

MEGA ARTS AND CULTURAL EVENTS FUND

GUIDE TO APPLICATION

Culture, Sports and Tourism Bureau

Version: April 2023

I. INTRODUCTION

- 1.1 The Government of the Hong Kong Special Administrative Region (“Government”) sets up Mega Arts and Cultural Events Fund (“Mega ACE Fund”) to encourage international and mega arts and cultural events to anchor at Hong Kong, contribute to Hong Kong’s development into an arts and cultural metropolis as well as a tourist destination, provide development opportunities for the arts, cultural and creative sectors, and facilitate arts and cultural exchange.
- 1.2 Culture, Sports and Tourism Bureau (“CSTB”) of the Government is now inviting applications for Mega ACE Fund.
- 1.3 This Guide to Application (“Guide”) provides basic information on Mega ACE Fund, including its objectives, eligibility of applicants, application procedure, proposal assessment mechanism, responsibilities of successful applicants, disbursement of funds and monitoring and evaluation mechanism for approved proposals.
- 1.4 Enquiries about this Guide or application in respect of Mega ACE Fund should be addressed to the Secretariat administered and supported by CSTB -

Address: Secretariat, Mega Arts and Cultural Events Committee
Culture, Sports and Tourism Bureau
13/F, West Wing, Central Government Offices
2 Tim Mei Avenue, Tamar, Hong Kong

Telephone: (852) 3509 7076

Fax: (852) 2802 4893

Email: macec_secretariat@cstb.gov.hk

Website: <https://www.cstb.gov.hk/en/councils-boards-and-committees/mega-arts-and-cultural-events-committee.html>

Opening hours: Daily from 9:00 am to 1:00 pm and 2:00 pm to 6:00 pm
(Monday to Friday, except public holidays)

II. OBJECTIVES

- 2.1 Mega ACE Fund provides funding support for iconic, innovative and impactful proposals (“Proposals”, and each of them, a “Proposal”) on mega events, organised by private or non-government organisations, contributing to the following objectives:
 - (a) promote the development of Hong Kong as a centre for cultural exchanges with the Mainland and overseas countries;
 - (b) foster Hong Kong’s status as an international arts and cultural metropolis and in turn, a destination for tourists worldwide; and

- (c) seek to promote the development of arts, culture and/or creative industries, including but not limited to performing arts, visual arts, multi-disciplinary arts, community arts in Hong Kong.

2.2 The term ‘mega event’ is a classification given to events that generate significant and immediate economic, social and/or cultural benefits to Hong Kong. These events have a citywide profile and attract local, regional and/or international spectators/participants/tourists and/or media coverage. Applicants are encouraged to put forth proposals which will contribute to promotion of cultural and artistic exchanges of a wider scope, such as:

- (a) proposals supporting local talents of the arts, cultural and creative sectors on cultural exchange with the Mainland and/or abroad, and taking them to the regional and international stage, which is conducive to the sustainable development of the arts and culture as well as the creative industries in Hong Kong;
- (b) proposals pioneering new frontiers in art practices and the creative industries, as well as crossovers between/among various arts forms and genres;
- (c) proposals striving for artistic excellence and innovation in respect of programme/content development; or
- (d) proposals enhancing knowledge about Chinese history and culture in fostering a sense of value or achievement to Hong Kong people.

2.3 Mega ACE Fund does not cover budget items in projects that fall under the scope of other Government funding schemes or other funding sources.

III. FUNDING SUPPORT

3.1 Funding Support

3.1.1 The grant provided by Mega ACE Fund (“Grant”) will cover costs incurred by the applicant for Mega ACE Fund (“Applicant”) in implementing its Proposal, including but not limited to creative and production costs, marketing and publicity costs, manpower and project administrative costs. The Government does not guarantee that the applied amount will be approved in full for successful applications. The successful Applicant will be the recipient of the Grant and is required to sign the funding agreement (“Funding Agreement”) after which it will become the grantee (“Grantee”). Should there be any conflict or inconsistency between this Guide and the Funding Agreement, the latter shall prevail. In accepting the Grant, the Grantee has the obligation to find additional resources, if required, to ensure that the Proposal can be implemented as approved.

3.1.2 Mega ACE Fund does not provide recurrent Grant and Grantees should not assume that similar proposals will be approved in subsequent applications.

3.2 Double Subsidy

Double subsidy must be avoided. If support from other sources (including both in-kind and funding support¹) has been granted to particular expenditure item(s) of the approved Proposal, the same item(s) will not be eligible for funding. Applicants should not include such expenditure items receiving other financial support in the projected expenditure of the Proposal.

3.3 Other Funding, Sponsorships and Donations

3.3.1 The Applicant is required to list in the application any government or non-government funding, sponsorships and/or donations that it will be/has been able to secure.

3.3.2 The Grantee shall not accept funding, sponsorships, donations or advertisements from, nor be in association in any form or manner with:

- (a) any person in the tobacco or tobacco-related industry;
- (b) any person in the smoking products (including electronic cigarettes and heat-not-burn products) industry or any industry related thereto; or
- (c) (for events specifically aimed at young people under 18) any person in the alcohol industry.

3.3.3 The Grantee shall not accept any funding, sponsorships, donations or advertisements which, in the reasonable opinion of the Government, may jeopardise the image or reputation of the Government or of Hong Kong.

3.4 Instalments

3.4.1 The Grant will be disbursed by instalments during the funding period on the Grantee accomplishing appropriate milestones/ deliverables and subject to any other conditions attached to the approval of the Grant. The **instalment schedule** is to be agreed between the Grantee and the

¹ Funding sources include both private and public funding sources. Public funding sources refer to funding provided by Government bureaux/departments or public organisations receiving recurrent funding from the Government (e.g. CSTB, Leisure and Cultural Services Department, Hong Kong Arts Development Council, West Kowloon Cultural District Authority, Education Bureau, Social Welfare Department, District Councils).

Government, and will be stipulated in the Funding Agreement.

- 3.4.2 The first instalment is to provide start-up funds for the Grantee and will be disbursed upon the parties signing the Funding Agreement and the Grantee satisfying other conditions prescribed by the Government, with a maximum amount of up to 50% of the Grant. The Grant will normally be disbursed in two instalments in the following manner:

<u>Instalment</u>	<u>Grant</u>
First	Maximum of 50% of the approved Grant upon signing of the Funding Agreement
Final	The remaining amount of the approved Grant subject to accomplishment of the stipulated requirements set out in paragraph 3.2 of Annex A of this Guide

- 3.4.3 Additional interim instalments may be considered on a case-by-case basis provided that a genuine need of cash flow is evident as demonstrated by the Grantee, and upon submission of satisfactory evidence/documentation confirming completion of deliverables as stated in the Proposal.

