

COMMISSION DECISION
C/2006/2336/3

Of 23/06/06

establishing a technical assistance facility to support the implementation of the instrument of financial support to encourage the economic development of the Turkish Cypriot community

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 389/2006 of 27 February 2006 establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community¹, and in particular Article 3 thereof,

Whereas:

- (1) Following the accession of Cyprus, the application of the *acquis* is suspended pursuant to Article 1(1) of Protocol N°10 of the Act of Accession 2003 in the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control (hereinafter referred to as ‘the areas’).
- (2) Pursuant to Article 3(1) of Protocol N°10, nothing in the Protocol precludes measures with a view to promoting the economic development of the areas.
- (3) Council Regulation (EC) No 389/2006 lays down the rules and conditions for the granting of assistance for encouraging the economic development of the Turkish Cypriot community,
- (4) According to Article 4 (3) of Regulation (EC) No 389/2006 assistance may also be used to cover in particular the costs for supporting activities such as preliminary and comparative studies, training, activities linked to preparing, appraising, managing, implementing, monitoring, controlling and evaluation of assistance, activities linked to information and visibility purposes as well as costs for supporting staff, renting of premises and supply of equipment.

HAS DECIDED AS FOLLOWS:

Sole Article

The programme of assistance provided for in the annex to this decision is hereby adopted for a maximum amount of EUR 4 million, to be charged to budget heading 22.02.11 of

¹ OJ L 65, 7.3.2006, p.5.

the 2006 General Budget of the European Communities. This programme will be implemented by the European Commission according to Art. 53 (1) (a) of Council Regulation (EC, Euratom) N°1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities.

Done at Brussels,

For the Commission

FINANCING PROPOSAL ESTABLISHING A TECHNICAL ASSISTANCE FACILITY TO SUPPORT THE IMPLEMENTATION OF THE INSTRUMENT OF FINANCIAL SUPPORT TO ENCOURAGE THE ECONOMIC DEVELOPMENT OF THE TURKISH CYPRIOT COMMUNITY
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1. IDENTIFICATION

BENEFICIARY	Turkish Cypriot community
LEGAL BASIS	Instrument of financial support for encouraging the economic development of the Turkish Cypriot community (Council Regulation (EC) N° 389/2006 of 27.02.06)
PROGRAMME	Technical Assistance Facility to support the implementation of the instrument of financial support to encourage the economic development of the Turkish Cypriot community
CRIS NUMBER	2006/018-145
YEAR	2006
DAC CODE	91010
COST	€4 million
IMPLEMENTATION	European Commission (centralised management under Article 53 (1) of the Financial Regulation
CONTRACTING END DATE	31 May 2009 ²
EXECUTION OF CONTRACTS END DATE	15 December, 2010 ³
PROGRAMMING MANAGER	Alessandra Viezzer, DG Enlargement (Unit A4)
BUDGET LINES	22.02.11

2. SUMMARY

Following a proposal by the Commission on 7 July 2004⁴, Council Regulation 389/2006 establishing an instrument of financial support for encouraging the

² In no case can the contracting period for projects implemented under this programme exceed three years after the date of the global commitment (Art. 166 (2) FR).

³ Budgetary commitments which have not given rise to payments during three years counted from the date of the legal commitment will be decommitted (Art. 77 (3) FR)

⁴ COM (2004) 465 final of 07.07.2004

economic development of the Turkish Cypriot community has been adopted on 27 February 2006.

In line with the provisions of Article 4(3) of Regulation 389/2006, it is proposed to use €4 million to set up a technical assistance facility to be used by the Commission to support project preparation and implementation of the instrument of financial support to encourage the economic development of the Turkish Cypriot community.

Through this facility, short and medium term technical assistance will be mobilised for activities ranging from sector studies to detailed feasibility studies, preparation of tender documents for works, services, supplies and grants call for proposals, assistance in the tender evaluation process and project monitoring tasks.

Costs relating to recruitment of contract agents and office management logistics relating to the setting up of a Commission Programme team (including renting of premises and related equipment as well as required security arrangements) would also be covered under this financing proposal.

