

Information Note to Interested Parties

MEASURES TO PROVIDE INFORMATION ON, AND TO PROMOTE, AGRICULTURAL PRODUCTS IN THIRD COUNTRIES

COUNCIL REGULATION (EC) 2702/1999 (as amended)
COMMISSION REGULATION (EC) 1346/2005

This letter should be read in conjunction with the relevant regulations, the Press Notice, dated 28th December 2007, which summarises the specific requirements for the 2008 programme, and the Commission Pro-forma for EU co-financed programmes.

1. Background

These regulations were introduced to simplify the way in which Community promotion schemes in Third Countries are governed, by way of a single mechanism. This aims to improve European agricultural competitiveness to third country markets leading to reduced export refunds. The regulation currently allows for submissions to be accepted once a year, the next deadline being 31st March 2008.

2. Programme

'Programme' means a coherent set of measures of a scope that is sufficient to contribute towards improving information about, and sales of, the products concerned.

The proposed measures should be in addition to the usual advertising/promotional work of the applicant organisation.

3. Essential conditions for Community part-financing

- All information and/or promotion messages passed on to consumers and other target groups must be based on the intrinsic qualities of the product concerned or its characteristics.
- Any reference to the origin of products shall be secondary to the central message of the campaign. However, the origin of a product may be indicated as part of an information or promotion operation, in the case of a designation under Community rules, or a typical product needed to illustrate the information or promotion measures.
- In the case of meat, appropriate measures must be taken to ensure the traceability of the product promoted, from consumer to the segments of the production chain covered by the measures.
- Promotional programmes must be implemented over a period of at least one year and no more than three years from the date of contract.

- The proposer **must** appoint a separate organisation, selected by competitive tender, which should implement at least 50% of the programme.
- If the implementing body has been selected at the time of application, evidence of the competitive tendering procedure used (e.g. a copy of the Brief and letter sent to each company invited to tender) together with the reason for the final choice of implementing body, should be submitted to RPA at the same time as the proposal.

If the implementing body has not been selected at the time of application the planned timetable and competitive procedure for selection **must** be supplied.

- A proposing organisation may implement certain parts of a programme as provided for in Art. 7(5) of Regulation (EC) No 2702/1999 only under the following conditions:
 - a) The proposed implementation complies with Article 8(2) of Regulation (EC) No 2702/1999;
 - b) The proposing organisation has at least five years experience of implementing such measures;
 - c) The part of the programme carried out by the proposing organisation accounts for no more than 50% of its total cost, except in duly justified cases and after obtaining the written authorisation of the Commission;
 - d) The proposing organisation shall ensure that the cost of the measure which it plans to carry out itself is not in excess of the normal market rates.

RPA shall check that these conditions are met.

- All information or promotional material part-financed must bear the EU emblem and the words:- CAMPAIGN FINANCED WITH AID FROM THE EUROPEAN UNION. Guidelines on the display of the EU emblem can be found at: http://europa.eu.int/abc/symbols/emblem/index_en.htm.
- All material to be used as part of the campaign must receive approval from RPA before it can be used as part of the programme.
- All information or promotional material that includes any health claims must be based on generally accepted scientific data and endorsed by the national authority responsible for public health in the relevant area. In the UK this role is undertaken by The Food Standards Agency.

Applicants should refer to Regulation (EC) No 1924/2006 obtainable via the following web link, www.europa.eu.int/eur-lex/lex/en/index.htm, to check the criteria for making health claims and ensure that any claims made comply with this.

All material containing health claims should be sent to RPA, along with references to the published scientific evidence on which the claims have been made (without substantiation FSA advice will be to reject

the health claims). These will be forwarded to the FSA, which will check them and provide advice within 20 working days. **Applicants should not contact the FSA direct.**

RPA strongly recommends that any health claims to be included in a programme are submitted as soon as possible, ideally with the initial application, to allow these checks to be made. This enables organisations to have the material available as and when it may be needed during the campaign.

- Quarterly reports covering each three month period of the programme from the date of signing of the contract must be sent to the Member State's Competent Authority. For the first three quarters this must be before the end of the calendar month following expiry of each three month period.
- A final quarterly report, summary financial statement, and an annual evaluation of the campaign must be submitted within four months of completion of each phase of the programme.
- **All financial transactions must be through a unique bank account set up specifically for the contract.**
- Any interest accrued on the EU contributions must be repaid to the EU.
- The Commission and the Member State are allowed exclusive rights of utilisation of the results of promotions. This requirement shall not affect the contractor's obligation to disseminate the results where such dissemination forms part of the contract.

4. Submission of Applications

In order to clarify what information the proposal should contain, the Commission have introduced a pro-forma. **You must use this pro-forma when completing your proposal and all of the information detailed in it must be included.** Three bound copies plus three unbound copies of the proposal must be received at the Rural Payments Agency by no later than 31st March 2008.

It is strongly recommended that single draft copies are sent to RPA by 29th February 2008 so that any changes can be discussed and incorporated into the final copies if necessary.