- 3.4.4 The Government expects to disburse an instalment within 30 working days of accepting the Grantee's accomplishment in relation to the milestones/deliverables and other conditions required for the payment of such instalment.

- 3.4.5 For details about the Grant, please refer to **Annex A**.

3.5 Deficit or Residual Funds/Operating Surplus

- 3.5.1 Under no circumstances will Mega Arts and Cultural Events Committee ("Mega ACE Committee") and the Government accept any liability for deficits arising from or in relation to an approved Proposal. Grantees will be solely responsible for any deficits arising from the implementation of the approved Proposals. In addition, Grantees will be solely responsible for any shortfall arising from the implementation and completion of the Proposals.

3.5.2 Grantees must return to the Government any unspent portion of the Grant and operating surplus² with respect to the supported budget items (including the sale proceeds from all or any equipment and/or goods disposed of) generated from the Proposal, with the maximum being the amount of the Grant at the time of submission of the audited account report (see paragraph 1.4 of **Annex C**).

IV. ELIGIBILITY

4.1 The subject matter of the Proposal must relate to **arts, culture and/or creative industries**.

4.2 Eligible Applicants

4.2.1 Private or non-government organisations are eligible for application for Mega ACE Fund. The Applicant must be the organiser of the event and –

- (a) a company incorporated under the Companies Ordinance (Cap. 622) or the predecessor ordinance of the Companies Ordinance (Cap. 622), *i.e.* the former Companies Ordinance (Cap. 32); or
- (b) a non-Hong Kong company registered under the Companies Ordinance (Cap. 622) or the predecessor ordinance of the Companies Ordinance (Cap. 622), *i.e.* the former Companies Ordinance (Cap. 32); or
- (c) a body incorporated under the Registered Trustees Incorporation Ordinance (Cap. 306); or
- (d) a statutory body established by Hong Kong legislation; or
- (e) an approved charitable institution or trust of a public character which is exempt from tax under Section 88 of the Inland Revenue Ordinance (Cap. 112).

4.2.2 Such legal status must have been acquired by the Applicant prior to entering into the Funding Agreement with the Government. The Applicant will be required to provide documentary proof to the satisfaction of the Government that it has met the requirements of paragraph 4.2.1.

² For the purposes of this Guide and the Funding Agreement, “operating surplus” means the surplus resulting from the deduction of total expenditure from the total income of the Project (including the sale proceeds from disposal of all or any goods or equipment purchased/acquired with the Grant) and monies received under the Grant and interest generated from the Project/Operation Account as will be shown in the Audited Account Report.

- 4.2.3 A **joint application** (*i.e.* an application jointly made by two or more private or non-government organisations) is allowed, but the principal or lead organisation must be identified and be responsible for the application. Except in the case of an incorporated joint venture or a partnership, all the parties constituting the Applicant must indicate their consent to submit the application and be bound by the Funding Agreement. All Applicants must state clearly their respective responsibilities in the application form.

V. APPLICATION

5.1 Application Form

- 5.1.1 The application form can be obtained from the Secretariat or downloaded from the Mega ACE Fund webpage. Details are as follows:

Address: Secretariat, Mega Arts and Cultural Events Committee
Culture, Sports and Tourism Bureau
13/F, West Wing, Central Government Offices
2 Tim Mei Avenue, Tamar
Hong Kong

Webpage: <https://www.cstb.gov.hk/en/councils-boards-and-committees/mega-arts-and-cultural-events-committee.html>

- 5.1.2 The application form must be duly completed and signed by the Applicant.
- 5.1.3 The Applicant must submit all information and documents required as specified in the application form and this Guide, including but not limited to the following, or the applications will be deemed to having been withdrawn without further notice:

(a) Proposal/Operation Coordinator

(b) Project/Operation Budget

(c) a comprehensive plan (covering a feasibility evaluation; a time-line; a cash flow statement; an implementation strategy; a detailed media and marketing plan overview; an evaluation proposal; and a risk control/contingency plan)

For details of the information required in the application form, please refer to **Annex B**. Applications require robust data and supporting information to assist the assessment process. Please assume Mega ACE Committee holds no prior knowledge of your organisation, event,

or any previous event delivery experience.

- 5.1.4 Applications from past and existing Grantees will be considered in conjunction with the Applicants' performance under the previous Grant(s). In case their Proposals under the previous Grant(s) are not yet completed at the time of assessment, the Applicants' interim performance will be taken into account.

5.2 Timing for Application

- 5.2.1 Mega ACE Fund will be open for applications from April 2023.
- 5.2.2 Applications can be made all year round. Applicants should submit applications at least four months prior to the date of the proposed event. Depending on the event date, the applications will be processed as soon as practicable.

5.3 Application Procedure

- 5.3.1 The application form must be completed either in **English or Chinese**. The Chinese translation of this Guide is for reference only. In the case of any conflict or inconsistency between the English version and the Chinese version of this Guide or of the application form (as the case may be), the English version shall prevail.
- 5.3.2 No application fee will be charged.
- 5.3.3 The Applicant must submit the **original copy** of the completed application form together with both hard copy and soft copy of all relevant information and documents (text information in Word format, proposed budget and cash flow projection in Excel format stored in CD-ROM/USB) required by the application form and this Guide, to the following address:

Secretariat, Mega Arts and Cultural Events Committee
Culture, Sports and Tourism Bureau
13/F, West Wing, Central Government Offices
2 Tim Mei Avenue, Tamar
Hong Kong

- 5.3.4 The application form and information submitted by the Applicant will be retained by the Secretariat for record and audit purposes. The Applicant should therefore make its own copies of these documents for own record purposes. Materials submitted such as publications, photos, visual/audio CDs, USBs will not be returned to the Applicant.

5.3.5 The Applicant may be required to provide supplementary documents and information from time to time in respect of the application. Failure to provide such information within the specified time will result in the application being deemed to having been withdrawn without further notice.

