

## RESOLUTION OF JUNE 11, 2019 CALLING FOR THE AWARD OF SUBSIDIES FOR 2019 IN ICEX SPAIN TRADE AND INVESTMENT, E.P.E., M.P.'S PROGRAM FOR INVESTMENT BY FOREIGN COMPANIES IN R&D ACTIVITIES

Order ICT/575/2019 of May 24 was approved on May 24, 2019, establishing the regulatory basis for the award of subsidies in ICEX Spain Trade and Investment, E.P.E., M.P.'s program of investments by foreign companies in R&D activities, published in the Official State Gazette on May 29, 2019. This program awards subsidies to promote investment by foreign companies with a high innovative component, with the aim of contributing to improving the competitiveness and productivity of the Spanish economy.

In virtue of the specifications in the aforementioned Order, and in compliance with article 149.1.15 of the Spanish Constitution referring to the exclusive competence of the State for the promotion and general coordination of scientific and technical research, the present resolution for the call in ICEX Spain Trade and Investment, E.P.E., M.P.'s program of investment by foreign companies in R&D activities is approved.

In consequence, in accordance with the specifications and the aforementioned regulation, the Chief Executive Officer resolves the following articles:

### *One. Object and purpose.*

The object of this call is to award subsidies in 2019 for the execution of actions that allow the promotion of research and development in foreign companies aiming to become established in Spain, or in companies that are already established but which are seeking to initiate and develop their activities in R&D in order to contribute to improving the competitiveness and productivity of the Spanish economy.

### *Two. Applicable regulations.*

1. The subsidies that are regulated in this call will be governed, as well as by the specifications of the call itself, by Order ICT/575/2019 of May 24 2019, by the award of the subsidy, by ICEX's internal regulations on aid which can be seen at [https://www.icex.es/icex/es/navegacion-principal/todos-nuestros\\_servicios/ayudas/normativa/index.html](https://www.icex.es/icex/es/navegacion-principal/todos-nuestros_servicios/ayudas/normativa/index.html), by general Law 38/2003 of November 17 on subsidies (hereinafter the General Subsidies Law), and by all other current applicable regulations.

2. Specifically, according to the provisions of EC legislation:

- Regulation (EU) no. 1303/2013 of the European Parliament and of the Council, of December 17, which establishes common provisions in relation to the European Regional Development Fund, the European Social Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund, and sets forth the general provisions in relation to the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Maritime and Fisheries Fund, and the Council Regulation (EC) no. 1083/2006.

- Regulation (EU) No. 1301/2013 of the European Parliament and of the Council, of December 17, 2013, regarding the European Regional Development Fund and specific provisions relating to investment objectives for growth and employment, repealing Council Regulation (EC) No. 1080/2006.

- Regulation (EU) no. 1407/2013, of the Commission, of December 18, 2013, regarding the application of articles 107 and 108 of the Treaty on the Functioning of the European Union to “de minimis aids” (hereinafter the de minimis regulation (EU) no. 1407/2013).

### *Three. Eligible items and level of subsidy.*

1. The subsidy has the following modalities:

- a) R&D projects aimed at foreign companies not yet installed in Spain that are seeking to establish an R&D center in Spain. These are known as “greenfield” projects.
- b) R&D projects aimed at foreign companies that are already established, provided that they will attract new R&D projects to the Spanish subsidiary.

2. The subsidy will be granted on a non-reimbursable basis for the following items:

- a) Personnel costs: researchers, technicians and other auxiliary staff, to the extent to which they are dedicated to the project.
- b) Instrument and equipment costs to the extent to which and throughout the period they are used for the project. In the case that the instruments and material are not used throughout the whole of the useful life of the project, the costs of amortization corresponding to the duration of the project will be considered as eligible for subsidy, calculated according to the accounting regulation constituted by Royal Decree 1514/2007, of November 16, which approves the General Accounting Plan, and Royal Decree 1515/2007, of November 16 which approves the General Accounting Plan for Small and Medium Enterprises and the specific accounting criteria for micro-companies.
- c) Costs for buildings and land, insofar as they are used for the project and throughout its duration. In the case of buildings, the costs of amortization corresponding to the duration of the project will be considered as eligible for subsidy, calculated according to the accounting regulation constituted by Royal Decree 1514/2007, of November 16, which approves the General Accounting Plan, and Royal Decree 1515/2007, of November 16 which approves the General Accounting Plan for Small and Medium Companies and the specific accounting criteria for micro-companies. For land, the actually incurred commercial transfer or capital costs will be eligible.
- d) Costs relating to contractual research and acquisition of intellectual property or patents, or to obtain licenses from external sources in fully competitive conditions, and equivalent services used exclusively for the project.
- e) Additional overheads incurred directly as a result of the project.
- f) Other operating costs, including the cost of materials, supplies and similar products, incurred directly for the project.
- g) Costs of constituting and/or setting up the company that will implement the co-funded R&D project.

