

Order of the Minister for Foreign Trade and Development Cooperation of 13th August 2018, no. MINBUZA-2018.763435a, laying down a ceiling for grants awarded under the Ministry of Foreign Affairs Grant Regulations 2006 (European Partnership for Responsible Minerals Fund 2018)

The Minister for Foreign Trade and Development Cooperation;
Having regard to articles 6 and 7 of the Ministry of Foreign Affairs Grants Decree;
Having regard to article 5.1 of the Ministry of Foreign Affairs Grant Regulations 2006;

Orders:

Article 1

The administrative rules appended as an annex to this Order apply to grants awarded under article 5.1 of the Ministry of Foreign Affairs Grant Regulations 2006 in the framework of the European Partnership for Responsible Minerals Fund 2018 with a view to financing activities aimed at contributing to responsible and sustainable mineral supply chains.

Article 2

1. Grant applications under the European Partnership for Responsible Minerals Fund 2018 can be submitted from 18 October 2018 until 6 December 2018 2pm CET.
2. Applications for grants under the European Partnership for Responsible Minerals Fund 2018 must be submitted using the model application form adopted and made available for this purpose by the Minister for Foreign Trade and Development Cooperation and accompanied by the documents stipulated in the form.¹

Article 3

For grants awarded under the European Partnership for Responsible Minerals Fund 2018, for the period from the entry into force of this Order up to and including 31 December 2019, a grant ceiling of €2.4 million will apply.

Article 4

The funds will be allocated in accordance with an assessment based on the criteria set out in the annex to this Order on the understanding that, of the applications that meet the criteria, those that meet them best will be given priority for a grant, with due regard for the need for an even distribution as referred to in article 8, paragraph 3 (d) of the Ministry of Foreign Affairs Grants Decree.

Article 5

The Order of the Minister for Foreign Trade and Development Cooperation of 16 June 2017, no. Minbuza-2017.763435, which lays down policy rules and a grant ceiling pursuant to the Ministry of Foreign Affairs Grant Regulations 2006 (*Subsidieregeling Ministerie van Buitenlandse Zaken 2006*) (European Partnership for Responsible Minerals Fund)² shall be amended as follows:

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Article 2 will read:

Article 2

1. Grant applications under the European Partnership for Responsible Minerals Fund are submitted from 3 July 2017 up to and including 19 September 2017, 11 am Dutch time.
2. Grant applications under the European Partnership for Responsible Minerals Fund must be submitted using the model application form adopted and made available for this purpose by the Minister for Foreign Trade and Development Cooperation and accompanied by the documents stipulated in the form.³

¹ www.responsibleminerals.eu.

² Government Gazette 2017, no. 35129.

³ www.responsibleminerals.eu

B

Article 3 will read:

Article 3

For grants awarded under the European Partnership for Responsible Minerals Fund 2018, for the period from the entry into force of this Order up to and including 31 December 2017, a grant ceiling of €1.5 million will apply.

Article 6

This Order enters into force on the day after the date of the Government Gazette in which it appears and lapses with effect from 14 August 2022, with the proviso that it continues to apply to grants awarded prior to that date.

This Order and its accompanying annex, excluding the appendices, will be published in the Government Gazette. The appendices to the annex will be published on the Internet.⁴

For the Minister for Foreign Trade and Development Cooperation,
the Director General for International Cooperation,

R.M. Buijs

⁴ www.responsibleminerals.eu

Annex European Partnership for Responsible Minerals (EPRM) Fund 2018

1. Background

Background to responsible supply chains of minerals

Access to minerals is vital for companies and consumers. Minerals such as tin, tantalum, tungsten and gold (3TG) have a wide range of uses in industries such as high-end manufacturing, microelectronics and jewelry. Several regions where such minerals can be found are experiencing protracted violent conflicts, political instability, institutional weakness and widespread serious human rights violations. International participation in minerals extraction and trade can play a significant role in financing and prolonging the violence and human rights violations in these areas. If conducted responsibly, mineral extraction and trade can play a significant role in pulling mining communities out of poverty.