5.4 Re-submission

If the application is rejected (“Rejected Application”), the Applicant may not re-submit the Application for a Mega ACE Fund Grant to implement the same Proposal in any subsequent applications unless significant and substantial changes and/or enhancements have been made to that Proposal, or the Applicant is able to produce new information and documents which show an in-depth review of the Proposal. A re-submitted application must be made by way of a fresh and a completed application form (“New Application”). The Applicant must indicate that it is a New Application developed upon the Rejected Application and show the changes that have been made to the original Proposal, without which the New Application will not be considered.

VI. ASSESSMENT MECHANISM

6.1 Vetting procedure

6.1.1 Upon receipt of an application, the Secretariat will conduct a **preliminary screening** and may seek clarification or supplementary information from the Applicant. Failure to provide such information within the specified time will result in the application being deemed to having been withdrawn without further notice.

6.1.2 If an application meets all the requirements set out in Section IV (Eligibility) of this Guide, the Secretariat will seek comments on the application, particularly with regard to the technical and financial feasibility, operational plan and budget of the Proposal from relevant Government bureaux or departments, relevant organisations and/or independent third-party experts in the relevant fields, as appropriate.

6.1.3 Subject to the applications meeting the assessment criteria on a *prima facie* basis, the Secretariat will then submit the applications and the Secretariat’s initial assessment to Mega ACE Committee for consideration and recommendation to the Government for approval.

6.1.4 The Applicant and members of its **Project Team**³ may be required

³ For the purposes of this Guide, the Funding Agreement or the application form, “Project Team” means the personnel deployed by the Applicant to implement the Proposal, including but not limited to partners, experts, artists, arts practitioners and arts administrators.

to attend interviews to present its Proposal to Mega ACE Committee and to answer questions regarding such.

6.2 Assessment Criteria

6.2.1 Applications will be assessed in accordance with the following criteria:

- (a) the event is significant in terms of scale and in nature;
- (b) the event is able to attract mass public interest in Hong Kong and/or from overseas, through visitors' attendance and/or media coverage;
- (c) the event is able to facilitate the development of Hong Kong as an East-meets-West Centre for International Cultural Exchange and destination for tourists worldwide as well as the development of arts and cultural sectors and creative industries;
- (d) the event is able to contribute to the industry-building of arts and cultural sectors as well as creative industries, and enhance the ecosystem for the arts, cultural and creative industries;
- (e) event management capacity and capability including technical feasibility, financial planning, management ability of the Applicant and the Project Team; and
- (f) the event is unlikely to bring disrepute or embarrassment to Hong Kong.

6.2.2 In considering an Application, due consideration will be given to the following factors, wherever applicable:

- (a) the **significance and impact** of the Proposal in promoting the development of Hong Kong as a hub for international arts and cultural exchanges and consolidating Hong Kong's status as an international cultural metropolis as well as destination for tourists worldwide as manifested by the **objectives** of Mega ACE Fund;
- (b) whether benefits accrued from the Proposal can **facilitate the development and industry-building of arts, cultural and creative industries and/or enhance their ecosystems**;
- (c) whether the Proposal is **creative, original, and of high artistic merit and cultural value**;
- (d) whether the Proposal is **practical, reasonable and technically feasible**, including but not limited to the overall planning,

duration and expertise and resources available for implementation of the Proposal;

- (e) the **capability** of the Applicant and the Project Team, including but not limited to their artistic/professional merit, expertise, experience, qualifications, track record, capabilities in project planning, implementation and management, marketing and risk management;
- (f) whether the proposed budget is **reasonable and realistic**, whether the Applicant is committed to **prudent exercise of financial management and control**; and whether the Proposal has been financed or should be financed by other public funding sources; and
- (g) any other factors which are relevant or contribute towards the objectives of Mega ACE Fund.

6.2.3 The Government reserves the right to **reject** the application on grounds, including but not limited to:

- (a) the application is incomplete or contains incorrect information or fails to comply with the requirements set out in this Guide or the application form;
- (b) a petition is presented or proceedings are commenced or an order is made or a resolution is passed for the winding up or bankruptcy of the Applicant;
- (c) a false, inaccurate or incomplete statement or representation is contained in the application, or a promise or a Proposal is made which cannot be fulfilled or delivered;
- (d) the Applicant is in default of its obligation(s) under other agreements with the Government; or
- (e) the Applicant has engaged, is engaging, or is reasonably believed to have engaged or be engaging in acts or activities that are likely to cause or constitute the occurrence of illegal activities and/or offences endangering national security or otherwise the exclusion is necessary in the interest of national security, or is necessary to protect the public interest of Hong Kong, public morals, public order or public safety.

6.2.4 If the Secretariat has reasonable grounds to believe that a Proposal or any matters proposed to be performed or conducted under a Proposal infringes or is likely to infringe any **Intellectual Property Rights of any party**, the Application will not be processed further and may be

rejected unless the dispute or allegation has been satisfactorily resolved.

6.3 Self-evaluation

6.3.1 The Applicant is required to propose evaluation methods and performance indicators for their Proposals. Such evaluation methods and performance indicators should encompass **qualifiable and quantifiable deliverables**. In addition, the Applicant shall suggest documentary proof for the achievements/deliverables such as survey results, online responses and the like.

6.3.2 Mega ACE Committee may require the Applicant to adjust its evaluation methods and performance indicators before an application is recommended to the Government for funding support. The agreed set of evaluation methods and performance indicators shall form **part of the reporting requirements** of the Proposal should it be approved for the Grant.

6.4 Avoidance of Conflicts of Interest

6.4.1 To avoid conflicts of interest, members of Mega ACE Committee will be required to declare whether they are directly or indirectly related to an Application and, if so, be required to refrain from participating in the discussion of and decision on that application.

6.4.2 Each of the **experts, professionals, experienced practitioners and academics of the arts and cultural sector as well as the creative industries** who are invited to give advice on the application will also be required to declare whether he/she is directly or indirectly related to the application and, if so related, be required to refrain from assessing that application.

6.5 Notification of Results

6.5.1 After receiving Mega ACE Committee's recommendations, the Government will consider whether or not to approve the application, the amount of the Grant and what terms and conditions should be attached to the approved Proposal, taking into account the recommendations of Mega ACE Committee. The Government will decide in its absolute discretion whether to approve the application and disburse grant after having considered the recommendations of Mega ACE Committee. The Government's decision is final and absolute, and there is no appeal process open to the Applicant.