3. The subsidy will be a percentage of the amount estimated as eligible for subsidy according to the percentages of maximum aid levels established in the Communication from the Commission on the Framework for State Aid for Research and Development and Innovation (2014/C 198/01) for the different company profiles and project types:

	Small companies	Medium companies	Large companies
Industrial research	70%	60%	50%
a) subject to the effective partnership between companies (in the case of large international companies or with at least one SME) or between a company and a research body, or b) subject to the widespread dissemination of the results	80%	75%	65%
Experimental development	45%	35%	25%
a) subject to the effective partnership between companies (in the case of large international companies or with at least one SME) or between a company and a research body, or b) subject to the widespread dissemination of the results	60%	50%	40%

4. As can be seen in the above table, the level of subsidy will depend on the size of the company and the nature of the project. The level will be greater the larger the size of the company. Hence the level of the basic subsidy will be 25% for experimental development projects executed by large companies, 35% for medium companies and 45% for small companies. For industrial development projects, the level of the basic subsidy will be 50% for projects executed by large companies, 60% for medium companies and 70% for small companies.

5. When a minimum of one of the requirements indicated in the table is met (effective partnership or widespread dissemination of the results), a premium of 15 percentage points may be added to the levels established in the paragraph above. In no case will the subsidy level exceed a maximum of 80%.

6. The size of the company will be determined according to Annex I of Commission Regulation 651/2014 of June 17, 2014, which establishes specific aid categories that are compatible with the internal market in application of Articles 107 and 108 of the Treaty. However, the project type will be determined according to the Community Framework for State Aid for Research and Development and Innovation (2014/C 198/01).

7. When the amount of an expenditure eligible for subsidy exceeds 12,000 euros, the beneficiary must obtain a minimum of three quotations from different suppliers before entering a commitment to acquire the service provision or goods delivery, except where, due to the special characteristics of the eligible expenditure, there is an insufficient number of market entities that provide or supply the item. The selection among the offers submitted, which must be attached to the justification, will be based on criteria of efficiency and economy, and the selection must be expressly justified in a report in the case the most advantageous economic proposal is not selected.

8. Under no circumstances shall taxes be considered eligible expenses.

*Four. Geographic scope, maximum total amount of the call and funding.*

1. The subsidized activities must take place in one or several of the autonomous regions, as established in the categories in the Community regulations, as indicated below:

- In the category of “less developed” regions: Extremadura.
- In the category of regions “in transition”: Murcia, Castile la Mancha and Canary Islands.
- In the category of “most developed” regions: Galicia.

2. The total maximum amount of the subsidies in the present call will be two million euros (2,000,000 euros) in total for all the group of autonomous regions mentioned in the previous paragraph, always subject to ICEX's budgetary availability.

3. The aids granted will be co-funded with the ERDF funds through the Operational Program for Smart Growth 2014-2020, and the rest will be finance from ICEX's own funds. The amount co-financed by ERDF funds will be advanced by ICEX from its own assets.

4. This call is framed within the agreement signed with the Department of Innovation and Competitiveness in the State Secretariat for Research, Development and Innovation of February 26 2015, which allocates 2,000,000 euros throughout the whole of the period 2014-2020 for each of the seven autonomous regions covered by the agreement. For this reason, if the subsidy requested in this call, added to the amounts granted in previous calls, exceeds – if granted – the 2,000,000 euros allocated to the same autonomous region, it cannot be awarded in the amount that exceeds that limit. The amounts used to date by each autonomous region are published in the section on the call on the website [www.investinspain.org](http://www.investinspain.org).

*Five. Maximum amount of the subsidy.*

The maximum level of subsidy per beneficiary for this call is 200,000 euros. In this regard, the rules of accumulation per beneficiary in the period of three fiscal years described in the de minimis regulation (EU) no 1407/2013 must also be taken into account.

