

Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (repealed)

PART ONE

COMMON PROVISIONS

TITLE VI

GRANTS

CHAPTER 1

Scope and form of grants

Article 173

Subscriptions(Article 121 of the Financial Regulation)

The subscriptions referred to in Article 121(2)(d) of the Financial Regulation shall be sums paid to bodies of which the Union is member, in accordance with the budgetary decisions and the conditions of payment established by the body concerned.

Article 174

Agreement and decision for grants(Article 121(1) of the Financial Regulation)

- 1 Grants shall be covered by a decision or by a written agreement.
- 2 To determine the instrument to be used, the following elements shall be taken into account:
 - a location of the beneficiary, within or outside the Union;
 - b complexity and standardisation of the content of the actions or work programmes funded.

Article 175

Expenditure on the members of the institutions(Article 121 of the Financial Regulation)

Expenditure on the members of the institutions as referred to in Article 121(2)(a) of the Financial Regulation shall include contributions to associations of current and former members of the European Parliament. These contributions shall be implemented in accordance with the internal administrative rules of the European Parliament.

Article 176

Actions which may receive grants(Article 121 of the Financial Regulation)

An action which may receive a grant within the meaning of Article 121 of the Financial Regulation must be clearly defined.

No action may be split in different actions for the purpose of evading the financing rules laid down in this Regulation.

Article 177

Bodies pursuing an aim of general Union interest(Article 121 of the Financial Regulation)

A body pursuing an aim of general Union interest is:

- (a) a body involved in education, training, information, innovation or research and study in European policies, any activities contributing to the promotion of citizenship or human rights, or an European standards body;
- (b) an entity representing non-profit bodies active in the Member States, in the candidate countries or in the potential candidate countries and promoting principles and policies consistent with the objectives of the Treaties.

Article 178

Partnerships(Article 121 of the Financial Regulation)

1 Specific grants for actions and operating grants may form part of a framework partnership.

2 A framework partnership may be established as a long-term cooperation mechanism between the Commission and the beneficiaries of grants. It may take the form of a framework partnership agreement or a framework partnership decision.

The framework partnership agreement or decision shall specify the common objectives, the nature of actions planned on a one-off basis or as part of an approved annual work programme, the procedure for awarding specific grants, in compliance with the principles and procedural rules in this Title, and the general rights and obligations of each party under the specific agreements or decisions.

The duration of the partnership may not exceed four years, save in exceptional cases, justified in particular by the subject of the framework partnership.

Authorising officers may not make undue use of framework partnership agreements or decisions or use them in such a way that the purpose or effect is contrary to the principles of transparency or equal treatment of applicants.

3 Framework partnerships shall be treated as grants with regard to programming, *ex ante* publication and award.

4 Specific grants based on framework partnership agreements or decisions shall be awarded in accordance with the procedures laid down in those agreements or decisions, and in compliance with this Title.

They shall be subject to the *ex post* publication procedures laid down in Article 191.

Article 179

Electronic exchange systems(Article 121(1) of the Financial Regulation)

1 All exchanges with beneficiaries, including the conclusion of grant agreements, the notification of grant decisions and any amendments thereto, may be done through electronic exchange systems set up by the Commission.

2 These systems shall meet the following requirements:

- a only authorised persons may have access to the system and to documents transmitted through it;
- b only authorised persons may electronically sign or transmit a document through the system;
- c authorised persons must be identified through the system by established means;
- d the time and date of the electronic transaction must be determined precisely;
- e the integrity of documents must be preserved;
- f the availability of documents must be preserved;
- g where appropriate, the confidentiality of documents must be preserved;
- h the protection of personal data in accordance with the requirements of Regulation (EC) No 45/2001 must be ensured.

3 Data sent or received through such a system shall enjoy legal presumption of the integrity of the data and the accuracy of the date and time of sending or receiving the data indicated by the system.

A document sent or notified through such a system shall be considered as equivalent to a paper document, shall be admissible as evidence in legal proceedings, shall be deemed original and shall enjoy legal presumption of its authenticity and integrity, provided it does not contain any dynamic features capable of automatically changing it.