3. BACKGROUND

Following the outcome of the simultaneous referenda in Cyprus, the Council stated on 26 April 2004:

“The Turkish Cypriot community has expressed their clear desire for a future within the European Union. The Council is determined to put an end to the isolation of the Turkish Cypriot community and to facilitate the reunification of Cyprus by encouraging the economic development of the Turkish Cypriot community. The Council invited the Commission to bring forward comprehensive proposal to this end, with particular emphasis on the economic integration of the island and on improving contact between the two communities and with the EU. The Council recommended that the 259 million euro already earmarked for the northern part of Cyprus in the event of a settlement now be used for this purpose”.

Following a proposal by the Commission on 7 July 2004⁵, Council Regulation 389/2006 establishing an instrument of financial support for encouraging the economic development of the Turkish Cypriot community has been adopted on 27/02/2006. The Commission is directly responsible for administering the assistance and shall be assisted by the PHARE management committee. In addition, the Commission expressed in a declaration its readiness to consult with the government of the Republic of Cyprus on the major aspects of implementation of assistance. The Commission also declared its readiness to consult the Government of the Republic of Cyprus if feasibility studies leave doubt as to whether actions to be financed under this Regulation might affect property rights.

The regulation outlines that measures to be financed under it are of an exceptional and transitional nature and are intended, *inter alia*, to prepare and facilitate, as appropriate, the full application of the *acquis communautaire* in the areas following a solution to the Cyprus problem.

⁵ COM (2004) 465 final of 07.07.2004

Assistance shall be used to support *inter alia*:

- the promotion of social and economic development including restructuring, in particular concerning rural development, human resources development and regional development;
- the development and restructuring of infrastructure, in particular in the areas of energy and transport, the environment, telecommunications and water supply;
- reconciliation, confidence building measures, and support to civil society;
- bringing the Turkish Cypriot community closer to the Union, through *inter alia* information on the European Union's political and legal order, promotion of people to people contacts and Community scholarships;
- preparation of legal texts aligned with the *acquis communautaire* for the purpose of these being immediately applicable upon the entry into force of a comprehensive settlement of the Cyprus problem;
- preparation for implementation of the *acquis communautaire* in view of the withdrawal of its suspension in accordance with Article 1 of Protocol No 10 to the Act of Accession.

According to Article 4(3) of Regulation 389/2006, assistance may also be used to cover in particular the costs for supporting activities such as preliminary and comparative studies, training, activities linked to preparing, appraising, managing, implementing, monitoring, controlling and evaluation of assistance, activities linked to information and visibility purposes as well as costs for supporting staff, renting of premises and supply of equipment.

A programme team will be put in place composed of Commission officials and contract agents who will be working both in Brussels and in Cyprus. The addresses of the programme team will be in Brussels and at the Representation of the European Commission in Cyprus. This team will be using an office in the northern part of Cyprus to facilitate contacts with the beneficiary community, with a view to ensuring cost-effective coordination, preparation and implementation of the assistance, whilst also providing a venue for meetings and seminars. Short and medium term expertise will be also procured to assist with project preparation and monitoring.

This proposal builds on a project undertaken under the 2003 Special Aid Package where €2 million were earmarked for feasibility studies. Through this project, a number of sector studies were already undertaken or are still on-going (energy, water, solid waste, rural development, etc.). Based on the recommendations of these studies, a number of projects have been earmarked for potential funding under the new financial instrument. This technical assistance facility will build on the findings of these studies by undertaking work required to prepare these projects for tendering and implementation.

4. STRATEGY

This financing proposal contributes to achieve the objectives laid down in Art. 2 of Council Regulation (EC) n° 389/2006.

5. OBJECTIVES

The assistance under this technical assistance facility will cover a wide range of activities mobilising short and medium term expertise to support programme and project preparation and early implementation, including the recruitment of contract staff for the Commission programme team and the provision of office logistics including for a programme support office.