*Six. Beneficiaries' requirements and obligations.*

1. Notwithstanding the exceptions established in Article 1 of the de minimis regulation (EU) no 1407/2013, the beneficiaries of the subsidiaries may include the following entities:

- a) Any foreign-owned company, whatever its legal form, engaged in economic activity and that is validly constituted at the time of the award.
- b) Groups of companies with the participation of at least one foreign-owned company, which will be entitled to receive aid in proportion to the percentage of the share of foreign equity.

The entities can form unions or groups without a legal status, governed by the contractual documents that regulate them, and have a representative body acting as interlocutor for the purposes of the application. This interlocutor or representative entity will receive, distribute, represent and undertake the obligations with which the group must comply under this call, and the obligations that apply to all the group's members.

2. For the purpose of this call, a foreign-owned company will be understood to be a company with a 10% or greater share of direct foreign investment its capital.

The foreign stakeholder in the equity of the beneficiary company may not be from a country or territory classified as a tax haven according to Spanish regulations.

3. The subsidies covered by this call must have an incentivizing effect. The beneficiary must therefore have submitted the application to the corresponding call before starting the activity.

4. In regard to the beneficiaries, all the projects and activities defined may be executed according to one of the following categories:

a) Individual project or activity: executed by a single entity, whose type may be any of those cited as beneficiaries. The projects can in all cases involve subcontracts, under the terms of Section 9.

b) Project or activity in cooperation: those in which more than one foreign-owned company participates and whose relations are formalized in a contract, covenant or agreement establishing the rights and obligations of the different participating subjects. The projects can involve subcontracts, under the terms provided of Section 11.

5. Legal representation will be necessary in both the individual and cooperative projects or activities.

In the case of cooperative projects, one of the partners will act as the representative and this partner will apply for the subsidy and be responsible for executing the project or action before ICEX. For this purpose, the representative will coordinate the relationship with the participants and the provision of supporting documentation for the project or activity. The subsidy will be paid to the legal representative, who will be responsible for transferring the corresponding funds to each participant.

6. The beneficiaries must notify ICEX, should the case occur, if any other aid, subsidies, income or resources are obtained for the implementation of the funded activities, as soon as they become aware of this, and, in any event, prior to the justification of the application for the funds.

Furthermore, recipients must report any other aid granted under the EU de minimis rule, in the current financial year and the previous two, whatever its purpose, according to the specifications of EC Regulation 1407/2013 of the Commission of December 18, 2013 regarding de minimis aid, to guarantee that a group of associated companies is considered as a single company to the effects of the application of the de minimis rule.

7. The beneficiaries must expressly accept the subsidy awarded. Acceptance by the beneficiaries will imply their authorization for the publication on the ICEX/INVEST IN SPAIN website ([www.icex.es/www.investinspain.org](http://www.icex.es/www.investinspain.org)) of the subsidy awarded, tax identification number, the project or activity title, a brief description of its content, the project's implementation period and the amount of the subsidy.

8. Similarly, the beneficiaries must publicize the subsidies received in service and labor contracts, in grants, publications, papers, equipment, inventoriable material and in activities for the dissemination of the results funded by the aid, expressly mentioning their source and, where appropriate, their co-funding with European Union Structural Funds. They must also publish the award of the subsidy on their website if they have their own website.

9. They must comply with the requirements and obligations set forth in the "Document that Establishes the Conditions for Aid (DECA)" which will be attached to the aid approval notification.

10. The ethical action of the companies applying for subsidies must comply with the Code of Ethics and Conduct published on the ICEX website: <https://www.icex.es/icex/es/navegacion-inferior/codigo-etico-conducta/index.html>.



11. The beneficiaries must comply with the requirements and obligations contained in article 3 of Order ICT/575/2019, of May 24, 2019.

**Seven.** *Publication, deadline for submission of applications and eligibility period.*

1. The competent body for calling the subsidies is the Chief Executive Officer, by delegation from the Board of Directors. This call will be published on the website of ICEX-Invest in Spain ([www.icex.es/www.investinspain.org](http://www.icex.es/www.investinspain.org)) and in the national subsidies database, and an extract will also be published in the Official State Gazette, as specified in article 17.3.b) and 20.8 of the General Subsidies Law.

2. The submission period for applications will begin the day after the publication of the extract of this call in the Official State Gazette and will end 30 calendar days from the publication date (at 23:59 local time on the date of finalization).

3. The eligibility period will run from the day after the submission deadline to December 31 2019 (at 23.59 local time on that day).