The electronic signatures referred to in point (b) of paragraph 2 shall have the equivalent legal effect of handwritten signatures.

Article 180

Content of grant agreements and decisions(Article 122 of the Financial Regulation)

1 The grant agreement shall at least lay down the following:

- a the subject;
- b the beneficiary;
- c the duration, namely:
 - (i) the date of its entry into force;
 - (ii) the starting date and the duration of the action or financial year being funded;

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- d the maximum amount of Union funding expressed in euro and the form of the grant supplemented, as appropriate, by:
 - (i) the total estimated eligible costs of the action or work programme and the financing rate of the eligible costs;
 - (ii) the unit cost, lump sum or flat rate referred to in points (b), (c) and (d) of Article 123 of the Financial Regulation where determined;
 - (iii) a combination of the elements set out in points (i) and (ii) of this point;
- e a description of the action or, for an operating grant, of the work programme approved for that financial year by the authorising officer together with a description of the results expected from the implementation of the action or of the work programme;
- f the general terms and conditions applicable to all agreements of this type, such as the acceptance by the beneficiary of checks and audits by the Commission, OLAF and the Court of Auditors;
- g the estimated overall budget of the action or work programme;
- h where implementation of the action involves procurement, the principles referred to in Article 209 or the procurement rules which the beneficiary must comply with;
- i the responsibilities of the beneficiary, in particular:
 - (i) in terms of sound financial management and submission of activity and financial reports; whenever appropriate, intermediate targets shall be established, upon which those reports become due;
 - (ii) in the case of an agreement between the Commission and a number of beneficiaries, the specific obligations of the coordinator, if any, and of the other beneficiaries towards the coordinator as well as the financial responsibility of the beneficiaries for amounts due to the Commission;
- j the arrangements and time limits for approving those reports and for payment by the Commission;
- k as appropriate, details of the eligible costs of the action or approved work programme, or of the unit costs, lump sums or flat rates referred to in Article 123 of the Financial Regulation;
- l provisions governing the visibility of the Union financial support, except in duly justified cases, where public display is not possible or appropriate.

The general terms and conditions referred to in point (f) of the first subparagraph shall at least:

- (i) state that Union law is the law which applies to the grant agreement, complemented, where necessary, by national law as specified in the grant agreement. Derogation may be made in the agreements concluded with international organisations;
- (ii) specify the competent court or arbitration tribunal to hear disputes.

2 The grant agreement may lay down the arrangements and time limits for suspension or termination in accordance with Article 135 of the Financial Regulation.

3 In the cases referred to in Article 178, the framework partnership decision or framework partnership agreement shall specify the information referred to in points (a), (b), (c) (i), (f), and (h) to (j) and (l) of the first subparagraph of paragraph 1 of this Article.

The specific grant decision or agreement shall contain the information referred to in points (a) to (e), (g) and (k) of the first subparagraph of paragraph 1 and, where necessary, point (i) of the first subparagraph of paragraph 1.

4 Grant agreements may be amended only in writing. Such amendments, including those aiming at adding or removing a beneficiary, shall not have the purpose or the effect of making such changes to agreements as would call into question the grant award decision or be contrary to the equal treatment of applicants.

5 Paragraphs 1, 2, 3 and 4 shall apply *mutatis mutandis* to grant decisions.

Part of the information referred to in paragraph 1 may be provided in the call for proposals or any related document, instead of the grant decision.

Article 181

Forms of grants(Article 123 of the Financial Regulation)

1 Grants in the form referred to in point (a) of Article 123(1) of the Financial Regulation shall be calculated on the basis of the eligible costs actually incurred by the beneficiary, subject to a preliminary budget estimate as submitted with the proposal and included in the grant decision or agreement.

2 Unit costs as referred to in point (b) of Article 123(1) of the Financial Regulation shall cover all or certain specific categories of eligible costs which are clearly identified in advance by reference to an amount per unit.

