



Legal and Financial Conditions for the SMEs

AFI, ANALISTAS FINANCIEROS INTERNACIONALES



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Abstract

*This document contents all the legal and financial conditions that the SMEs will have to fulfill to get the funding through ACTTiVate**

(*) Technical conditions / specifications are not included.

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1. General Background

The PAn-European Clusters for Technology Transfer and new VAlue chains –ACTTiVate- (INNOSUP-1-2015) envisages the **support of innovation in SMEs** and fostering the smart reindustrialization of Europe by **enabling the emergence of new cross-border and cross-sectoral value chains**, resulting from the translation of advanced technologies among selected sectors with strong synergies. Those sectors are: aerospace, agro-food, health and ICT.

ACTTiVate includes financial support to SMEs innovative projects to support the technology transfer process, through **a competitive call for proposals**¹. For the selection of the proposals (projects) the following elements will be taken into account: their innovation potential to create new value chains; their technical excellence, feasibility and viability; their regional and socioeconomic impact in the ACTTiVate regions; and their business potential.

In total 50 projects will be selected, of which the 30 Top ranked proposals will receive up to EUR 46,000 in funding, plus a full package of Business Support Services. The runner-up 20 projects will receive up to EUR 6,000 and a limited pool of Business Support Services.

Specific challenges:

- Developing new cross-sectoral industrial value chains across the EU, by building upon the innovation potential of SMEs, in a context of collaboration and integration of different innovation actors and with the focus on reindustrialization for growth and job creation, developing a long-term internationally competitive supply (goods and services) based on innovative solutions.
- SMEs facilitation to generate, take up and better capitalise on all forms of knowledge, creativity, craftsmanship and innovation.
- Better exploitation of the potential of clusters, as favourable ecosystems for innovation.

Among others, the expected impacts are:

- Strengthen industrial leadership by reinforcing value chains that integrate innovative solutions in SMEs

¹ This call for proposal will be defined in accordance with the [General Model Grant Agreement](#) (General MGA) for the Horizon 2020 Framework Programme for 2014-2020.

- Further leverage and complement support for innovation in SMEs and other public and/or private funding
- Provide a clear and measurable contribution to the innovation performance of the supported SMEs in the short-term, and to its impact on resource efficiency and/or turnover. A wider impact is also expected in the medium-term.
- Improve the business environment of the supported SMEs through open collaboration spaces that can involve innovation actors from different sectors and countries, in order to create new ideas for innovation and new collaboration partnerships (potential business turnover impact)

2. Eligible Participants

Participant SMEs must meet the following eligibility criteria (3):

- Submitted proposals will only be considered as eligible, if the proposing organisation qualifies as an SME, following the definition in the [Commission Recommendation 2003/361/EC](#).
- Submission retained for funding must come from SMEs that are legally established in one of the ACTTiVate countries (Spain, Portugal, The Netherlands, Ireland and Poland).
- Proposals must address the call for proposal topics described in the Innovation Action Lines. Proposals must be therefore focused on technology transfer among two or more of the following sectors: Aerospace, Agro-food, Health and ICT

In general, ACTTiVate is inviting highly innovative enterprises, oriented to the global market, with a skilled staff, very dynamic in terms of job creation and with visible results in the long term. The innovative capacity of the participant SMEs will be assessed not only by the innovation action which is the aim of their proposal and should be aligned with the technologies and topics included in the “Innovation Action Lines”, but also by their team’s professional capacity, as part of the selection criteria.

The SMEs could, nevertheless, be in different phases of their life cycle. As far as enterprises in their start-up and early expansion stages explore innovative business models for disrupting existing markets and have good dynamics in innovation and international cooperation activities, they (start-up

enterprises) can be also eligible to participate in the call for proposals. However, ACTTiVate is not designed to be an enterprise creation promoter.