**Eight.** *Applications and documentation.*

According to article 14.2 of Law 39/2015 of October 1 of the Common Administrative Procedure of the Public Authorities (hereinafter Law 39/2015), companies must communicate with the public authorities by electronic means, so the applications must be submitted electronically.

The applications must be submitted via the ICEX Virtual Office (<https://oficinavirtual.icex.es/planesempresa/login>) which can be accessed through the ICEX [www.icex.es](http://www.icex.es) and INVEST IN SPAIN [www.investinspain.org](http://www.investinspain.org) website, according to the form available for this subsidy. The application can be processed online, which will require a digital certificate recognized by ICEX (any of those on the @firma platform of the Ministry of Public Administration).

In this Virtual Office, the applicants must attach the following documents to the application completed online:

a) Annex A showing the company's economic and financial data. This Annex also includes the description, objectives and technical information on the project.

b) A declaration of responsibility, as shown in Annex B, which lists the subsidies received that are subject to the de minimis rule.

c) A declaration of responsibility, as shown in Annex C, which certifies compliance with concurrent subsidies and other requirements requested in the call and that are described in the same document.

d) Other documentation the applicant may consider to be of interest for the assessment of the project, such as partnership agreements.

**Nine.** *Procedure for granting the subsidy.*

1. Once the application deadline has expired, the Instructing Body will publish on the ICEX and Invest in Spain websites ([www.icex.es/www.investinspain.org](http://www.icex.es/www.investinspain.org)) a provisional list of accepted

applications that have been submitted on time and in good order and which will therefore proceed to the assessment phase.

Similarly, and at the same time, the Instructing Body will publish on the ICEX and Invest in Spain websites ([www.icex.es](http://www.icex.es)/[www.investinspain.org](http://www.investinspain.org)) a provisional list of excluded applications, specifying the reasons for exclusion in time and/or form for each one, so the parties in question can submit the documentation for the corresponding corrections within ten working days from the day after the publication of this provisional list.

Once the deadline for the correction phase has passed, a definitive list of accepted and excluded applications will be published via the same channels.

2. The accepted applications will undergo an evaluation process, for which purpose the Instructing Body will forward them to the Evaluation Committee.

3. After the process of evaluating the applications, the Instructing Body, based on the dossier and the report from the Evaluation Committee according to the assessment criteria established for this call, will announce, justified and ordered according to their score:

a) A proposal for a provisional decision on the applications benefiting from a subsidy up to the maximum subsidy amount that can be distributed.

b) A proposal for a provisional decision on all the applications which, in compliance with the administrative and technical conditions established in the present call to acquire the condition of beneficiaries, cannot be considered beneficiaries due to having reached the maximum authorized amount of credit fixed in this call.

c) A proposal for a provisional decision on the applications in the evaluation that have failed to achieve a minimum score of 40 points.

These decisions will be published on the ICEX and INVEST IN SPAIN websites.

4. At the same time, the Instructing Body will send an individual provisional communication by email to the companies that are beneficiaries of a subsidy award to invite them to submit the following documentation:

a) Form for stating acceptance of the proposed subsidy.

b) In the case of subsidies with projects and/or activities to be undertaken in partnership, the contract, covenant or agreement establishing the rights and obligations of all participants.

c) Contract between the parties in the case of subcontracts exceeding 20% of the total subsidy awarded and up to 60,000 euros.

d) Valid accreditation of the authority of the person signing the application.

e) The documentation required in the provisional decision proposal.

5. The Instructing Body will declare a period of ten working days to present any arguments.

6. Once the deadline for the appeals has passed, the Instructing Body, after a favorable report from the Budgetary Committee regarding the approval of the expense, will send a proposal for the final decision to the Chief Executive Officer of ICEX.

If the proposal for the definitive resolution does not comply with the criterion adopted by the Evaluation Committee the reasons must be justified.

7. The maximum period to resolve and notify the definitive resolution of the procedure, as specified in article 25.4 of the General Subsidies Law, will be six months counting from the publication of the extract of the call in the Official State Gazette.

The expiry of the maximum period without the interested parties receiving notification of the legitimate decision in order to consider the application for the subsidy award to be dismissed through the silence procedure.

8. The definitive decision will be published on the ICEX ([www.icex.es](http://www.icex.es)) and INVEST IN SPAIN ([www.investinspain.org](http://www.investinspain.org)) websites and in the national subsidies database, and be notified to the interested parties within a period of ten working days from the date on which the decision is published.