6.5.2 After the Government has reached a decision on the application, the Applicant will be informed of the result in writing. If the application is approved, the Applicant will also be informed of any terms and

conditions that may be imposed by Mega ACE Committee and/or the Government. The Applicant may need to revise its Proposal accordingly before the Grant is made.

6.6 Withdrawal of Application

The Applicant may inform the Secretariat in writing that its application is withdrawn at any time before the Funding Agreement is signed between the Government and the Applicant.

VII. PUBLICITY AND ACKNOWLEDGEMENT

- 7.1** The Grantee will be responsible for the publicity and marketing of the approved Proposal and relevant follow-up actions with a view to maximising benefits to the arts and cultural sectors and creative industries of Hong Kong and the community at large.
- 7.2** The Grantee shall **acknowledge** the funding support under Mega ACE Fund as prescribed by the Government prominently in all publicity, advertising and promotional materials and publications including printed and electronic versions, as well as at media events relating to the Proposal. The Government reserves the right to require the Grantee to immediately cease and desist from using any promotional materials in which reference is made to the Government. The Grantee must also ensure that a **disclaimer** that it does not reflect the views of the Government as prescribed by the Government will be included in any publicity materials, publications and media events related to the Proposal.
- 7.3** The Grantee shall obtain prior written approval of the Government of all publicity, advertising and promotional materials and publications relating to the Proposal in which the acknowledgement and disclaimer are proposed to appear.
- 7.4** The Grantee shall provide the Secretariat with details of achievements of the approved Proposal, if any, including creation of works in which Intellectual Property Rights subsist, successful marketing and commercialisation of deliverables and awards. The Secretariat may from time to time disclose to the public details of such achievements, including but not limited to announcing them on the internet or through publications or by showcasing them at exhibitions for publicity and reference.

VIII. OBLIGATIONS

- 8.1** The Grantee will be required to follow specified reporting requirements, procurement procedures and other relevant requirements concerning hiring of programme/project staff, insurance and intellectual property rights. Please

refer to **Annex C** for more details.

IX. SUSPENSION OR TERMINATION OF GRANT

9.1 The Government may **suspend or terminate** the Grant to a Grantee for an approved Proposal and/or terminate the Funding Agreement by serving seven days' notice in writing upon the Grantee at any time for reasons, including but not limited to:

- (a) **breach** of all or any of the terms and conditions of the Funding Agreement; or
- (b) **lack of progress** of the implementation of the approved Proposal in a material way; or
- (c) the **failure**, or likelihood of failure, **to complete** the Proposal by the completion date mentioned in the Proposal or to adhere to the time-line in the Proposal; or
- (d) the Government sees the need to suspend or terminate the Grant in the **public interest**.

9.2 The Government may immediately terminate the Funding Agreement upon the occurrence of any of the following events:

- (a) the Grantee has engaged or is engaging in acts or activities that are likely to be **illegal** or constitute or cause the occurrence of offences **endangering national security** or which would otherwise be contrary to the interest of national security; or
- (b) the continued engagement of the Grantee or the continued performance of the Funding Agreement is **contrary to the interest of national security**; or
- (c) the Government **reasonably believes** that any of the events mentioned above is **about to occur**.

The Government shall not be responsible for any claim, legal proceeding, liability, loss, damages or any cost or expense, suffered or incurred by the Grantee arising from or in relation to such termination.

9.3 In the event of suspension or termination based on paragraph 9.1 or paragraph 9.2 above, the Government may demand from the Grantee an immediate return of all or part of the Grant, in which event the Grantee shall be liable for any loss or damages the Government may sustain as a result of or in relation to any breach or default by the Grantee.

9.4 During the period of such suspension or upon termination, the Funding Agreement shall cease to have effect and no Grant or other financial support will be made available to the Grantee, but without prejudice to:

- (a) any rights and claims accrued to the Government prior to such suspension or termination including those arising from any breach by the Grantee of the Funding Agreement; and
- (b) any provisions of the Funding Agreement which are required by the context or are otherwise expressed to continue in force and effect notwithstanding the completion of the Proposal or the suspension or termination of the Funding Agreement.

X. MISCELLANEOUS PROVISIONS

10.1 Please refer to **Annex D** for miscellaneous provisions concerning:

- (a) Prevention of Bribery;
- (b) Representations and Warranties;
- (c) Indemnity;
- (d) Personal Data;
- (e) Relationship of the Parties;
- (f) Assignment;
- (g) Governing Law and Jurisdiction; and
- (h) Disclaimers and Others.

**Secretariat, Mega Arts and Cultural Events Committee
April 2023**

Funding Agreement and Disbursement of Grant under Mega Arts and Cultural Events Fund

1. Funding Agreement

- 1.1 If the application for Mega ACE Fund is approved, an **Offer Letter** and an agreement (in form and substance prescribed by the Government) (“Funding Agreement”) will be sent to the Applicant. The Funding Agreement will set out the amount of funding support to be offered by the Government; the terms and conditions attached to such offer; and details regarding the approved Proposal. The successful Applicant will be the recipient of the Grant and is required to sign the Funding Agreement after which it will become the Grantee.
- 1.2 **No binding agreement will be made between the Government and the successful Applicant as to the Grant unless and until the Funding Agreement is executed by the Government and the successful Applicant.**
- 1.3 The Grantee must comply with all the terms and conditions laid down in the Funding Agreement.

2. Project/Operation Account

- 2.1 The Grantee shall keep complete and accurate books and records of all income, expenditure and liabilities in respect of all budget items and the approved Proposal in accordance with generally accepted accounting principles and shall present the documents for the Government’s inspection upon request. The Grantee is required to keep a **proper and unique set of accounts** within its accounting system specifically for processing **all receipts/income and payments/expenditure** of the Proposal. The unique set of **accounts** should be maintained in such a manner as to enable the production of a statement of income and expenditure and balance sheet in respect of the approved Proposal. All income and expenditure relating to the

Proposal should be recorded properly and timely in such **accounts**.

- 2.2 The Grantee shall open and maintain with a licensed bank in Hong Kong under the Banking Ordinance (Cap. 155) a designated bank account “Project/Operation Account” for the sole purposes of keeping and operating all monies (including all interest generated) received in relation to the approved Proposal. The Grant will only be deposited into the above mentioned Project/Operation Account.
- 2.3 The Grant and all other receipts relating to the approved Proposal as well as all payments relating to the approved Proposal will be handled through the Project/Operation Account. All interest shall be kept in the Project/Operation Account and shall not be withdrawn or used for any purpose apart from implementing the approved Proposal.