3 Lump sums as referred to in point (c) of Article 123(1) of the Financial Regulation shall cover in global terms all or certain specific categories of eligible costs which are clearly identified in advance.

4 Flat-rate financing as referred to in point (d) of Article 123(1) of the Financial Regulation shall cover specific categories of eligible costs which are clearly identified in advance by applying a percentage.

Article 182

Lump sums, unit costs and flat-rate financing(Article 124 of the Financial Regulation)

1 The authorisation to use lump sums, unit costs or flat-rate financing referred to in Article 124(1) of the Financial Regulation shall apply for the duration of the programme. This authorisation may be reviewed if substantial changes are needed. Data and amounts shall be assessed periodically and, where appropriate, lump sums, unit costs or flat-rate financing shall be adjusted.

In the case of an agreement between the Commission and a number of beneficiaries, the ceiling referred to in the second subparagraph of Article 124(1) of the Financial Regulation shall apply to each beneficiary.

2 The grant decision or agreement shall contain all necessary provisions in order to verify that the conditions for the payment of the grant on the basis of lump sums, unit costs or flat-rate financing have been respected.

3 Payment of the grant on the basis of lump sums, unit costs or flat-rate financing shall be without prejudice to the right of access to the beneficiaries' statutory records for the purposes intended by the first subparagraph of paragraph 1 and Article 137(2) of the Financial Regulation.

4 Where an *ex post* control reveals that the generating event has not occurred and an undue payment has been made to the beneficiary on a grant based on lump sums, unit costs or flat-rate financing, the Commission shall be entitled to recover up to the amount of the grant without prejudice to the penalties referred to in Article 109 of the Financial Regulation.

CHAPTER 2

Principles

Article 183

Co-financing principle(Article 125(3) of the Financial Regulation)

1 Under the co-financing principle, the resources which are necessary to carry out the action or the work programme shall not be provided entirely by the Union contribution.

Co-financing may take the form of the beneficiary's own resources, income generated by the action or work programme or financial or in-kind contributions from third parties.

2 In-kind contributions shall mean non-financial resources made available free of charge by third parties to the beneficiary.

Article 184

No-profit principle(Article 125(5) of the Financial Regulation)

Financial contributions from third parties that may be used by the beneficiary to cover other costs than those eligible under the Union grant or that are not due to the third party where they are not used at the end of the action or work programme, shall not be considered as financial contributions specifically assigned by the donors to the financing of the eligible costs within the meaning of Article 125(5) of the Financial Regulation.

Article 185

Low value grants(Article 125(4) of the Financial Regulation)

Low value grants shall be considered to be those grants which are lower than or equal to EUR 60 000.

Article 186

Technical assistance(Articles 101 and 125 of the Financial Regulation)

'Technical assistance' shall mean support and capacity-building activities necessary for the implementation of a programme or an action, in particular preparatory, management, monitoring, evaluation, audit and control activities.

Article 187

Eligible costs(Article 126(3)(c) of the Financial Regulation)

VAT shall be considered as not recoverable under the applicable national VAT legislation, if according to national law it is attributable to any of the following activities:

- (a) exempt activities without right of deduction;
- (b) activities which fall outside the scope of VAT;
- (c) activities, as referred to in points (a) or (b), in respect of which VAT is not deductible but refunded by means of specific refund schemes or compensation funds not foreseen by Directive 2006/112/EC, even if that scheme or fund is established by national VAT legislation.

VAT relating to the activities listed in Article 13(2) of Directive 2006/112/EC shall be regarded as paid by a beneficiary other than a non-taxable person as defined in the first subparagraph of Article 13(1) of that Directive, regardless of whether those activities are regarded by the Member State concerned as activities engaged in by bodies governed by public law acting as public authorities.

Article 188

Programming(Article 128 of the Financial Regulation)

1 An annual or multiannual work programme for grants shall be prepared by each authorising officer responsible. The work programme shall be adopted by the institution and published on the grants internet site of the institution concerned as soon as possible, and no later than 31 March of the year of implementation.