Similarly, the definitive decision on the rest of the applications not considered as beneficiaries will also be published on the ICEX and INVEST IN SPAIN websites, indicating the reason for the dismissal.

9. In the case funds are released due to the renunciation of the subsidy by any of the beneficiary companies or because they failed to correctly accredit their condition of beneficiary, the released funds will be assigned by the Evaluation Committee, without the need to conduct a new call, to the applicant/s following the last beneficiary awarded the subsidy in their order of score.

10. Against the resolution, which exhausts the administrative process as established by article 114 of Law 39/2015, of October 1, an appeal may be filed requesting the reversal of the decision within the period of one month from the day following its notification according to articles 123 and 124 of Law 39/2015, of October 1, or a contentious-administrative appeal before the Central Contentious-Administrative Courts at the National Court, according to Law 29/1998 of July 13 regulating the contentious-administrative jurisdiction.

The appeal requesting the reversal of the awards procedure decision must be filed by electronic means according to Law 39/2015, of October 1.

#### **Ten. Assessment criteria for the applications.**

1. In accordance with the specifications in section nine, the application submitted will undergo an assessment process which the Instructing Body will convey to the Evaluation Committee.

2. The evaluation will be conducted in accordance with the selection criteria listed below. Any applications that do not score a minimum of 40 points according to the table will be directly excluded:

CRITERION	WEIGHTING
a) Increase in human and technological resources dedicated to R&D	25
b) Increase in the level of technology contributed in the form of patents, licenses, etc.	10
c) The evaluation of direct, indirect and induced effects.	25
d) The project's knock-on effect on the regional economy.	10
e) The strategic interest of the technologies to be developed in Spain.	10



f) Promotion of partnership agreements between private agents.	7,5
g) Promotion of public-private-partnerships (PPP)	7,5
h) Advertising and marketing as instruments for supporting R&D.	5
Total	100

The following aspects will be taken into account for the evaluation of each assessment criterion:

- a) Increase in human and technological resources dedicated to R&D.

This criterion will be assessed by mainly considering the increase in the R&D personnel dedicated to the project that is the object of the aid. This can be assessed both in quantitative terms in regard to the number of people and in economic terms in the budget invested in the personnel dedicated to the project.

Similarly, the increase in the technological resources dedicated to the project can be measured in terms of the categories of expenditure on R&D executed by the beneficiary company in the project that is the object of the aid.

Different metrics may be established based on the type of project, either through new implementation or reinvestment, to obtain a valuation adjusted to the scale of the investment.

- b) Increase in the level of technology contributed in the form of licenses, patents, etc.

This criterion will be assessed mainly taking into account the possibility that there may be patents and licenses associated with the project. It will be assessed both whether the project derives from a patent or license, and whether the result of the project may be the object of a patent or license.

- c) Evaluation of direct, indirect and induced effects.

This criterion will be assessed by considering mainly the generation of employment: direct, as a result of the execution of the project; indirect, in other areas of the company; and induced, linked to outsourcing to third parties.

The quality of this employment can be assessed based on the type of contract, whether temporary or permanent.

As in the case of employment, the direct, indirect and induced effects may also be assessed in terms of expenditure on R&D.

- d) Knock-on effect on the regional economy.

This criterion is assessed taking into account mainly the knock-on effect of the project on the local and regional economy in terms of outsourcing to third parties in its geographic area.

- e) Strategic interest of the technologies to be developed in Spain.

This criterion will be assessed mainly taking into account whether the project: a) belongs to any of the strategic sectors in the National Plan; b) is included by the autonomous region in which it takes place as priority according to the regional specialization strategy (RIS3).

f) Promotion of partnership agreements between private agents.

This criterion will assess the private agent's technological contribution to the project. This partnership can be accredited through the presentation of letters of intent, drafts of the agreement and other documents that describe the works to be carried out by the private partner.

g) Promotion of public-private partnerships (PPP).

This criterion will be assessed mainly taking into account the public agent's contribution to the project. This partnership can be accredited through the presentation of letters of intent, drafts of the agreement and other documents describing the works to be carried out by the public partner.

h) Publicity and marketing as instruments for supporting R&D.

This criterion will be assessed considering mainly the dissemination and publicity of the project results.

Other factors that may be assessed include the prior market analysis and marketing plan carried out by the company to highlight the demand existing in the market.