Life cycle primary phases*		Eligible
<i>Stand-up phase</i>	when individuals or groups are equipped with the entrepreneurial attitudes and skills to attempt the creation of new company	No
<i>Start-up phase</i>	when resources are mobilised and regulatory requirements fulfilled to start a new company (with legal status)	Yes
<i>Scale-up phase</i>	when successful companies expand their businesses to new markets or in innovative ways	Yes

(*) According to European Commission Start-up Initiative

Regarding the role of the SME in the technology transfer process, and taking into account that the financial support involves a Strategic Technology Commercialization Plan (regarding an innovation project for the emergence of new cross-border and cross-sectoral value chains), as well as the proof of concept development, the **eligible entities would be “application developers”**:

Main agents in the technology transfer process		Eligible
<i>Technology Provider</i>	Potential supplier of a technology in a particular sector that could be applied in another sector.	No
<i>Application Developer</i>	The application developer either has developed a technology solution internally or aims to acquire a technology through a specific technology transfer method from a technology provider (licensing, subcontracting, direct acquisition, strategic alliance, etc). In both cases the application developer will apply a technology being used in one sector for a novel application that will be used by a final business user in another sector.	Yes
<i>Business User</i>	Company or other user organisation that uses an application in the value chain of a particular sector.	No

Nevertheless, the project of the application developer will ideally be developed in collaboration with a technology provider and a business user.

2.1. Validation of SME status

In order to confirm the SME status, participants must complete a self-assessment (through the platform BAL.PM.) and a Declaration of Honor.

Nevertheless, those participants whose proposal is selected will be asked to provide a copy of the following documents related to the last three years for which accounts have been closed:

- Balance sheet
- Profit and loss account
- Staff head count (in annual working units)

Specific cases:

- For newly established enterprises (start-up enterprises) that have not yet closed accounts: a self-declaration, including a bona fide estimate (in the form of a business plan) for the on-going financial year²
- For enterprises without turnover whose activity implies a long time-to market: a declaration of the investment made and the likely expected return (to demonstrate that is engaged in an economic activity)

Participants must take into account that sworn or solemn statements before a judicial or administrative authority, notary or public officer are not acceptable proof of their SME status except in those cases previously mentioned.

2.2. Validation of SME financial capacity

The participating SMEs must have the financial capacity to carry out the actions described in their proposals and to properly manage the financial support granted to them in the framework of ACTTiVate. In addition, participating SMEs will have a proactive attitude to seek other sources of funding, drawing on the support that is also provided to them from ACTTiVate.

Only those participants whose proposal achieve the minimum score after evaluation and are selected will have to provide some basic information of their financial standing, being assessed by the following criteria:

- Solvency (being capable of covering the medium and long-term commitments)
- Relative indebtedness (Net financial debt / EBITDA)

The following evidence should be provided:

²If it is considered necessary, the participant may be required to submit some company registration documentation.

- Copy of the profit and loss account and balance sheet for the last three years for which accounts have been closed (documents referred also in *section 2.1. “Validation of SME status”*). Failing that, appropriate statements from banks would be submitted.

In the case of start-up enterprises, without a financial history or track-record, an audit of their current fiscal period (certified by an external auditor) or a self-declaration, including a bona fide estimate (business plan) for the on-going financial year is required.

Exceptionally, when it would be considered justified by the evaluator, if a participant is unable to provide the above documents, it may prove its economic and financial capacity by any other document which the evaluator considers appropriate. Nevertheless, this entity must at least be notified of the exceptional reason and its justification in the proposal; and it reserves the right to request any other document enabling it to verify the participant's financial capacity.

3. Contractual conditions

The SMEs that have been selected in the call for proposals to receive the financial support (“Beneficiary SMEs”) will sign an agreement (“the sub-grant agreement”) with one of the ACTTiVate’s clusters (“the Cluster”).

The Sub-grant agreement specifies: the actions that will be implemented in order to successfully execute the activities; rights and obligations of the contractor, particularly those on payments, performance of the contract, confidentiality, checks and impact evaluation.

The sub-grant agreement negotiation process is scheduled by November 2017, and the execution of the SMEs projects from November 2017 (at the moment of the kick-off of phase 1) to December 2018.

Milestones	Scheduled dates
Agreement negotiation	November 2017
Phase 1	
Kick-off	November - December 2017
Strategic Technology Commercialization Plan Development	December 2017 – February 2018
Deliverable: Strategic Technology	February 2018

Commercialization Plan Development (D1)	
Review and approval of D1 (15 days after delivery)	February - March 2018
Financial support disbursement (1 st payment, 6,000 EUR)	March 2018
Phase 2*	
Kick-off	March 2018
<i>Proof of concept development</i>	<i>March - October 2018</i>
Delivery: proof of concept design and implementation plan (D2)	May 2018
Review and approval of D2 (15 days after delivery)	June 2018
Financial support disbursement (2 nd payment: 15,000 EUR)	June 2018
Delivery: Final Report (proof of concept completion) (D3)	November 2018
Review and approval of D3 (30 days after delivery)	December 2018 – January 2019**
Financial support disbursement (3 rd payment: 25,000 EUR)	May 2019***

(*) Participation in phase 2 is conditioned by the successful completion of phase 1 and will be restricted to 30 SMEs. (**)The period from 4th December 2018 to 7th January 2019 is excluded. (***) Subject to the European Commission final payment date

Note: financial support disbursements are conditioned to the approval of the corresponding deliveries, as indicated in *section 4*.