The work programme shall specify the period it covers, the basic act, if any, the objectives pursued, the expected results, the indicative timetable of calls for proposals with the indicative amount and the maximum rate of co-financing.

The work programme shall in addition contain the information set out in Article 94 for the decision adopting it to be considered as the financing decision for the grants of the year concerned.

2 Any substantial change in the work programme shall also be adopted and published as provided for in paragraph 1.

Article 189

Content of calls for proposals(Article 128 of the Financial Regulation)

- 1 Calls for proposals shall specify:
 - a the objectives pursued;
 - b the eligibility, exclusion, selection and award criteria as referred to in Articles 131 and 132 of the Financial Regulation and the relevant supporting documents;
 - c the arrangements for Union financing;

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- d the arrangements and final date for the submission of proposals and the planned date by which all applicants are to be informed of the outcome of the evaluation of their application and the indicative date for the signature of grant agreements or notification of grant decisions.

2 Calls for proposals shall be published on the internet site of the Union institutions and in addition to publication on the internet site by any other appropriate means, including the *Official Journal of the European Union*, where it is necessary to provide additional publicity among potential beneficiaries. They may be published as from the adoption of the financing decision referred to in Article 84 of the Financial Regulation, including during the year preceding budget implementation. Any modification of the content of the calls for proposals shall be subject to publication under the same conditions as those for the calls for proposals.

Article 190

Exceptions to calls for proposals(Article 128 of the Financial Regulation)

- 1 Grants may be awarded without a call for proposals only in the following cases:
 - a for the purposes of humanitarian aid and civil protection operations or for crisis management aid within the meaning of paragraph 2;
 - b in other exceptional and duly substantiated emergencies;
 - c to bodies with a *de jure* or *de facto* monopoly, duly substantiated in the award decision;
 - d to bodies identified by a basic act, within the meaning of Article 54 of the Financial Regulation, as beneficiaries of a grant or to bodies designated by the Member States, under their responsibility, where those Member States are identified by a basic act as beneficiaries of a grant;
 - e in the case of research and technological development, to bodies identified in the work programme referred to in Article 128 of the Financial Regulation, where the basic act expressly provides for that possibility, and on condition that the project does not fall under the scope of a call for proposals;
 - f for actions with specific characteristics that require a particular type of body on account of its technical competence, its high degree of specialisation or its administrative power, on condition that the actions concerned do not fall within the scope of a call for proposals.

The cases referred to in point (f) of the first subparagraph shall be duly substantiated in the award decision.

2 Crisis situations in third countries shall be understood as situations of immediate or imminent danger threatening to escalate into armed conflict or to destabilise the country. Crisis situations shall also be understood as situations caused by natural disasters, manmade crisis such as wars and other conflicts or extraordinary circumstances having comparable effects related inter alia to climate change, environmental degradation, privation of access to energy and natural resources or extreme poverty.

Article 191

Ex post publication(Article 128 of the Financial Regulation)

1 Information relating to grants awarded in the course of a financial year shall be published in accordance with Article 21.

2 Following the publication referred to in paragraph 1, when requested by the European Parliament and the Council, the Commission shall forward them a report on:

- a the number of applicants in the past year;
- b the number and percentage of successful applications per call for proposals;
- c the mean duration of the procedure from date of closure of the call for proposals to the award of a grant;
- d the number and amount of grants where the *ex post* publication obligation was waived in the past year in accordance with Article 21(4).

Article 192

Information for applicants(Article 128 of the Financial Regulation)

The Commission shall provide information and advice to applicants by the following means:

- (a) laying down joint standards for application forms for similar grants and monitoring the size and readability of the application forms;
- (b) supplying information to potential applicants in particular through seminars and the provision of handbooks;
- (c) maintaining permanent data for beneficiaries in the legal entity file referred to in Article 63.

Article 193

Financing from separate budget lines(Article 129 of the Financial Regulation)

An action may be financed jointly from separate budget lines by different authorising officers responsible.