3. If the scores are tied after the evaluation, priority will be given to projects that have obtained the highest score in section 2.a) of this section

**Eleven.** *Competent bodies for the instruction and resolution of the awards procedure.*

1. The Instructing Body in charge of the instruction and organization of the subsidy awards procedure is the Technology Fund and Finance Department responsible for the program within Invest in Spain's Executive Management.

The Instructing Body will perform, *sua sponte*, whatever actions may be deemed necessary for the determination, understanding and verification of the data appearing in the applications received, and which serve as the basis for the documents submitted to the Evaluation Committee.

2. The Evaluation Committee is the body responsible for ensuring compliance with EU and national rules for the evaluation of the transactions.

The Evaluation Committee is responsible for the analysis of the technical and economic viability of the applications for subsidies received, and for monitoring the execution of the projects in the subsidies awarded.

The committee is made up of:

- The Executive Director of Invest in Spain, who will act as Chairperson, and may delegate in the Director of Finance and Investor Relations, who is responsible for the program.
- The Director of Finance and Investor Relations, responsible for the program.
- Director of the Economic-Financial Division.
- Up to a maximum of four public sector experts in the field of foreign investments and community programs who will be appointed by the Chairperson.
- A member of the Legal Department, acting as Secretary.
- As many advisers as are deemed necessary.

Decisions will be adopted by a simple majority of the voting members. The Secretary and advisers will have a voice but not a vote.

Its operation will adapt to the specifications contained in Section 3 of Chapter II of the Preliminary Section of Law 40/2015, of October 1, on the Legal Regime for the Public Sector, and will be supported by ICEX's current personnel and material resources, according to the specifications of article 2.2 of Royal Decree 776/2011 of June 3, which eliminates certain associated bodies and establishes the criteria for standardizing the creation of associated bodies in the General State Administration and its Public Entities.

3. The decision on the procedure will correspond to the Chief Executive Officer of ICEX.
4. The ethical action of the Instructing Body and the Evaluation Committee must comply with the Code of Ethics and Conduct published on the ICEX website: <https://www.icex.es/icex/es/navegacion-inferior/codigo-etico-conducta/index.html>.

#### *Twelve. Subcontracting.*

1. A beneficiary will be understood to have subcontracted when it agrees with third parties the partial execution of the activity that is the object of the subsidy. This item does not include the contracting of any expenses incurred by the beneficiary for its own execution of the subsidized activity.

2. When part of the implementation of a project or activity is subcontracted, the subcontracting cost must not exceed 50% of the total cost of the project or activity. In any case, the total expenditure on subcontracting, duly justified by the approved invoices, may not exceed 50% of the total expenditure, duly justified, for all items. Any invoices deemed appropriate for the various items of expenditure approved in this subsidized project may be submitted for this calculation.

If the subcontracting expenditure exceeds 50% of the total project cost, duly justified with the approved invoices, only the 50% indicated will be covered.

Under no circumstance can activities be subcontracted that increase the cost of the subsidized activity, without adding to its value.

3. A contract may not be divided in order to reduce its amount and avoid compliance with the above requirements.

4. The contractors are bound solely to the beneficiary, who assumes total responsibility implementing the subsidized activity before the Administration.

5. For the purposes of the previous section, the beneficiaries will be responsible for ensuring that the implementation of the subsidized activity contracted with third parties respects the limits established in the regulations governing the subsidy in terms of the nature and amount of the subsidized costs, and the contractors will have a duty to collaborate in the proper verification of compliance with these limits.

6. When the subcontract exceeds 20% of the total subsidy awarded and is above 60,000 euros, a written contract between the parties will be required, to be presented to the Instructing Body prior to the decision to award the subsidy. The subsidy will be understood to have been granted and the contract authorized by the body awarding the subsidy when the beneficiary receives the decision to grant the subsidy.

7. Subcontracting may not take place with individuals or entities affected by any of the following circumstances:

- a) Individuals or companies involved in any of the prohibitions contemplated for contracting with the Administration.

- b) Individuals or entities that have received other subsidies or aid for the implementation of the contracted activity.
- c) Intermediaries or consultants where payment is defined as a percentage of the operation's total cost, unless this payment is justified with reference to the market value of the work performed or services rendered.
- d) Individuals or entities linked with the beneficiary, except under the following circumstances:
  - When the contract was conducted in accordance with normal market conditions.
  - When prior authorization was obtained from the body granting the aid.
- e) Individuals or entities applying for aid in the same call and program, that have not obtained aid due to failure to comply with the requirements or failure to achieve the necessary score.