3. Disbursement of Grant

- 3.1 The Grant will be disbursed by instalments, including upfront payments and disbursements on satisfactory accomplishment of appropriate milestones and deliverables (upon production of satisfactory documentary proof of such accomplishment), and strictly in accordance with the terms and conditions of the Funding Agreement. The instalment arrangements are summarised in paragraphs 3.4.1 to 3.4.3 of the Guide.
- 3.2 Subject to Section IX of the Guide, disbursement of the **final instalment** of the Grant will be made only upon the following:
 - (a) successful implementation of the approved Proposal and production of satisfactory documentary proof of milestones/deliverables accomplished in accordance with the Funding Agreement by the completion date specified in the Funding Agreement or by such later date as the Government may approve in writing;
 - (b) due compliance with the Funding Agreement; and
 - (c) the submission of the final report and the audited account report

in form and substance to the satisfaction of the Government and complying with the reporting requirements set out in paragraphs 1.3 and 1.4 of **Annex C** of this Guide, **within six months** after the project completion date as specified in the Proposal or by such other date as the Government may approve in writing.

- 3.3 The Government reserves the right to suspend any payment to the Grantee if in its opinion a considerable amount of the Grant remains unspent in the Project/Operation Account; or if there is an operating surplus¹; or if there is any delay in submission of the progress, final and/or audited account reports; or any of such reports does not comply with the requirements set out in the Funding Agreement.
- 3.4 If for any reasons (whether or not within the control of the Grantee) a Proposal is not completed by the due date as specified in the Funding Agreement, or is suspended by the Grantee, the Government may require the Grantee to repay part or whole of the Grant, and to indemnify the Government against any loss or expenses incurred as a result of or in relation to the above.

4. Modification and Amendment

- 4.1 The approved Proposal will be incorporated into the Funding Agreement. The Grantee will be required to carry out such strictly in accordance with the approved schedule appended to the Funding Agreement. Any modification, amendment or addition to the Proposal or other parts of the Funding Agreement, including change of the commencement or completion dates, implementation timetable, key project staff and/or personnel involved in the artistic, cultural and creative contents, nature and content of the approved Proposal, key equipment, scope, scale, methodology, budget, sponsorship or cash flow projection, requires **the mutual agreement of the Government and the Grantee** and it is the responsibility of the Grantee **to inform the Secretariat in writing well in advance of any such proposed**

¹ For the purposes of this Guide and the Funding Agreement, “operating surplus” means the surplus resulting from the deduction of total expenditure from the total income of the Project (including the sale proceeds from disposal of all or any goods or equipment purchased/acquired with the Grant) and monies received under the Grant and interest generated from the Project/Operation Account as will be shown in the Audited Account Report.

modification, amendment or addition.

- 4.2 Justification is required for any **spending in excess of the budget** items in the relevant progress report, if any, and/or final report whereas explanatory notes are required for underspends. Notwithstanding these, prior written approval must be sought and obtained from the Secretariat before budgeted expenditure is to be transferred to any **unbudgeted expenditure** item (*e.g.* new/alternative equipment item, new staff, revised number/rank of the staff, new/alternative consumable item). The final decision on whether certain items should/can be included/charged to the Project/Operation Account rests with the Government.

5. Management of the Funding Support

- 5.1 The Government may require the Grantee to **return** the Grant, in whole or in part, if any of the following events occur:
- (a) breach of all or any of the terms and conditions of the Funding Agreement; or
 - (b) without prejudice to the generality of the foregoing, where any Grant not having been expended in accordance with paragraph 5 of **Annex B** of this Guide; or
 - (c) any warranty or representation made by the Grantee in its application or in the Funding Agreement or in the completion report which is incorrect, incomplete or false.
- 5.2 Any record of **mishandling** of public funds or lack of discipline in financial management or **breach** of the Funding Agreement or any other irregularity is a factor which the Government may take into account in considering future applications for Mega ACE Fund and other public funding or financial support by the Grantee or any of the members of the Project Team.

**Information required for Application
under Mega Arts and Cultural Events Fund**

1. The Applicant must submit all information and documents required as specified in the application form and the Guide, including but not limited to the following:
 - (a) Proposal/Operation Coordinator
 - (i) In each application, the Applicant must nominate a proposal/operation coordinator;
 - (ii) If the application is approved, the proposal/operation coordinator will be responsible for administering and operating the implementation of the Proposal, monitoring its expenditure and ensuring the proper use of the Grant in accordance with the approved budget, the Guide and other instructions set for the Grantee, answering enquiries and attending progress meetings with the Secretariat and/or Mega ACE Committee, if required.
 - (b) Project/Operation Budget
 - (i) All monetary figures must be in **Hong Kong currency**;
 - (ii) The Applicant is required to submit a proposed **budget** for implementing the Proposal, showing all expenditure, government or non-government funding, sponsorships (in-kind and funding support) and/or donations as well as justifications for and the calculations of the budget;
 - (iii) When preparing the budget, all **expenditure** items have to be grouped under the specific categories of manpower, production costs and other project costs as specified in Section C of the application form;

Annex B

- (iv) If contingency and miscellaneous expenses are included in the budget, the total amount of these expenses should not exceed 3% of the total Grant amount applied and the Grantee will be required to account for the actual spending of such contingency and miscellaneous costs during implementation of the Proposal;
 - (v) Costs of **new equipment and goods** procured, used and paid solely for implementing the Proposal during the planning, preparation and operation periods as approved by the Government may be charged to the Project/Operation Account (see paragraph 2 of **Annex A**). The Grantee will be responsible for maintenance and repair of the equipment and goods and such costs should not be included in the budget;
 - (vi) The Grantee must charge items to the Project/Operation Account in accordance with the requirements set out in paragraph 5 of **Annex B** of this Guide; and
 - (vii) The Applicant is required to **declare** in the application whether it has sought or is seeking other financial support for the Proposal from **the Government or other funding sources, public or private**.
2. Apart from the above, the Applicant must provide a comprehensive **plan** covering the following:
- (a) **a feasibility evaluation** of the Proposal having regard to the market demand of the community, the availability of venue(s), talents and expertise required and other determining factors;
 - (b) **a timeline** showing the event date(s), duration and how the Proposal will be implemented;
 - (c) **a cash flow statement** designating financial entries and outlay;
 - (d) **an implementation strategy** for implementing and administering the Proposal with effective manpower development and for ensuring the proper and effective use of the Grant;