The OECD developed guidelines designed to help companies address social and environmental risks in their supply and production chains, with a focus on raw materials and making supply chains of raw materials in conflict-affected and high-risk areas more sustainable. These guidelines – the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas⁵ and the OECD Guidelines for Multinational Enterprises⁶ – are an important point of reference for the European Partnership for Responsible Minerals (EPRM).

In addition to and partly underlying the OECD Due Diligence Guidance, in April 2017, European legislation on responsible mineral supply chains was adopted. The EU Conflict Minerals Regulation requires due diligence from companies such as smelters and major importers operating at key points in the supply chain.⁷

Why EPRM?

The EPRM is a multi-stakeholder partnership aiming to increase the proportion of responsibly produced minerals from conflict-affected and high-risk areas (CAHRAs) and to support socially responsible extraction of minerals that contributes to local development.

Moreover, the EPRM is viewed as an accompanying measure to the EU Conflict Minerals Regulation. Because legislation alone is not enough to make a real change 'on the ground', strong accompanying measures are needed. The EPRM is linked to the EU Regulation from a content perspective, e.g. it has the same geographical and mineral scope, but not from a legal perspective.

Focusing on tin, tantalum, tungsten and gold (3TG), and with a global scope, the EPRM supports activities to improve responsible mining practices in mining areas in CAHRAs. The aim of this support is to enable more mines to comply with the standards required under the OECD Due Diligence Guidance. This in turn will enable companies to source minerals from the mines confident that they will be able to comply with relevant regulations such as the conditions of the EU Regulation. In addition, it serves as a knowledge platform for organisations along the entire value chain to access and share knowledge on conducting due diligence.

EPRM objectives

Together with other partners, the EPRM will stimulate and increase the demand for responsible 3TG minerals. It will encourage sourcing channels for responsible minerals that will enable suppliers to identify and mitigate risks. Furthermore, the EPRM will motivate supply chain actors and other partners to support mines and local mining communities to improve their practices to produce responsibly and create access to markets. The EPRM has four main objectives:

1. EPRM will develop and operate a knowledge platform to inform policy and supply chain actors and where participants can share knowledge on due diligence;
2. EPRM will set up activities for SMEs in Europe to increase their awareness of the importance of responsible mineral sourcing and production;
3. EPRM will facilitate connections between upstream, midstream and downstream actors.

⁵ <http://www.oecd.org/corporate/mne/mining.htm>

⁶ <http://mneguidelines.oecd.org/>

⁷ <http://ec.europa.eu/trade/policy/in-focus/conflict-minerals-regulation/>

4. EPRM will focus on aligning mining intervention strategies and pool and expand resources to support artisanal and small-scale mines to improve their practices, so they produce responsibly and can ultimately access global markets.

Through the 'European Partnership for Responsible Minerals Fund', the EPRM makes funds available for partnerships to support the EPRM objectives. The first funding round for the 'European Partnership for Responsible Minerals Fund' took place in 2017 and resulted in grants for four projects. Information on these projects can be found on the EPRM website.⁸ The second funding round for the Fund, described in the policy rules in this Order, is also part of the EPRM Policy Framework ('the policy framework'), which also provides scope for the use of other instruments besides grant funding to achieve its aim. The EPRM's Theory of Change and policy framework are also available on the EPRM website.

2. Implementing organisation

The Minister for Foreign Trade and Development Cooperation has delegated the implementation of the grant programme to the Netherlands Enterprise Agency (RVO.nl), implementing agency of the Netherlands Ministry of Economic Affairs and Climate. RVO.nl will carry out this programme on the basis of a mandate given to RVO.nl by the Minister.