#### **Thirteen.** *Compatibility with other aid*

1. When referring to actions co-funded by EU Structural Funds, the subsidies provided under this call will not be compatible with the receipt of aid for the same actions funded by other EC instruments.
2. The beneficiaries must notify ICEX, should the case occur, if any other aid, subsidies, income or resources are obtained for the implementation of the funded activities, as soon as they become aware of this, and, in any event, prior to the justification of the application for the funds.

Furthermore, recipients must report any other aid granted under the EU de minimis rule, in the current financial year and the previous two, whatever its purpose, according to the specifications of the de minimis regulation 1407/2013, to guarantee that a group of associated companies is considered as a single company to the effects of the application of the de minimis rule.

#### **Fourteen.** *Justification of the project or activity and payment of the subsidy.*

1. The subsidies will be justified in accordance with the provisions of the applicable regulations of the European Union Structural Funds.
2. The applicant must have separate accounts or accounting coding systems for the management of the subsidies.
3. The planned expenditure on the project or activity eligible for subsidy must be made in the years for which the subsidy was granted. However, justification of these costs can be issued until the deadline for the submission of the documentation, provided that this evidence specifies the date of the expenditure, within the stipulated period. The issuance of the proofs of payment will also be subject to this time restriction.
4. The beneficiary must present the documentation and technical and economic monitoring reports that justify the execution of the project or activity that is the subject of the subsidy. The documentation must be submitted for the monitoring milestones approved by the subsidy decision and, in any case, on completion of the project or activity.

The justification should contain the following:

- a) A technical report accrediting compliance with the conditions imposed in the granting of the subsidy, indicating the activities undertaken and the results obtained. The report must contain:

- I. The identification of the beneficiary and proof that it is a foreign-owned company.
  - II. The territorial location of the activity
  - III. Introduction to the content of the activity (innovative elements).
  - IV. Contribution to the solution of a problem or weakness in the territorial sphere of execution
  - V. The justification of its incentivizing effect
  - VI. The activities undertaken.
  - VII. Any modifications undertaken, where necessary, and their justification.
  - VIII. Results obtained and their dissemination.
  - IX. Conclusions.
- b) A financial report justifying the costs of the activities undertaken, which will contain:
- I. A summary sheet with the budget approved for the activity and a comparison with the activity carried out, specifying the costs by year and for the items contained in the award decision.
  - II. A numbered list of the expenses and investments of the activity with all the supporting documentation and amounts paid with the total amount, including identification of the creditor and the document, its total amount and the part applicable to the project or activity, date of issue and payment, making reference to any possible deviations in relation to the approved budget and their causes.
  - III. Report on compliance with the contracts, covenants, agreements and other elements signed with subcontractors and, in particular, with public research centers.
  - IV. Details of other income or aid that may have funded the activity, indicating the amount and origin.
  - V. If not already submitted, the three quotations that the beneficiary should have requested in accordance with Article 31.3 of the General Subsidies Law.
  - VI. If ICEX has not been authorized in the request to consult the status of compliance with the Social Security and the Spanish Tax Agency, the certificates accrediting compliance with its tax and social security obligations in accordance with the provisions of Article 14.1 e) of the General Subsidies Law.
  - VII. Company certification, signed by a person with sufficient authority and showing the cost of internal staff dedicated to the project (with a record of people, their professional category, time devoted and cost/hour), attaching a copy of payrolls and TC1 and TC2 documents (only the sheet corresponding to the staff dedicated to the project).
  - VIII. Where highly-qualified staff are recruited, a certificate of their employment history issued by the Social Security for the person employed along with the documentation described in the previous section.
  - IX. A copy of the self-assessment of asset transfer tax and certified legal documents must be supplied for the acquisition of land and buildings, or in their absence, a certification from the Settlements Office.



X. Any other documentation that the Instructing Body for the procedure deems necessary for the correct justification of the cost of activities.

5. As a general rule, whenever the decisions for the award of subsidies do not specify any other date, the above-mentioned documentation must be submitted between January 1 and March 31, 2020. The method will be by means of a dedicated account.