4. Financial support

4.1. Amount of financial support

The total amount for funding SME's projects is EUR 1.500.000, applying the following maximum amounts of financial support for each SME:

SME	Maximum amount (EUR) (lump sum)
Top – 30 selected SMEs	46,000
The other 20 selected SMEs	6,000

Moreover, five SMEs among the top- 30 will be awarded with a Mobility and Exchange Program, allowing them with an additional grant of EUR 10,000 (to cover the related costs, such as travel and accommodation expenses). The conditions for the selection of these SMEs will be published during the execution of the program.

4.2. Type of activities that qualify for financial support and eligible costs

The activities or actions that will qualify for financial support are:

- **Development of a Strategic Technology Commercialization Plan (D1)**, considering the technical feasibility, the economic, social and environmental sustainability and the chances of the innovation project to create new cross-sectoral value chains. This plan, prepared by the SME with the support of the Tech Comm Academy, will describe in detail how the technology will be materialized into a new and successful solution of marketable quality.
- **Elaboration of a Proof of concept Design and Implementation Plan (D2) and development of the Proof of concept (D3)**. The plan, elaborated by the SME, will contain a broad description of the design characteristics and the scope of a minimum viable product and the required actions for its implementation. In this sense, a minimum viable product (here, equivalent to the proof of concept) must address the following objectives: (i) verify some key functional aspects of the intended solution, (ii) demonstrate the technical feasibility of the proposed solution under a representative operational environment, and (iii) provides technical solutions for all critical functionalities, but usually does not have all the functionalities of a final product. After the development of the proof of concept according to the Plan (D2), the results (“proof of concept”) will be presented in a final report.

4.3. Eligible costs

The eligible costs under the lump sum for phases 1 and 2 are the eligible costs of the development of the Strategic Technology Commercialization Plan and the Proof of concept. These costs can be linked to internal work and/or external advice, excluding services provided by the ACTTiVate’s Business Support Services.

The type of accepted eligible costs are:

- Personnel costs directly assigned to the Strategic Technology Commercialization Plan and the Proof of Concept development. This type of costs must be direct personnel costs under an employment contract and assigned to the action in order to be eligible. They must be limited to salaries (including during parental leave), social security contributions, taxes and other costs included in the remuneration, if they arise from national law or the employment contract (or equivalent appointing act). Additional remuneration for personnel assigned to the action is not eligible. Fixed rates that are usual for state grants in the specific country where

the project is developed can be discussed during the contract agreement and will need confirmation of the ACTTiVate project management team.

- Travel costs related to the development of the Strategic Technology Commercialization Plan and the Proof of Concept, including those to participate in the Business Support activities included in the ACTTiVate's program. Travel costs and related subsistence allowances (including related duties, taxes and charges such as non-deductible value added tax (VAT) paid by the participant) are eligible if they are in line with the participant's usual practices on travel.

- Equipment or software bought or used for the Proof of Concept (depreciation, leasing, rental costs). The depreciation costs of equipment, infrastructure or other assets (new or second-hand) as recorded in the participant's accounts are eligible, if they are purchased ensuring the best value for money or, if appropriate, the lowest price. In doing so, they must avoid any conflict of interests. The beneficiaries must ensure that the Commission, the European Court of Auditors (ECA) and the European Anti-Fraud Office (OLAF) can exercise their rights towards their contractors.

Depreciation has to be accounted for in accordance with international accounting standards and the participant's usual accounting practices.

As an alternative to the depreciation, leasing or rental costs are also eligible. The only portion of the costs that will be taken into account is that which corresponds to the duration of the action and rate of actual use for the purposes of the action.

- Consumables and supplies directly used for the development of the Strategic Technology Commercialization Plan and the Proof of Concept. This type of costs are eligible, if they are purchased ensuring the best value for money or, if appropriate, the lowest price. In doing so, they must avoid any conflict of interests.