- (e) **a detailed media and marketing plan overview** including the marketing objectives and success metrics, marketing strategies/ measures and timelines, partnerships, engagement activities and new initiatives, if any, to be adopted and how the proposed event and associated marketing activity will support the achievement of objectives;
 - (f) **an evaluation proposal** detailing how the Proposal will meet the objectives of Mega ACE Fund and what performance indicators will be used for measuring the performance of the Applicant; and
 - (g) **a risk control/contingency plan** if key milestones are not achieved as planned.
3. The Proposal must comply with the **laws of Hong Kong**¹. It is the responsibility of the Applicant to observe all legal requirements and obtain any relevant permit, licence, consent, approval or the like from the authorities concerned.
4. For the avoidance of doubt, the Grantee is responsible for acquiring the necessary **venue and support services** it requires to implement the Proposal.
5. Except where specified in the Proposal and approved by the Government, the Grant can only be used for **non-recurrent** expenditure.

5.1 Manpower

5.1.1 Unless otherwise approved by the Government, the Grant must not be used to pay any emolument to a person who is already on the **payroll** of the Grantee's organisation. This principle applies irrespective of whether the relevant service/work is carried out within or outside normal working hours of the person concerned. If the Applicant has justifiable circumstances for including in the proposed budget the whole or part of the emolument of any person who is already on the payroll of its organisation, such circumstances should be clearly

¹ References to "laws" and "regulations" shall include any constitutional provisions, treaties, conventions, ordinances, subsidiary legislation, orders, rules and regulations having the force of law and rules of civil and common law and equity, regardless of the jurisdiction.

stated in the Proposal at the time of application.

5.1.2 The Grant must only be used by the Grantee in carrying out the approved Proposal in accordance with the approved budget and conditions set out in the Funding Agreement. Unless otherwise approved by the Government and included in the approved budget, the Grant or any part thereof shall not be used to cover the following expenditure items:

- (a) annual salary increment; and
- (b) gratuities, fringe benefits and allowances other than (i) an employer's contribution to the Mandatory Provident Fund; and (ii) expenditure for employees' compensation insurance for persons hired solely for the implementation of the Proposal.

5.2 Production Costs

5.2.1 The Grant must not be used to cover:

- (a) rental/time cost of premises owned by the Grantee;
- (b) rental/time cost of venue/space hired not solely for the implementation of the Proposal;
- (c) rental/time cost and maintenance cost of existing equipment and goods owned by the Grantee; and
- (d) depreciation/amortisation or provisions not representing actual expenses incurred.

5.2.2 Equipment specifically acquired for implementing the Proposal must be either included in the approved budget or the funding of which has been specifically approved in advance by the Government. Otherwise the costs of such items cannot be charged to the Project/Operation Account.

5.3 Other Project Costs

The Grant must not be used to cover entertainment expenses (*e.g.* welcome/celebration meals and refreshments) and any prizes (either in the form of cash or other types of souvenir) in carrying out the Proposal unless such requirement is integral and essential to the nature of the event concerned (*e.g.* per diems for visiting or touring personnel involved in the artistic, cultural and creative contents, trophies for competitions and refreshments for conference participants). In such case, full justification for the proposed expenses, which have to be modest and commensurate with operational needs, has to be provided in the Proposal.

5.4 Indirect Costs

5.4.1 The Grant must not be used to cover:

- (a) costs related to prior/subsequent year(s)/period(s) adjustment(s);
- (b) capital financing expenses, *e.g.* mortgage and interest on loans/overdrafts; and
- (c) administrative and overhead costs of establishing and/or maintaining the operation or administration of the Grantee, including rental, utility charges, renovation, maintenance and repair expenses.

5.4.2 The above list is not exhaustive. The Grantee should consult the Secretariat if it has any doubts about whether an item may be charged to the Project/Operation Account.

Obligations of the Grantees under Mega Arts and Cultural Events Fund

1. Reporting Requirements

- 1.1 The Grantee shall submit progress report(s) on a half-yearly basis (or at such shorter intervals as may be required by the Government), a final report, and an audited account report, duly audited, dated and signed by an auditor¹ approved by the Government, on the final financial position.
- 1.2 The **progress report** must be in a format prescribed by the Government. It must include details of the progress of the approved Proposal and a financial statement of the latest financial position on a cash basis accounting approach.
- 1.3 The final report and the audited account report, duly audited, dated and signed by an auditor approved by the Government, must be submitted by the Grantee **within six months** from either the Proposal completion date or if earlier the termination date of the Funding Agreement.
- 1.4 The **final report** must be in a format prescribed by the Government and include details of the results, performance, achievements and evaluation of the implemented Proposal. The final report must be submitted together with an **audited account report** (duly audited, dated and signed by an auditor approved by the Government) on an accrual basis on the final financial position of the implemented Proposal audited by an auditor as arranged by the Grantee to ensure that the Grant was fully and properly applied to the Proposal for which all Grant monies were paid, received and expended in accordance with the approved budget. This financial statement shall contain an audited statement of the total expenditure and income of the implemented Proposal, and shall be prepared from a proper and separate set of accounts.

¹ An auditor means a certified public accountant who for the time being is registered as such under the Professional Accountants Ordinance (Cap. 50) and holds a practising certificate within the meaning of that Ordinance.

- 1.5 The Grantee may be required to make presentation(s) of the results and its experience in implementing the approved Proposal to Mega ACE Committee and to report on the achievement of deliverable(s).
- 1.6 The actual expenditure for external **audit fees** relating to the approved Proposal and arising from compliance with the provisions of the Funding Agreement may be included in the budget, subject to a maximum of HK\$30,000.
- 1.7 The Grantee must keep all financial statements, books and records of the approved Proposal for at least **seven years** after either completion date of the Proposal, or if earlier, the termination date of the Funding Agreement, or as otherwise specified by the Secretariat within that seven-year period, and make them available for inspection by the Government at any time.
- 1.8 The **Director of Audit** may conduct an **examination** into the economy, efficiency and effectiveness with which the Grantee has used the Grant. The Director of Audit shall have a right of access at all reasonable times to all such documents or information in the custody and control of the Grantee as he may reasonably require for conducting an examination and shall be entitled to require, from any person holding or being accountable for any such document or information, such information and explanation as he considers reasonably necessary for that purpose. The Director of Audit may report to the Secretary for Culture, Sports and Tourism and the President of the Legislative Council the results of an examination conducted by him.

