

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 3 February 2004

on the implementation of the Preparatory Action on the Enhancement of the European industrial potential in the field of security research

(2004/213/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITY,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Decision 2003/113 final of 11 March 2003 adopting a Communication 'European Defence — Industrial and Market Issues — Towards an EU Defence Equipment Policy' ⁽¹⁾, and in particular Item 5,

Having regard to Article 157, point 1, fourth indent of the Treaty (fostering better exploitation of the industrial potential of policies of innovation, research and technological development),

HAS ADOPTED THIS DECISION:

Article 1

The Commission is launching a Preparatory Action on the Enhancement of the European industrial potential in the field of security research (2004-2006) as referred to in the Commission Communication on 'Implementation of the Preparatory

Action on the Enhancement of the European industrial potential in the field of security research: Towards a programme to advance European security through Research and Technology'.

The Activities and Programme of Work for the Preparatory Action are part of the Communication (Section II) and form the basis for subsequent calls for proposals and calls for tenders.

Article 2

Details for the Implementation of this Preparatory Action are set out in the Annex.

The budget line for this activity is 08 14 01.

Done at Brussels, 3 February 2004.

For the Commission

Philippe BUSQUIN

Member of the Commission

⁽¹⁾ Not published in the Official Journal.

ANNEX

IMPLEMENTATION OF THE PREPARATORY ACTION ⁽¹⁾**1. Activities and financial support**

The activities undertaken in the scope of the Preparatory Action on 'The enhancement of the European industrial potential in the field of security research' will be projects and supporting activities. The projects will normally have duration between one and two years and the supporting activities will have duration between six months and three years.

Projects will be invited by calls for proposals. The financial contributions to projects shall be covered by a written agreement (called grant contract). Supporting activities can also be selected from calls for proposals, leading to grant contracts or calls for tenders, resulting in service contracts.

Calls for proposals and calls for tenders will be published in the Official Journal of the Community.

For calls for proposals, the evaluation and negotiation procedures and the principles for IPR and grants contracts are described in sections 3, 4, 5, 6 and 7 below. For the call for tenders standard procedures and contracts will be used.

The Commission may appoint independent experts to assist in the development of the European Security Research Programme; proposal evaluation; and monitoring of activities including the overall outcome of the Preparatory Action. Experts shall be appointed by a decision of the Commission authorising officer based on a call for applications.

2. Participation**2.1. General principles**

Legal entities established in the Member States ⁽²⁾ will be eligible to participate and receive a Community financial contribution. The participants will be public authorities, industrial organisations: public and private (including SMEs), higher education institutions and research organisations.

In exceptional cases and over and above the minimum number of participants, legal entities established in a third country or international organisations may participate. In such cases, a Community financial contribution may be exceptionally provided. Involvement from third countries will be subject to arrangements of a reciprocal nature with that country.

Appropriate measures will be taken to ensure that classified information is treated in accordance with the Commission provisions on security ⁽³⁾. In addition, participants in a consortium shall ensure that the treatment of classified information complies with the security regulations applicable.

2.2. Minimum number of participants

Projects shall be carried out by a consortium composed of at least two independent legal entities from different Member States ⁽⁴⁾. It should be noted that collaborative working between different Member States entities, including public security organisations, is strongly encouraged and represents one key objective of this Preparatory Action.

Supporting activities may be carried out by a single participant or by a consortium.

Consortiums will be represented by a coordinator who will ensure coordination tasks and administer the Community contribution regarding its allocation between the participants.

2.3. Technical competence and resources

Participants shall have the knowledge and technical competence needed to carry out the activity. As work progresses, participants shall have the resources as and when needed to carry out the activity. The resources needed to carry out the activity are understood to be human resources, infrastructure, financial resources and, if necessary, intangible property and other resources made available by a third party on the basis of a prior commitment.

⁽¹⁾ At the time of the publication of the calls for proposals, the Commission will issue a detailed vade-mecum for proposers.

⁽²⁾ Member States means all States of EU-25 including Accession Countries.