3. Definitions

- *Hardware*: goods used in production processes, like machines, buildings and technical systems (including any computer software).
- *Knowledge institution*: an educational or research institution that contributes to knowledge exchange. To qualify as a knowledge institution, an institution's core tasks must be independent research and/or knowledge transfer.
- *Supply chain approach*: distinguishing between sub-processes which together form a whole and thus have a functional relationship (the output of one sub-process is the input for another sub-process). In the mining industry, upstream sub-processes (extraction and exploration) can be distinguished from midstream sub-processes (refining, smelting) and downstream sub-processes (production and assembly).
- *SME*: enterprise as defined in European Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.⁹
- *Non-governmental organisation (NGO)*: a not-for-profit organisation neither established by a public authority nor connected to a public authority either de facto or under its constitution, which possesses legal personality under civil law in the country where it has its registered office. The NGO must also be registered as such.
- *Company*: an entity which undertakes economic activities, regardless of how it is financed. An economic activity is the offering of goods or services on an economic market. Entities that carry out economic activities on a not-for-profit, not-for-loss basis may also qualify as a company in the partnership.
- *Government organisation*: an organisation that is part of government, including central, regional and local government bodies. Semi-public bodies – bodies that perform statutory tasks or serve the public interest and are funded from public resources – may also take part in the partnership as a 'government organisation'.
- *Lead party*: member of a partnership that has legal personality and applies for the grant on the partnership's behalf and hence fulfils the role of applicant. If the application is approved, the lead party is the grant recipient and, as such, bears full responsibility towards the Minister for implementation of the proposed activities and compliance with the obligations in respect of the grant.
- *Responsible minerals*: raw materials that are extracted, transported and traded in a socially and ecologically sustainable way and do not contribute to conflict and/or human rights violations.

⁸ www.responsibleminerals.eu

⁹ OJ 2003, L 124

- *Partnership*: a contractual cooperation without legal entity, consisting of partners with their own legal entity aimed at the realisation of jointly endorsed objectives by carrying out activities in such a way that each of the partners provides a balanced part of the necessary efforts and takes a balanced part of the attendant risks. A partnership grant application is made by a lead party.
- *Own contribution*: the difference between the amount of the total project budget and the grant requested/received.

4. EPRM Fund 2018

4.1 EPRM Fund 2018 objective

In view of the objectives outlined above, the European Partnership for Responsible Minerals Fund 2018 focuses on initiatives that contribute to the EPRM's goals as described above, and that can be scaled up or have a broader sectoral impact.

The EPRM Fund 2018 aims to improve the responsible practices of artisanal and small-scale miners in CAHRAs to produce responsibly and to provide access to markets for these responsibly produced 3TG minerals.

Eligible activities

The activities for which grant funding is sought should be aimed at improving the ability of artisanal and small-scale mines to conduct responsible mining practices, for example by achieving acceptable working conditions, promoting fair remuneration, preventing and/or eliminating child labour, avoiding the use of toxic substances, improving formalisation of artisanal and small-scale mining and addressing violations of human rights, conflict finance, and financial crime.

Preferred projects will:

- create a strong and sustainable link with the supply chain (for example by providing or increasing market access, due diligence and/or traceability); and/or
- include supply chain actors in the project (upstream, midstream and downstream companies); and/or
- contribute to gender equality and women's economic empowerment; and/or
- have the potential for long-lasting impact in and around mines and mining communities and project scalability.

4.2 Who is eligible for a grant

Grants are intended for partnerships, on behalf of which a lead party applies for a grant.

A partnership consists of a minimum of two partners of which at least one is a company. The companies participating in the partnership are part of the minerals supply chain; this means that, for example, companies that mainly provide advisory services cannot be part of the partnership.

The partnership must be balanced, meaning that all partners are necessary to achieve the objective of the project for which a grant is requested.

The role of lead applicant is fulfilled by any of the partners.

The lead party has at least three employees (including managers) and the average annual turnover over the last three calendar years, preceding the year in which the application is submitted, is a minimum of €200,000.