6. DESCRIPTION

Under this financing decision, short and medium term technical assistance will be mobilised *inter alia*:

- 1) To prepare studies on the areas of intervention foreseen by Council Regulation 389/2006 with a view to better define and prioritise actions to be supported, including needs assessments. These studies could also include the formulation of sector strategies;
- 2) To review and/or to undertake feasibility studies for project preparation including, if required economic and financial analyses of the projects, detailed technical design specifications, legal assessments, etc. as well as preparation of tender documents for works, services, supplies and grant calls for proposals in line with required procurement procedures;
- 3) To provide expertise to assist in the procurement process by carrying out *inter alia* technical evaluation of the offers;
- 4) To provide expertise during project implementation phase if required (audits, monitoring as well as project evaluations, etc.);
- 5) To recruit initial core team of contract agents for the Commission Programme Team, to procure office management logistics (including renting of premises) and related supply of equipment for the purpose of establishing a programme support office within the beneficiary community as well as required activities to accommodate the specific needs of the Programme Team in the EC Representation in Cyprus (including access to required informatics systems and security arrangements).

7. BUDGET

This Financing Proposal will be financed through Community funding of € 4 million.

8. IMPLEMENTATION ARRANGEMENTS

Implementation of the programme will follow Art. 53(1)a of the Financial Regulation⁶.

Procurement shall follow the provisions of Part 2, Title IV of the Financial Regulation and Chapter 3 of Part 2, Title III of its implementing rules as well as the Commission Decision of 24 January 2006 on “Rules and procedures for services, supplies and works contracts financed from the General Budget of the European Communities for the purposes of co-operation with third countries”⁷.

All contracts must be concluded by 31.05.2009. In no case can the contracting period exceed 3 years after the date of the global commitments. End of execution deadline is 15.12.2010.

Budgetary commitments which have not given rise to payments during three years counted from the date of the legal commitment will be de-committed (according to Art 77 of the Financial Regulation).

9. MONITORING AND EVALUATION

The accounts and operations of all activities carried out under this financing proposal may be checked at regular intervals by an outside auditor contracted by the Commission without prejudice to the responsibilities of the Commission and the Court of Auditors. Also, the Commission may carry out any necessary audits and on-the-spot checks.

To facilitate this, the Commission will keep accounting, financial and operational documents concerning all activities financed under this financing proposal, and will make available to the competent bodies of the European Commission and the European Court of Auditors on request all relevant financial information.

The Commission will monitor the implementation of the financing proposal on the basis of reports from the selected contractors and independent assessments.

The Commission services shall ensure that activities financed under Council Regulation 389/2006 will be subject to an interim and/or ex-post evaluation.

Appropriate planning and regular reporting will take place throughout implementation.

10. AUDIT ANTI-FRAUD MEASURES

All agreements and contracts resulting from the implementation of this programme are subject to supervision and financial control by the Commission (including the European Anti-Fraud office) and audits by the European Court of Auditors.

⁶ Council Regulation (EC, Euratom) 1605/2002 of 25 June 2002; OJ L 248; 16.9.2002, p.1.

⁷ Commission Decision C (2006) 117, 24.01.2006 .

In order to ensure the efficient protection of the financial interests of the Community, the Commission (including the European Anti-Fraud Office) may conduct on-the-spot checks and inspections in accordance with the procedures foreseen in Council Regulation (Euratom, EC) No. 2185/96⁸.

The controls and audits described above are applicable to all delegated entities, contractors and subcontractors who have received Community funds.

11. VISIBILITY/PUBLICITY

The Commission will be responsible for ensuring that the necessary measures are taken to ensure that for all activities financed from the programme, the visibility/publicity will follow the EU visibility guidelines for external actions (http://europa.eu.int/comm/europeaid/visibility/index_en.htm). In implementing this Programme, the Commission shall provide for the maximum visibility of EU actions in the beneficiary community.

12. SPECIAL CONDITIONS

- (1) In the implementation of this financing proposal, account will be taken of island-wide planning where appropriate.
- (2) Nothing in this financing proposal is intended to imply recognition of any public authority in the areas, other than the Government of the Republic of Cyprus.
- (3) As regards participation in the award of procurement or grant contracts, the term “all natural and legal persons of Member States of the European Union in Article 8 paragraph 1 of Council Regulation 389/2006” includes all genuinely existing domestic legal persons residing or established in the areas. This will be specified in the calls for tenders and proposals.

⁸ Council Regulation (EC, EURATOM) 2185/96 of 11 November 1996, OJ L 292; 15.11.1996; p. 2-5