The only portion of the costs that will be taken into account is that which corresponds to the duration of the action and rate of actual use for the purposes of the action.

- Direct cost for subcontracting products and/or services for the development of the Strategic Technology Commercialization Plan and the Proof of Concept (including related duties, taxes and charges such as non-deductible value added tax (VAT) paid by the beneficiary). This

type of cost are eligible if the participant award the subcontracts ensuring the best value for the money, or if appropriate the lowest price.

The total amount of subcontracting cost will be up to 50% of total eligible cost. Nevertheless, this percentage may be higher, subject to analysis and approval by the Cluster.

- Costs related to intellectual property rights (IPR) (including royalties paid for access rights needed to implement the action and/or costs to protect the results such as patent protection).

No other type of costs, apart from those listed in *section 4.3*. “*Eligible costs*” will be considered eligible.

4.4. Criteria for calculating the exact amount of the financial support

Since these grants consist in three lump sums, there are only three budget category

- Development of a Strategic Technology Commercialization Plan
- Elaboration of a Proof of concept Design and Implementation Plan
- Development of the Proof of concept and elaboration of Final Report

4.5. Criteria for giving financial support

- The amount granted for the development of a Strategic Technology Commercialization Plan will be EUR 6,000. It will be paid as a lump sum once the Beneficiary SME provides its own Plan and it would be approved in writing by ACTTiVate.
- The amount granted for the elaboration of a Proof of concept Design and Implementation Plan per SME is EUR 15,000. It will be paid as a lump sum once the Beneficiary SME provides its own Plan and it would be approved in writing by ACTTiVate.
- The amount granted for the development of a Proof of Concept per SME is EUR 25,000. It will be paid as a lump sum once the Beneficiary SME presents the proof of concept developed and a Final Report; and both were approved in writing by ACTTiVate.

It ensures that the no-profit and co-financing principles of the EC financial regulation are complied with and that double financing of costs is avoided. In this sense, it must be taken into account that controlling the actual eligible costs would not be cost-effective considering the maximum amount of the financial support per SME (EUR 46,000), which is a rather low financial risk.

4.6. Subcontracting

Subcontracting refers to the situation where the Beneficiary SME, in order to carry out the Subgrant Agreement, enters into legal commitments with other legal entities for performing part of the action.

Subcontracting is permitted but the contractor Beneficiary SME will retain full liability towards the Cluster for performance of the Sub-grant Agreement as a whole. The Cluster has no direct legal commitment with the subcontractor(s) (there is no contractual relation between subcontractors and Clusters / European Commission) and the beneficiary SME remains responsible for all its rights and obligations under the Subgrant Agreement, including the tasks carried out by a subcontractor.

Participant SMEs may award subcontracts covering the implementation of certain action tasks. They must give an indication of the proportion of the action that they intend to subcontract.

Beneficiary SMEs are required to identify the subcontractor(s) whose share of the Sub-grant agreement is above 50% and document their willingness to accept the tasks and the terms and conditions set out in the Subgrant Agreement.

During the Subgrant Agreement execution, the change of any subcontractor identified in the tender will be subject to prior written approval of the Cluster.

Subcontracts should in particular foresee that intellectual property generated by a subcontractor reverts to the beneficiary SME.

4.7. Joint proposals

Proposals submitted by consortia (“joint proposals”) will not be accepted. In this sense, a joint proposal takes place when a proposal is submitted by a group of SMEs.

5. Non – financial support

Apart from the financial support, selected SMEs will benefit from some business support services such as training workshops, mentoring, brokerage events and investment forums to ensure the innovative projects develop a marketable product.

The business support services will be provided in a full package for the top-30 selected projects (SMEs) and a limited pool for the other 20.

6. Information requirements

6.1. General obligation to inform for financial support beneficiary SMEs

The beneficiary SMEs must provide (during implementation of the action or afterwards) any information requested in order to verify proper implementation of the action and compliance with the Subgrant Agreement signed with the Cluster.

Each beneficiary of ACTTiVate financial support for SMEs must keep information stored in Cluster Collaboration Platform and the BAL.PM. (The ACTTiVate Project Management Tool) up to date, in particular, its name, address, legal representatives, legal form and organisation type.