2. Procurement Procedures

- 2.1 The Grantee warrants, undertakes and agrees that:
 - (a) all procurements of goods and services in the course of or for the purposes of carrying out the approved Proposal shall be conducted on a fair, unbiased and competitive bidding basis;
 - (b) the Grantee shall comply with the following procedures unless otherwise agreed in writing by the Government:

- (i) for every procurement the **aggregate value** of which is **more than HK\$5,000 but less than HK\$10,000**, quotations in written form from at least **two suppliers** shall be obtained;
- (ii) for every procurement the **aggregate value** of which is **HK\$10,000 or more, but less than HK\$500,000**, quotations in written form from at least **three suppliers** shall be obtained; and
- (iii) for every procurement the **aggregate value** of which is **HK\$500,000 or more**, quotations in written form from at least **five suppliers** shall be obtained.

In all the scenarios set out in paragraph 2.1 (b)(i) to (iii) above, the supplier that has submitted the lowest bid shall be selected. If the lowest bid is not selected or in case where less than the stipulated number of quotations are received, the Grantee shall give full justifications to the Government immediately before acceptance of offer. In the event the Grantee intends to procure goods or services from **one supplier** without an open procurement process, the Grantee shall provide to the Government **at least 7 working days before the procurement**:

- (1) a statement with details of the Grantee's relationship with the supplier concerned or a statement that it does not have any such relationship; and
 - (2) justifications for not following the open procurement process set out in this paragraph (b) above.
- (c) the Grantee shall manage its procurement such that it shall exercise its right to disqualify a tenderer/terminate a procurement contract upon the occurrence of any of the following events –
- (1) the tenderer/contractor has engaged or is engaging in acts or activities that are likely to constitute or cause the occurrence of offences endangering national security or which would otherwise be contrary to the interest of national security;

- (2) the continued engagement of the contractor or the continued performance of the procurement contract is contrary to the interest of national security; or
- (3) the Grantee reasonably believes that any of the events mentioned above is about to occur.

2.2 The Grantee must not procure charged services provided by the Grantee or any associate or associated person of the Grantee, such as accounting services, personnel services, procurement services, library services, security services, cleansing services, legal services, and central administrative services.

2.3 The Government reserves the right to inspect all quotations under the implemented Proposal. The Grantee should keep all quotations for inspection.

2.4 The Grantee must procure that its governing body, officers and staff shall keep themselves regularly informed of the relevant requirements and procedures relating to procurement of goods and services and amendments thereto (if any) from time to time.

3. Hiring of Programme/Project Staff

3.1 The Grantee is required to abide by the principle of **openness and competitiveness** in hiring staff for implementing the Proposal.

3.2 The Grantee is required to observe all **laws regulating the employment of persons** in Hong Kong.

4. Insurance

4.1 The Grantee will be required in the Funding Agreement to take out **appropriate insurance policies**, including employer's liability insurance, an all-risks insurance in respect of equipment purchased or hired for the approved Proposal and public liability including coverage of occupier's liability and to meet any claim which may arise as a result of the Proposal.

- 4.2 Under no circumstances will the Government and/or Mega ACE Committee be liable or accountable for any claims, loss or damages arising from or in relation to any Proposal.

5. Intellectual Property Rights²

- 5.1 The Grantee is required to inform the Secretariat of any Intellectual Property Rights that may arise in the implementation of his Proposal and how such Intellectual Property Rights would be handled, including the acquisition and use of such Intellectual Property Rights. The Government and/or Mega ACE Committee may impose terms and conditions in the Funding Agreement in this respect.
- 5.2 Any Intellectual Property Rights in the materials, works, deliverables arising out of the Proposal shall be remain vested in by the Grantee immediately upon creation.
- 5.3 The Grantee hereby grant unconditionally for the benefits of the Government, its authorised users, assigns and successors-in-title a non-exclusive, perpetual, irrevocable, royalty-free worldwide and sub-licensable licence to do the acts restricted by copyright that are stipulated in sections 22 to 29 of the Copyright Ordinance (Cap. 528) in relation to the deliverables arising out of the Proposal. In relation to any parts of the deliverables arising out of the Proposal to which the Grantee is not empowered to grant the licence aforesaid, the Grantee undertakes to procure at its sole cost and expense the grant of such rights for the benefits of the Government, its authorised users, assigns and successors-in-title by the relevant third party Intellectual Property Rights owners (including without limitation collaborating party or parties) in respect of such deliverables arising out of the Proposal to be granted on or before the use or incorporation of the deliverables arising out of the Proposal in accordance with the terms hereof.

² Intellectual property rights means patents, trademarks, service marks, trade names, design rights, copyrights, domain names, database rights, rights in know-how, new inventions, designs or processes and other intellectual property rights whether now known or created in future (of whatever nature and wherever arising) and in each case whether registered or unregistered and including applications for the grant of any such rights.

- 5.4 Agreement between the Grantee and the collaborating party (or parties) should be made on the sharing of the royalties or any other sorts of income to be generated from the Proposal. Description of any such arrangements should be made available to the Secretariat for reference upon request.

Miscellaneous provisions

1. Prevention of Bribery

- 1.1 The Applicant shall observe the **Prevention of Bribery Ordinance (Cap. 201)** (“PBO”) and shall advise its employees, subcontractors, agents and other personnel who are in any way involved in the Proposal that they are not allowed to offer to or solicit or accept from any person any money, gifts or advantage as defined in the PBO in the conduct of or in relation to the Proposal.
- 1.2 The **offer of an advantage** to the Secretariat or any members of Mega ACE Committee with a view to influencing the approval of an application is an offence under the PBO. Any such offer by the Applicant or any person associated with the Applicant, its employee(s) or agent(s) will render the application null and void. The Government may also withdraw any approval that may have been issued to the application in question, if any, and hold the Applicant concerned liable for any loss or damages, which the Government may sustain.