6. The corresponding technical-financial and physical verifications will be carried out following the submission of the aforementioned documentation. These verifications will be made in compliance with the Public Sector Auditing Standards approved by the State Administration's Comptroller General; any supporting documents deemed necessary will therefore be requested in order to provide reasonable assurance regarding the correct application of the subsidy.

7. If as a result of the verification is it found that the investment eligible for funding is less than that approved or that the objectives for which the subsidy was granted have not been wholly met, these circumstances will be communicated to the interested party along with the results of the investigation, and the subsidy will either be reduced by adjusting its amount to the investments effectively justified, or withdrawn in its entirety, if it is understood that the reduction in investment would have resulted in the failure to fulfill the purposes for which it was granted.

The criteria for pro-rating potential cases of non-compliance are outlined in section fifteen.

8. The Instructing Body, after the appropriate technical-financial verification, will issue a report confirming compliance with the objectives for which the subsidy was granted.

9 The payment of the subsidy will always be effected after the completion of the corresponding activities in the project or action, following delivery of the report demonstrating compliance with the purposes for which the subsidy was granted.

#### **Fifteen.** *Verification and monitoring activities.*

1. The beneficiary of the subsidy is obliged to provide the verifications aimed at ensuring the correct implementation of the project or activity for which it was granted. The beneficiary will also be subject to audit by ICEX-Invest in Spain, and to financial control by the State Administration's Comptroller General, and to the fiscal oversight of the Court of Auditors and the checks established in the regulations applicable to the management of aid co-funded by the ERDF under Article 108.1 of the Treaty on the Function of the European Union.

2. For the purposes of monitoring and controlling the funded activities, the beneficiaries must have accounting books, duly completed registers and other documents in the terms required by the legislation applicable to the beneficiary, as well as invoices or documents of equivalent probative value and the corresponding proof of payment. This set of documents constitutes the supporting evidence for the subsidy granted and guarantees its proper reflection in the beneficiary's accounting.

3. The beneficiary must retain the documentation supporting the costs of the project or activity for the period established in the EC legislation for the Structural Funds.

#### **Sixteen.** *Information relating to the European Regional Development Fund.*

1. The subsidies may be co-funded by the European Union through the European Regional Development Fund (ERDF) for the aforementioned programming period 2014-2020.

2. The acceptance of the subsidy from ICEX by the participating companies represents their agreement to be included in the list of public transactions according to article 115 section 2) of EU Regulation 1303/2013.

3. Likewise, the acceptance of the subsidy implies that the beneficiary company has been informed of the requirements and obligations with which they must comply, and which are set forth in the Document that Establishes the Conditions for Aid (DECA) which will be attached to the aid approval notification.

4. Similarly, this acceptance also implies their permission for ICEX to publish on its website the company's agreement with the following text:

*"I am aware that this action is co-financed with European funds and I undertake to indicate this fact whenever I am required to mention this to third parties or the public. Due to the importance this type of aid has for our company, I highly value the contribution of ERDF, the main fund for the policy of European cohesion, for its role in supporting our work and thus the economic growth and creation of employment in the region where I am located, and in Spain as a whole".*

5. Furthermore, if this company is the beneficiary of aid co-funded by ERDF funds, and regarding the availability and conservation of the justifying documents, they must comply with the specifications of article 140 of EU Regulation 1303/2013, and article 125.4.b) of the aforementioned Regulation regarding the accounting of transactions.

6. All information relating to the responsibilities and obligations of the beneficiary companies in regard to information and communication is available on the ICEX website [www.icex.es/fondosfeder](http://www.icex.es/fondosfeder). In no case will financing by ERDF funds imply additional support for the beneficiary companies.

#### **Seventeen. Effectiveness.**

The present call will take effect from the day following the publication of its extract in the Official State Gazette.

Against the present decision, which exhausts the administrative process, an appeal requesting the reversal of the decision may be filed within the period of one month before the body that pronounced the decision, according to the provisions of articles 123 and 124 of Law 39/2015, of October 1, of the Administrative Procedure, or else directly through a jurisdictional appeal through the contentious-administrative courts within the period of two months before the Central Contentious-Administrative Courts, according to the provisions of Law 29/1998, of July 13, regulating the contentious-administrative jurisdiction.

Board of Directors  
of ICEX Spain Trade and Investment, E.P.E., M.P.  
P. D. (Resolution of May 30, 2018. BOE no. 151 of June 22, 2018)  
Chief Executive Officer of ICEX Spain Trade and Investment E.P.E., M.P.

María Peña Mateos