Note – to ensure compliance with the deadline rules applicants should make use of Royal Mail Special Delivery.

5. Written Undertaking

Applications will only be valid where they are accompanied by a written undertaking:

- that the proposing organisation(s) are committed to their share of the financing throughout the duration of the programme;

- to comply with the provisions of the standard contract drawn up by the Commission and supplied by the Competent Authority of the Member State;
- not to submit an application for other Community or national aid for the purposes of the measures part-financed under Regulation (EC) No 1346/2005.

6. Regulatory Selection Procedure

The individual Member States shall ensure that any national or regional measures they undertake are in agreement with measures part-financed under Regulation (EC) No 2702/1999 and that the programmes presented complement national and regional campaigns.

The Member States concerned shall check the suitability and compliance of the programmes and the proposed implementing bodies with Community rules and their own specifications, paying particular attention to the following criteria:

- consistency between the strategies proposed and the objectives set;
- the quality of the proposed measures;
- the likely impact and success in increasing demand for the products concerned;
- assurances that the proposing organisations are effective and representative;
- assurances that the proposed implementing body is effective and has the required technical capacity.

The Member States shall send to the Commission by no later than 30th June 2008 the list of programmes and organisations they have selected, together with a copy of each programme. In the case of programmes of interest to more than one Member State this notification shall be carried out jointly with the Member stated concerned.

If the Commission finds that all or part of a programme submitted does not comply with the Community rules or the criteria referred to in Article 7(2) of Regulation (EC) No 1346/2005, and thus that all or part of that programme is ineligible, it shall inform the Member States concerned within 60 calendar days of receipt of the provisional list referred to in Article 7(2).

After evaluating the programmes, the Commission shall decide no later than 30th November 2008 which programmes it may part-finance in accordance with the procedure referred to in Article 12(2) of Regulation (EC) No 2202/1999.

7. Financing Rules

The Community's financial contribution shall be 50% of the actual costs of the measures for each year of the programme. (**Note:** please read the Press Release 'Summary note' on the funding of promotional measures.)

- Security equal to 15% of the maximum Community contribution must be lodged within the same timescale as the signing of the contract (90 calendar days of notification of the Commission's decision). Failure to lodge the security before the deadline will render the contract null and void. Contracts in respect of programmes submitted by organisations in more than one Member State shall be concluded within 90 calendar days of the Commission decision.

*Contractors must conclude contracts with all appointed implementing bodies before any programme activity takes place. Copies of these contracts should be sent to RPA, which can check for any obvious errors or omissions. **Please note however, that RPA is not responsible for, and is unable to comment on, any legal aspect of these contracts.** Subsequently, implementing bodies must conclude contracts with their subcontractors. All contracts must contain the provision that subcontractors submit to the same technical, administrative and accounting checks as the main contractor.*

- Within 30 calendar days of signing the contract and, in the case of multiannual programmes, within 30 days of the beginning of each 12 month period, the contractor may apply for an advance payment of up to a maximum of 30% of the annual community funding. Payment will be made within 30 calendar days of receipt of the application.
- The advance will only be paid after the contractor has lodged a security equal to 110% of the advance.
- Any wrongful payment made will be recovered plus interest, calculated from the time of payment to time of repayment using the interest rate applied by the European Central Bank to its operations in Euros on the date of the wrongful payment, plus 3.5 percentage points. The procedure is referred to in Article 86(2) of Regulation 2342/2002.

8. Claim Timescales

- Interim claims may be submitted before the end of the calendar month following the expiry of each 3 month period, calculated from the date of signing of the contract. Claims can only cover expenditure paid during the 3 month period and must be accompanied by a financial statement, supporting documents and interim report on the implementation of the contract.

Where no expenditure has been incurred during the period concerned a statement to that effect must be submitted, as well as the interim report, within the same time limits as for interim claims.

- The sum of the advance and interim payments must not exceed 80% in total of the maximum community funding. Once that percentage is reached no more interim claims may be submitted.
- Balance claims must be submitted within 4 months of the completion of the measures covered by the contract and be accompanied by:
 - (a) a financial statement and all supporting documents;
 - (b) a final report giving a summary of the work carried out;
 - (c) an internal report, drawn up by the contractor, evaluating the results obtained and the use that can be made of them.

Except in cases of *force majeure*, any claim and relevant supporting documents submitted late will incur a 3% reduction for each whole month they are overdue. The same reduction will also apply to individual claim lines/invoices that are submitted late.

Interim and balance claims will be paid within 60 calendar days of receipt of a fully validated claim. However, this deadline may be suspended for up to a maximum of 30 days to allow the Member State to seek further information or carry out checks.

Performance securities shall be released once the balance claim has been paid.

9. **Monitoring of Programmes**

Representatives from contractors and their implementing bodies will be required to attend meetings at least once each year to monitor the progress of the programme.

Monitoring groups will be chaired by a representative of the Member State concerned. In cases where programmes involve more than one Member State they will be chaired by a representative designated by the Member States concerned.

10. **Rural Payments Agency Contacts and Address for submitting Applications**

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