In order to qualify for a grant, the lead party must prove that he and his partners endeavour to prevent serious (sexual) misconduct and other serious forms of unacceptable behaviour towards employees and third parties in the execution of the activities to which the application relates, and to bring it to an end as soon as possible and mitigate its consequences if it occurs.

4.3 Orientation phase

If a lead party considers submitting an application for a grant on behalf of a (potential) partnership, a mandatory advice process will take place on the basis of a 'quick scan' submitted for that purpose.

The advisory process ends with a recommendation from RVO.nl to the potential grant applicant. The outcome of the advisory process is not binding. It is up to the potential applicant to submit a grant application or not.

Quick scans must be received no later than on 18 October 2018 2pm CET. After this deadline RVO.nl does not accept any quick scan.

4.4 Duration of activities

The activities for which grant funding is sought must have a duration of at least 12 months and no more than 36 months.

The activities must start no later than 1 September 2019 and end no later than 1 September 2022.

4.5 Size of the grant

The grant amounts to a maximum of 70% of the eligible costs per application and at most € 340,000.

The own contribution to the project of the partners of the partnership is financed with means (cash or in-kind) that have not been obtained by means of a direct or indirect grant or contribution from the budget of the Dutch Ministry of Foreign Affairs.

Grants to companies may constitute state aid. Such support is permissible as long as a grant remains within the parameters of the De Minimis Regulation (Regulation (EC) No. 1407/2013, OJ 2013, L 352). Under the De Minimis Regulation, governments may support companies with no more than €200,000 over a period of three fiscal years without this constituting state aid. To avoid exceeding the De Minimis ceiling, the government must ask the company for a declaration, in which the company reports all support and the De Minimis that was provided during the two previous fiscal years and the current fiscal year.

5. Eligible costs

5.1 Principles

The following rules apply in identifying the project costs that may be taken into account in determining the grant amount:

- only costs that can reasonably be considered as necessary for the implementation of the project will be eligible;
- only costs incurred after the application has been submitted will be eligible;
- with regard to project management (exclusively project coordination), no more than 10% of the total days spent in the home country and abroad are covered;
- the applicant's or partner(s)'s internal costs are grant eligible, but without mark-up;
- the costs incurred in non-European countries will be checked against local standards;
- income obtained directly from the project will be deducted from the eligible costs, such as, for example, hardware that is resold and income from training and advice given.

5.2 Eligible costs

Categories of eligible costs:

- i. Eligible costs include in any case costs of remuneration of hours worked by employees of the applicant and any partners to implement the grant activities: hours worked on the eligible activities by salaried employees of the applicant and any partners, multiplied by a maximum fixed hourly rate of €87.50 which includes direct labour costs as well as associated indirect costs. One week has a maximum of five working days and one day has a maximum of eight hours that qualify for reimbursement.
- ii. These costs may be supplemented with other costs in the following categories:
 - Travel costs: international travel costs and domestic travel costs outside the home country, based on economy class fares.

- Subsistence costs: costs of stays in a target country, in accordance with the Daily Subsistence Allowance (DSA) rates, or a lesser amount in keeping with the policy of the party submitting the proposal.
- Costs for the supply of goods and services:
 - a. Hardware costs on the basis of depreciation during the grant period. Fixed depreciation periods are used to determine the depreciation charge:
 - Hardware (machines, technical systems): 5 years
 - Software: 3 years
 The basis for determining the depreciation costs is the purchase price of the product, taking into account the possible residual value and increased with any adjustment/installation costs;
 - b. Costs of third-party services, for activities for which the grant recipient(s) hire an external party: on the basis of invoices.

iii. In addition to the travel and subsistence costs specified above, other travel and subsistence costs may be grant eligible on account of risks, insurance requirements and travel warnings, provided that these additional costs are properly substantiated in the application. Notwithstanding the fixed hourly rate specified above, the hourly rate for staff of the applicant and any partner(s) in the country outside Europe will be set according to local standards, but in any event no higher than the fixed hourly rate specified above.