2. Representations and Warranties

The Applicant represents, warrants and undertakes that:

- (a) the Proposal will be performed and completed in an **impartial, timely and diligent manner**;
- (b) all information supplied, and statements and representations made by or on its behalf in its application, in the Proposal and in the course of conducting the Proposal, or otherwise in the progress, final and audited account reports, financial statements or project materials are **true, accurate and complete**;
- (c) it shall comply, and shall ensure that every person employed or

engaged by it for the purposes of the Proposal complies, with the **laws of Hong Kong** in relation to the conduct of the Proposal;

- (d) if the application is approved, the **Funding Agreement** will be duly executed by the Applicant, that is the Grantee, within the specified time and all terms and conditions in the Funding Agreement shall constitute legally binding and valid obligations on its part in accordance with their terms;
- (e) the provision of any work or material by the Grantee in performing the Proposal, the use or possession by the Government and its authorised users, assigns and successors-in-title of any work or material relating to the Proposal, deliverables arising out of the Proposal or any part thereof for any of the purposes contemplated by the Funding Agreement does not and will not infringe any Intellectual Property Rights of any party; and
- (f) in respect of any materials used by the Grantee in the performance of the Proposal and in respect of which any Intellectual Property Rights are vested in a third party, the Grantee shall have obtained the grant of all necessary clearances for itself and its authorised users authorising the use of such materials for any of the purposes contemplated by the Funding Agreement.
- (g) the Grantee shall ensure the observance by itself, its employees, agents and contractors and by all other persons employed or engaged by it of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region and the laws of Hong Kong in relation to safeguarding national security, and shall not engage in any act or activity which is not in compliance with any such laws.

3. Indemnity

If the application is approved, the Applicant shall indemnify and keep indemnified the Government, its authorised users, assigns and successors-in-title, from and against:

- (a) all and any claims, actions, investigations, demands, proceedings, threatened, brought or instituted against the Government; and
- (b) all liabilities (including liability to pay compensation and damages), damages, losses, costs, charges and expenses which the Government may sustain or incur (including all legal and other costs, charges, and expenses, on a full indemnity basis, which the Government may pay or incur in relation to any demand, claim, action, proceeding or investigation instituted by or against the Government), which in any case arise directly or indirectly from, or as a result of, or in connection with, or which relate in any way to:
 - (i) any damage to property or personal injury or death suffered by any person in connection with or in the course of or as a result of any activity (indoor or outdoor) organised or carried out by the Applicant in relation to the Proposal;
 - (ii) the breach by the Applicant of any provision in the Funding Agreement or the application form;
 - (iii) the negligence, recklessness, or wilful misconduct of the Applicant or of any of its employees, agents, consultants or contractors in relation to the conduct of the Proposal; or
 - (iv) the Proposal or its deliverables or materials developed or produced or created in the Proposal or any part thereof infringes or is alleged to infringe any Intellectual Property Rights of any party.

4. Personal Data

- 4.1 The personal data provided as part of the application process will be used by the Government to process the application, and to conduct research and surveys, and to enforce its rights and powers under the Funding Agreement if signed. The provision of personal data by means of this application is voluntary. However, if the Applicant does not provide information mandatory for the processing of the application as indicated on the application form, the application shall

be rejected.

- 4.2 The personal data provided in the application may from time to time be disclosed to any Government bureaux, commissions and departments for the purposes mentioned above. However, in the interests of transparency of the operations of Mega ACE Fund, by signing and submitting an application, a successful Applicant consents to the disclosure of details of the Proposal to the public. Even if an application is not successful, by submitting an application, the Applicant shall be deemed to have consented to the disclosure of its name, Proposal title and amount of Grant sought to the public for general information.
- 4.3 Applicants will have the right of access and correction with respect to personal data as provided for in sections 18 and 22 of and Principle 6 in Schedule 1 to the Personal Data (Privacy) Ordinance (Cap. 486). The Applicant's right of access includes the right to obtain a copy of the personal data provided in the application at a reasonable charge.

5. Relationship of the Parties

- 5.1 If an application is successful, the successful Applicant shall enter into the Funding Agreement with the Government as a Grantee. The Grantee shall not represent itself as an employee, servant, agent or partner of the Government.
- 5.2 All rights and powers of the Government under the Funding Agreement may be exercised by the Secretary for Culture, Sports and Tourism or such other Government officer as may be appointed by him from time to time. All powers exercised by the Secretary for Culture, Sports and Tourism or his appointee are exercised for and on behalf of the Government.

6. Assignment

The Applicant shall not assign, transfer, dispose of or otherwise deal with any of its rights or obligations under the Funding Agreement or otherwise in relation to its application, or purport to do so without the prior written

consent of the Government.

7. Governing Law and Jurisdiction

The Funding Agreement (if entered into) shall be governed by and construed in accordance with the laws of Hong Kong. Each of the parties thereto will irrevocably submit to the exclusive jurisdiction of the courts of Hong Kong.

8. Disclaimers and Others

8.1 The Guide shall not in any circumstances affect or limit the interpretation of the application form or the Funding Agreement or any other document to which the Government is a party in relation to Mega ACE Fund. Unless the context otherwise requires, terms defined and expressions used in the Guide shall bear the same meanings as set out in the application form and/or the Funding Agreement.

8.2 Whilst the information provided by the Government in the Guide has been prepared in good faith, it does not claim to be comprehensive or to have been independently verified. Neither the Government, nor any of its officers, agents or advisers, accepts any liability or responsibility as to, or in relation to, the adequacy, accuracy or completeness of the information contained in the Guide or any other written or oral information which is, has been or will be provided or made available to any Applicant; nor do they make any representation, statement or warranty, express or implied, with respect to such information or to the information on which the Guide is based. Any liability in respect of any such information or any inaccuracy in the Guide or omission from the Guide is expressly disclaimed. Nothing in the Guide or in any other written or oral information which is, has been or will be provided or made available to any Applicant should be relied on as a representation, statement or warranty as to the intentions, policy or action in future of the Government, its officers or agents.

8.3 The Guide does not constitute an offer nor does it constitute the

basis of any contract which may be concluded in relation to Mega ACE Fund or the implementation and completion of any project.

- 8.4 Each Applicant should make its own independent assessment of the proposed terms of Mega ACE Fund after making such investigation and consulting its own professional advisers and taking such other advice as may be prudent in order to assess the risks and benefits of an application for Mega ACE Fund as well as in respect of any financial, legal, tax and other matters concerning a project.
- 8.5 The Government reserves the right, without prior consultation or notice, to change terms of Mega ACE Fund. The Government also reserves the right to terminate any or all negotiations in its discretion before executing the Funding Agreement or any binding contract with a successful Applicant.