⁽³⁾ OJ L 317, 3.12.2001.

⁽⁴⁾ If the composition of project partners in an EEIG is comparable with these conditions, the EEIG shall also be eligible.

3. Evaluation of project proposals

3.1. Evaluation and selection procedure

The proposals for projects submitted in response to a call for proposals will be evaluated according to the procedure described below. Classified documentation will be treated in accordance to the applicable rules on classified documents.

3.2. Eligibility check

The Commission services will verify that proposals meet the following eligibility criteria:

- receipt of proposal by the Commission on or before the deadline date and time established in the call;
- minimum number of participants, as referred to in the call for proposals;
- completeness of the proposal, i.e. presence of all requested administrative forms and the proposal description.

Only proposals that fulfil the eligibility criteria will be retained for evaluation.

3.3. Evaluation criteria

Each proposal will be assessed on the basis of the following criteria:

- relevance of the proposal to the Programme of Work of the Preparatory Action;
- reinforcement of the competitiveness for European industry and potential for exploitation;
- scientific and/or technological excellence and contribution to tangible and demonstrable improvements in security;
- building of effective partnerships between (public) users, industry and research;
- ability of the consortium to carry out the project successfully and to ensure its efficient management, including the ability to protect classified information if necessary, and clear plans for the management of intellectual property.

3.4. Scoring, thresholds and weighting of evaluation criteria

Each evaluation criterion will be marked on a six-point scale from 0 to 5 indicating the following:

0 — the proposal fails to address the issue under examination or can not be judged against the criterion due to missing or incomplete information.

1 — poor; 2 — fair; 3 — good; 4 — very good; 5 — excellent.

A minimum threshold of 3 will be set for all the criteria. Any proposal, which fails to achieve one of the threshold scores, will be rejected. A total score will be calculated for all the proposals, which pass all thresholds with all criteria weighted equally. A minimum threshold of 18/25 will be set for the total score.

3.5. Description of proposals evaluation

Each proposal will be evaluated by at least three evaluators (either Commission staff, or external experts, or both) working independently and without any conflict of interest. They will give marks and comments for each criterion.

Once all the evaluators to whom a proposal has been assigned have completed their individual assessment, a consensus discussion may be convened to discuss the marks awarded and agree on a consensus mark for each criterion.

A panel of evaluators will carry out a final examination, consolidate the scores and agree on the consensus reports. The outcome of the panel meeting is a report containing for each proposal the scores and underpinning comments for each criterion, and a list of proposals passing thresholds, if any, along with a final mark for each proposal passing the thresholds and the panel recommendations for priority order.

3.6. *Feed back to proposers*

The coordinator of each proposal will receive the evaluation report. For those proposals rejected after failing an evaluation threshold, the comments may only be complete for those criteria examined up to the point when the threshold was failed.

4. **Finalisation of the evaluation**

4.1. *Commission ranked list*

The Commission services will draw up a list of all the proposals evaluated which pass the required thresholds ranked in priority order based on the final score. If two proposals have the same final score, the Commission services will take into account the Preparatory Action objectives, the compatibility of the proposals with stated Community objectives and the available budget.

4.2. *Commission reserve list*

The list of proposals to be retained for negotiation takes into account the budget available (which is set out in the call for proposals). If necessary, a number of proposals are kept in reserve to allow for the failure of negotiations, withdrawal of proposals and/or savings to be made during contract negotiation.

The coordinators of any proposals held in reserve receive confirmation that negotiations with a view to preparing a contract may be offered, but only if funding becomes available.

When the budget for the call has been used up, any proposal remaining from the 'reserve' which could not be funded will be rejected and the coordinators informed.

4.3. *Rejection decision*

The proposals found to be ineligible, out of scope, failing any of the individual thresholds for evaluation criteria and those which, because they fall below a certain ranking cannot be funded for budgetary reasons will be rejected by a decision of the Commission authorising officer.