5.3 Non-eligible costs

The following is a noninclusive list of ineligible costs:

- costs for developing the application and applying for a grant and other costs incurred for the submission of the application;
- financing costs and interest payments;
- sales tax;
- costs caused by inflation and exchange rate fluctuations;
- costs related to promotional or sales activities or promotional materials;
- general translation costs;
- costs of ascription and maintenance of intellectual property rights;
- costs of purchasing buildings;
- costs of purchase, lease or rent of land;
- financial contribution to a revolving fund;
- audit costs for the settlement of the project.

6. Application

6.1 Requirements

Before a lead party submits an application for a grant, advice must have been obtained from RVO.nl as described in section 4.3 (Orientation phase).

Applications must be received no later than on 6 December 2018 2pm CET. RVO.nl must have received the applications on this date and by the time specified.

The application is submitted using a tool made available for this purpose on www.responsibleminerals.eu and provided with the appendices mentioned therein for which models are made available by RVO.nl. The application must be submitted in English.

The application contains at least:

- an application form;
- a project plan;
- a project budget, explaining the structure of the project costs and the funding of the own contribution;
- a signed cooperation agreement that guarantees the cooperation of the partners toward the execution of the activities and the compliance with the agreements made, as well as the compliance with the obligations to be attached to a grant;
- if applicable: De Minimis declarations for relevant parties (only EU companies).

Furthermore, all partners must declare that they are aware of and will act in accordance with the OECD Guidelines for Multinational Enterprise, the ILO Declaration on Fundamental Principles and Rights at Work (www.ilo.org), and the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.

6.2 Supplement request

With regard to the application procedure, particular attention is drawn to article 7, paragraph 3 of the Ministry of Foreign Affairs Grants Decree. If an incomplete application is submitted, the Minister may request a supplement under section 4:5 of the General Administrative Law Act. In this case, the date of receipt of the application will be the date on which the application was supplemented. If the application is submitted less than two weeks before the deadline, the applicant (lead party) runs the risk that, if it is incomplete, the Minister will not use her discretionary powers to request a supplement due to the time required to check whether all applications are complete. In this case, no supplement will be requested and the application will be assessed as it stands.

For the sake of brevity, reference to other parts of the application, websites or appendices is not sufficient, unless the application documents explicitly state that this will be sufficient (in whole or in part). If parts of the application documents are not filled out, the lead party will risk that the application will be rejected.

7. Assessment and distribution of available resources

7.1 Assessment

The provisions of the General Administrative Law Act, the Ministry of Foreign Affairs Grants Decree and the Ministry of Foreign Affairs Grant Regulations 2006 are fully applicable to the assessment of applications and the ultimate award of grants. Applications will be assessed in accordance with the above legislation and pursuant to the requirements set out in these administrative rules.

To be able to qualify for a grant, the application must in any case satisfy the requirements set out in these administrative rules, especially in paragraphs 4 to 6. Only applications that comply with these requirements will be assessed on the quality of the following substantive criteria, which also need to be fulfilled to a sufficient degree in order to qualify for funding.

The assessment of grant applications based on the substantive criteria will take place through a system of points allocation. If bonus points can be awarded for a criterion, this will be indicated at the criterion in case.

The following criteria are applicable in order to assess the quality of the applications that meet the requirements set out above:

1. Project relevance

- The extent to which the project contributes to EPRM objectives and EPRM Theory of Change: increasing the ability of artisanal and small-scale mines to produce responsibly and/or increasing the amount of responsibly produced minerals and providing market access.
- The extent to which the project illustrates how it supports promotion and implementation of the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas and is consistent with national laws of the country in which the project operates.
- The extent to which the project describes and relates to contextual factors and developments (political, socioeconomic and technical developments).
- The extent to which the project relates to the demands and needs of the target group(s) and provides solutions for a problem or specific demand of the target group(s).
- The extent to which there is an enabling environment and stakeholders that support the project.
- The extent to which the project aligns and collaborates with existing efforts / (local) initiatives.

