

## RFP UKR/2016/22

### Managing Small Grants Programme for business start-up, renewal or expansion by affected population in 8 regions of Ukraine

#### Second Round of Questions and Answers

1. Q: The technical specifications for implementation of the Small Grants Program (page 42) indicate the necessity to develop a procedure for delivery of equipment (in case the grantee violates or does not implement in full scope the terms of the grant agreement) to other applicants. As the laws stipulate that the private entrepreneur who purchased the equipment with grant funds acquires the right of property for this equipment. Deprivation of the right of property is, in fact, legally impossible. The laws on charitable grants only say that the granter may demand the return of funds from the beneficiary, if this grant was given in the form of funds. Could you clarify the customer's position in more details, as the provision of the technical specifications in fact contradicts the effective laws of Ukraine?

A: The tender applicant is expected to ensure that the procedure that they propose for return of funds and equipment must conform to the terms of the technical specifications and not contradict the provisions of the Ukrainian law.

2. Q: The technical specifications say about what should have been anticipated – that the provision of the grant must not be accompanied by a situation of tax obligations of the grantee in relation to acceptance of the grant. The effective laws establish that the grantees which have a non-for-profit organization status may not have such tax obligations. Article 142 of the Tax Code clearly sets the list of enterprises and organizations that are exempt from taxation. This list doesn't contain private entrepreneurs. As, according to the terms of the program, the grantees are private entrepreneurs, by virtue of their status they can't be non-for-profit organizations. Article 177 of the Tax Code clearly establishes the requirement that the subject of taxation is the earnings of the private entrepreneur received during the calendar year. Therefore, the received grant is a type of earnings that is the subject of taxation in any case. The only difference is the size of the tax which depends on what taxation system the private entrepreneur uses: from 0% rate to 5% from the amount of earnings. The Tax Code also establishes that private entrepreneurs are tax agents and, respectively, pay the necessary taxes if they employ other individuals. So private entrepreneur must pay taxes. A question arises in this respect – does UNDP establish a clear requirement that the grant's funds can't be used by the grantee to pay taxes and they have to pay these taxes using their own funds? The answer to this question will allow to more clearly understand the potential risks and potential activity of grant applicants.

A: Yes, taxes can't be paid with the grant's funds and grantees must pay them from their own funds.

3. Q: Please clarify if the grant program covers provision of grants to legal entities, and not only to private entrepreneurs?

A: No, the grant program covers only grants to private entrepreneurs

4. Q: Clause 2.7 of the technical assessment criteria on page 34 of the tender documents specifies that the working plan must be provided in two forms – weekly and daily detailed elaboration. Each variant of the plan adds 5 points. It was mentioned at the briefing held on 29 March 2016 that the contractor may file any of the two variants of the working plan. So, in fact, an alternative selection is permitted. We believe that such wording contradicts what is contained in the documents, as clause 2.7 doesn't say that a selection from two alternative variants of the working plan must be made.

A: The applicant may file a weekly or a daily plan. It is assumed that the daily plan always includes the weekly plan. Naturally, the daily planning of the activities eliminates the need to file two plans.

5. Q: Please provide a clear and unambiguous answer – does the contractor have to file the working plan with weekly and daily detailed elaboration?

A: The applicant may select the level of detailed elaboration of plan on their own, or not file it at all, receiving (or not receiving) respective points for that in accordance with the assessment matrix contained in the technical specifications.