria) in the phrase: "Exclusive product promotion/sales contracts covering >50% of the projected production". If you are referring to this phrase, then the term "projected production" is interpreted as the foreseen/estimated production of the enterprise.

Q.85) We are a newly registered tour operator/agent company with the eligible NACE code 79.xx. The question is whether it will be the eligible activity to build and then offer accommodation in traditional Greek style guest houses and provide also transport and other tourist attractions, bearing in mind that NACE codes 55.xx related to hotels and accommodation are not included in the eligible codes for this Call? Still, provision of accommodation, transport and food under the different NACE codes represent the three basic tourist services, which are normally managed by a tour operator company?

A.85) As long as the activities of the tour operator / agent are permitted by the institutional framework of the country in which he operates, then they may be eligible.

Q.86) Is a newly established enterprise in the trans-border region, owned by a foreigner, eligible? For instance – a newly established enterprise in Bulgaria that is owned by a Greek citizen or a newly established enterprise in Greece that is owned by a Bulgarian citizen.

A.86) Yes, it is eligible, there is no such restriction according to the Call document.

Q.87) With regards to your answer of the question 73 on the Q&A it is difficult to decipher how the tests are met or not. Could you please elaborate if the tests are met or not give the following information?

Company B: One shareholder with 100% ownership. Company A has been approved for a grant Euros 200k under a different programme.

Company A: Two shareholders with 50% ownership each would like to apply for this programme.

Since the owner of enterprise B owns the 100% of enterprise B and controls it, then it can be considered that he has an economic activity and should therefore be considered as an enterprise rather than a natural person.

According to Article 2, Paragraph 2 of the Regulation 1407/2013, the concept of a "single enterprise" includes all enterprises having at least one of the following relationships:

(a) an enterprise (you mean Company A) that owns the majority of the voting rights of the shareholders or of the partners of another undertaking(you mean Company B); If that's the case 50% of Company A owns 100% of Company B. So, in this case is the test met or not?

(b) an enterprise (you mean Company B) has the right to appoint or dismiss a majority of the members of the administrative, management or supervisory body of another undertaking (Company A); In this case 50% of Company B has the right. Does this meet the test or not?

(c) an enterprise (you mean Company B) has the right to exercise a dominant influence over another undertaking (Company A) under a contract entered into with it or under a clause in the statute of the last undertaking; 50% of Company B has the right. Does it meet the test or not?

(d) an undertaking (you mean Company B) which is a shareholder or a partner of another undertaking (you mean Company A) controls by itself, on the basis of an agreement concluded with other shareholders or partners of that undertaking, the majority of the voting rights of the shareholders or members of that undertaking. In this case 50% of

Company A controls the majority of the voting rights of Company A. Does it meet the test or not?

A.87) Where an undertaking is active in the sectors referred to in points (a), (b) or (c) and is also active in one or more of the sectors or has other activities falling within the scope of E.U. Regulation 1407/2013, this Regulation shall apply to aid granted in respect of the latter sectors or activities, provided that the Member State concerned ensures, by appropriate means such as separation of activities or distinction of costs, that the activities in the sectors excluded from the scope of this Regulation do not benefit from the de minimis aid granted in accordance with this Regulation».

Q.88) I would like to ask about clarification regarding the term "greater public sector". As stated in the application guidelines, page 22, bullet point c. The site of operation/building should not belong to the greater public sector.

My first question is what is considered part of "the greater public sector" as official definition accepted by the programme? For example, is a municipality hospital considered a lower level public sector? Then, is construction/renovation of leased space from a municipality hospital considered an eligible expense under category 1.5?

A.88) Obviously, with the term "the greater public sector" we mean the broader public sector that includes all the structures defined as public or equivalent to public sector.

Please note that Bulgarian health institutions that are not established under the Commercial Act and/or where public bodies own more than 25% of their shares are not eligible.