Each beneficiary must immediately inform the cluster of any of the following facts:

- Events that are likely to affect significantly or delay the implementation of the actions, or the ACTTiVate goals (regarding de financial support to SMEs), as well as the European Union's financial interests, in particular: changes in its legal, financial, technical, organisational or ownership situation.
- Circumstances affecting: the decision to award the ACTTiVate financial support for SMEs or compliance with requirements under the Subgrant Agreement.

The beneficiary SMEs must (for a period of five years after the payment /reception of the financial support) keep records and other supporting documentation in order to prove the proper implementation of the actions. They must make them available upon request or in the context of checks, reviews, audits or investigations. The beneficiaries must keep the original documents. Digital and digitalised documents are considered originals if they are authorised by the applicable national law.

The beneficiary SMEs must keep the adequate records and other supporting documentation to prove the costs incurred, such as contracts, subcontracts, invoices and accounting records.

The beneficiary SMEs must submit the information and indicators³ about the implementation of the action and its impact, in accordance with the timing and conditions requested by the Cluster. The reports must be drawn up using the forms and templates provided in the BAL.PM. An analogous procedure is applicable to indicators.

All reports and information must be submitted in the reporting period established and in English.

If a beneficiary breaches any of its obligations, the grant may be reduced or the Subgrant Agreement may be terminated.

7. Background and results treatment

7.1. Agreement on the use of Background

The beneficiary SMEs must identify and agree (in writing) on the use of Background for the action (“agreement on background” included in the Agreement to be signed with the Cluster).

“Background” means any data, know-how or information, including intellectual property rights, that are held by the beneficiaries before they acceded to the Sub-grant Agreement (e.g. specific information on the destination sector that determines the successful implementation of the technology coming from another sector), and is needed to implement the action or exploit the results (e.g. the proof of concept developed). Background is not limited to input owned, but potentially extends to anything the beneficiaries lawfully hold (e.g. through a license with the right to sub-license).

Unless other conditions are included in the Sub-grant Agreement, the default rule of royalty-free applies for access to background for the realization of action tasks, and the exploitation of results will be done under fair and reasonable conditions.

³These indicators are related to WP6 – ACTTiVate’s impact assessment

7.2. Ownership, protection, exploitation and dissemination of results

The results of the innovative action supported, fundamentally, the proof of concept developed, know-how and other intangible outputs, and related rights (e.g. patents), belong to the beneficiary SME. Results only include outputs of activities that will be implemented according to the proposal submitted.

The beneficiaries must make any arrangements with any third parties that could claim rights to them (e.g. subcontractors, employees, etc.), in order to implement the innovative action appropriately.

In case beneficiaries want to transfer ownership of their results of the proof of concept development, they must ensure that their obligations (regarding the results) apply to the new owner and that this new owner would pass them on in any subsequent transfer. Moreover, the beneficiaries may grant licenses to their results, ensuring that access rights can be exercised and that any additional exploitation obligations are complied with. Beneficiary SMEs must formally notify the Clusters in advance of any planned action to transfer results to third parties established in a third country (outside EU) or other actions that prevent the establishment of new value chains.

The SMEs beneficiaries must examine the possibility of protecting results (that can reasonably be expected to be commercially or industrially exploited) and if possible, reasonable and justified, protect them. For that, they must choose the most suitable form of protection – patent, trade-secret, confidentiality, etc. - (IP protection is not mandatory), for an appropriate period and have appropriate territorial coverage. Unless technically or legally impossible, applications for protection must include the reference to EU “indirect” funding through ACTTiVate initiative.

The beneficiary SMEs must take measures aiming to ensure exploitation of their results related to the proof of concept by themselves (e.g. for commercial or industrial exploitation) or by third parties (e.g. through licensing). This exploitation of the results must be also aligned with the creation of new value chains and the regional socioeconomic and business intended impact.

Regarding the dissemination of results of the actions implemented by the SMEs, unless it goes against their legitimate interests or conflicts with any other obligations under the Subgrant Agreement, they must disseminate their results in the most suitable form (e.g. website, presentation at a sectoral conference). Where possible, they should make a reference to EU “indirect” funding.



Public summary of the project can be published on the website of ACTTiVate or used under other forms of communication. In any case, the dissemination of information about the project by ACTTiVate Consortium will only take place after consultation with the SME involved.

Therefore, the last report submitted by the beneficiary will include a proposal of “Plan For Use and Dissemination” of the results obtained by the SME through ACTTiVate project participation.