5. **Negotiation and selection procedure**

Immediately following the preparation of the final ranked list by the Commission services, the coordinators of proposals not to be rejected and for which funding is available will be invited to begin negotiations.

Negotiation may cover any scientific, legal or financial aspects of the proposal, based on any issue raised during the evaluation or any other issue that was taken into consideration at the ranking stage.

Future contractors must be in compliance with the Financial Regulations ⁽¹⁾. In addition, any potential contractor subject to a conflict of interest or having been found guilty of misrepresentation in supplying the information required as a condition for participation in the contract or failing to supply such information shall be excluded from participation in any future grant contract ⁽²⁾.

If it proves impossible to reach agreement with proposers within a reasonable deadline the Commission services may impose, negotiations on contract preparation may be terminated and the proposal rejected. The Commission services will negotiate proposals selected respecting the ranking decided for selection, up till the amount available in the financial decision.

If negotiations are successful, contracts for grants will be awarded.

6. **Reports and audit**

The projects and supporting activities will regularly report to the Commission on in order to allow proper monitoring. In performing monitoring of activities, the Commission may be assisted by independent experts (appropriately cleared if necessary). The Commission, or any representative authorised by it, shall have the right to carry out scientific, technological and financial audits on the participants, in order to ensure that the activities are being or have been performed under the conditions claimed and in accordance with the terms of the contract.

⁽¹⁾ Financial Regulation Articles 114 and 93.

⁽²⁾ Financial Regulation Articles 114 and 94.

7. Contract and intellectual property rights

7.1. General principles

The grant contract for projects and supporting activities will be based on the 6th Framework programme model contract. The grant contract will be signed by the authorising officer of the Commission and all the participants of the consortium.

Special clauses may be added concerning ownership of knowledge, protection of knowledge, use and confidentiality, and access rights in order to test the specificities that may arise in the activities in this Preparatory Action.

7.2. Community financial contribution

The Community financial contribution shall take the form of a grant to the budget, calculated as a percentage of the budget established by the participants to carry out the project or supporting activity. The expenses needed to implement the project or the supporting activity shall be certified by an external auditor or, in the case of public bodies, a competent public officer.

Eligible expenses must meet the following conditions:

1. They must be actual, economic and necessary for the implementation of the project or supporting activity;
2. They must be determined in accordance with the usual accounting principles of the individual participant;
3. They must be recorded in the accounts of the participants or, in the case of the resources of third parties in the corresponding financial documents of those third parties;
4. They shall be exclusive of indirect taxes, duties and interest and may not give rise to profit.

7.3. Financial schemes

For projects, two financial schemes are distinguished following the research categories as set out in of the Community framework for State-aid for research and development ⁽¹⁾:

1. Industrial Research
2. Pre-competitive Development Activities.

A third scheme is added for completeness:

3. Management of the activities

The following table indicates the maximum rates of Community financial contribution for the projects in function of the schemes.

Maximum reimbursement rates of eligible costs	Industrial Research	Pre-Competitive Development Activities	Management of the activities
Projects	up to 75 %	up to 50 %	100 % (up to 7 % of the contribution)

Where Community funding is combined with national funding in the form of State aid, total official support, according to the Community framework for State aid for research and development, may not exceed 75 % in the case of industrial research and 50 % in the case of pre-competitive development activities.

The grants allocated for supporting activities are not subject to State-aid rules and shall reimburse up to 75 % of the eligible costs, which may include up to 10 % of the total contribution for management activities.

7.4. Intellectual property rights

The knowledge shall be the property of the contractors who generate it. Any transfer of knowledge created under a grant contract, or any granting of access rights to such knowledge to another organization outside the consortium need the approval of the Commission, the Member States in which the participants reside and the other contractors.

The Commission and Member States may refuse approval for reasons of major European or national interest or by applying their laws. Other participants may refuse approval if they can demonstrate that their commercial or industrial interests may be significantly impaired or that any legal obligations would be violated.

⁽¹⁾ OJ C 45, 17.2.1996, p. 5.