2. Project design

- The extent to which the intervention strategy is in line with the context analysis, problem analysis and stakeholder analysis.
- The extent to which the intervention strategy will lead to the project objectives (qualitative Theory of Change).
- The extent to which the project creates a link with the supply chain by creating market access (*for this criterion bonus points can be awarded*).
- The extent to which the activities are sensitive to gender aspects in their implementation and monitoring, and contribute to reducing or mitigating the adverse impact of mining activities on the living and working environment of women (*for this criterion bonus points can be awarded*).
- The extent to which the activities are conducted in a CAHRA and the project clearly illustrates the conflict/high-risks aspects in relation to mineral sourcing.
- The extent to which the project contains a realistic risk analysis that demonstrates the risks and mitigation strategies, including a gender perspective.

3. Sustainability

- The extent to which the project designs and includes measures to implement a concrete, realistic and feasible sustainability strategy that guarantees building on the project results after the envisaged duration has ended (*for this criterion bonus points can be awarded*).
- The extent to which the project results will be embedded by target groups, in local structures and/or in responsible bodies.
- The extent to which the project is designed to be replicable and scalable (in other regions/countries and/or in size) (*for this criterion bonus points can be awarded*).

4. Partnership/organisation

- The extent to which the project partners have a proven track record in the area of responsible artisanal and small-scale mining and market linkage, capabilities and proper governance structures in place to conduct this project.
- The extent to which the choice of project partners leads to an efficient project implementation.
- The extent to which the project includes project partners that are upstream or midstream and/or downstream actors (*for this criterion bonus points can be awarded*).

5. Project implementation

- The extent to which the proposed project activities are technically executable and feasible in the planned implementation period.
- The extent to which the project budget is in line with the project activities and is accurate.
- The extent to which the project budget is realistic and acceptable in relation to the span of the described impact / project results / activities.
- The extent to which the monitoring & evaluation system is sufficient and effective for monitoring progress and corrective action in terms of resources, activities, outputs, outcomes and the underlying assumptions.
- The extent to which the project employees are experienced and capable of executing the project.

7.2 Distribution of available resources

The assessment of grant applications and the award and allocation of the available funds will take place by means of a call for proposals: the quality of all applications that meet the requirements set out in these administrative rules will be assessed according to the same criteria. Applications will be ranked based on the total number of points awarded in the assessment of the ranking criteria. The applications that meet the criteria best will be given priority in the award of grants.

RVO.nl will share its assessment of the applications with an advisory committee set up by members of the Governing Board of the European Partnership for Responsible Minerals. RVO.nl will then decide on the grant applications, on the basis of the mandate given to it by the Minister and taking account of the committee's advisory opinion. RVO.nl will decide on grant applications submitted in this funding round no later than 25 April 2019.

If insufficient resources are available for all satisfactory applications to receive the full grant

requested, grants will be awarded to the applications that meet the criteria best (i.e. the highest ranking applications) until the available resources are exhausted.

8. Grounds for rejection

In addition to the grounds for rejection set out in section 4:35 of the General Administrative Law Act, a grant application will be rejected if it does not satisfy these administrative rules and/or if the budget available is insufficient to award a grant given the application's ranking.

9. Monitoring and Evaluation

If the grant is awarded, certain M&E obligations will be associated with the grant decision. The applicant must cooperate with the monitoring and evaluation activities of EPRM regarding the activities for which a grant was awarded. These will in any case relate to the following. For every project a baseline needs to be constructed against which future progress can be measured. The applicant must also submit one (or several) report(s) each year covering, among others, the progress on the envisaged results and set target(s).

10. Administrative burden

An analysis based on a standard cost model has been carried out to estimate the administrative burden that the applicant will face over the course of the grant programme, from drafting and submitting the application to the management phase and project conclusion – at which point the applicant must submit a request to determine the definitive grant amount – and any objection and appeal procedures. The calculation shows that the maximum administrative burden, expressed as a percentage of the total available grant budget, is 3.1%.