Article 194

Retroactive effect of funding in cases of extreme urgency and conflict prevention(Article 130 of the Financial Regulation)

Within the scope of Article 130(1) of the Financial Regulation, the expenditure incurred by a beneficiary before the date of submission of the application shall be eligible for Union financing under the following conditions:

- (a) the reasons for such derogation have been properly substantiated in the financing decision;
- (b) the financing decision and the grant agreement or decision set explicitly the eligibility date earlier than the date for submission of applications.

Article 195

Submission of grant applications(Article 131 of the Financial Regulation)

1 The arrangements for the submission of grant applications shall be determined by the authorising officer responsible, who may choose the method of submission. Grant applications may be submitted by letter or by electronic means.

The means of communication chosen shall be non-discriminatory in nature and shall not have the effect of restricting the access of applicants to the award procedure.

The means of communication chosen shall be such as to ensure that the following conditions are satisfied:

- a each submission contains all the information required for its evaluation;
- b the integrity of data must be preserved;
- c the confidentiality of proposals must be preserved;
- d the protection of personal data in accordance with the requirements of Regulation (EC) No 45/2001 is ensured.

For the purposes of point (c) of the third subparagraph, the authorising officer responsible shall examine the content of applications only after the time limit set for submitting them has expired.

The authorising officer responsible may require that electronic submission be accompanied by an advanced electronic signature within the meaning of Directive 1999/93/EC of the European Parliament and of the Council⁽¹⁾.

2 Where the authorising officer responsible authorises submission of applications by electronic means, the tools used and their technical characteristics shall be non-discriminatory in nature, generally available and interoperable with the information and communication technology products in general use. The information relating to the specifications required for presentation of applications, including encryption shall be made available to the applicants.

Moreover, the devices for the electronic receipt of applications shall guarantee security and confidentiality. They shall also guarantee that the exact time and date of receipt of applications can be determined precisely.

3 Where submission is by letter, applicants may choose to submit applications in one of the following ways:

- a by post or by courier service, in which case the call for proposals shall specify that the evidence shall be constituted by the date of dispatch, the postmark or the date of the deposit slip;
- b by hand-delivery to the premises of the institution by the applicant in person or by an agent, in which case the call for proposals shall specify the department to which applications are to be delivered against a signed and dated receipt.

CHAPTER 3

Award procedure

Article 196

Content of grant applications(Article 131 of the Financial Regulation)

1 Applications shall be made on the form established in accordance with the joint standards laid down pursuant to Article 192(a) and made available by the authorising officers responsible, and in accordance with the criteria laid down in the basic act and the call for proposals.

The supporting documents referred to in the second subparagraph of Article 131(3) of the Financial Regulation may consist in particular in the profit and loss account and the balance sheet for the last financial year for which the accounts were closed.

2 The estimated budget for the action or work programme attached to the application shall have revenue and expenditure in balance, subject to provisions for contingencies or possible variations in exchange rates which may be authorised in duly justified cases, and shall indicate the estimated eligible costs of the action or work programme.

3 Where the application concerns grants for an action for which the amount exceeds EUR 750 000 or operating grants which exceed EUR 100 000, an audit report produced by an approved external auditor shall be submitted. That report shall certify the accounts for the last financial year available.

The first subparagraph of this paragraph shall apply only to the first application made by a beneficiary to an authorising officer responsible in any one financial year.

In the case of agreements between the Commission and a number of beneficiaries, the thresholds set in the first subparagraph shall apply to each beneficiary.

In case of partnerships referred to in Article 178, the audit report referred to in the first subparagraph of this paragraph, covering the last two financial years available must be produced before signature of the framework partnership agreement or notification of the framework partnership decision.

The authorising officer responsible may, depending on a risk assessment, waive the obligation of audit report referred to in the first subparagraph for education and training establishments and, in case of agreements with a number of beneficiaries, beneficiaries who have accepted joint and several liabilities or who do not bear any financial responsibility.

The first subparagraph of this paragraph shall not apply to public bodies and the international organisations referred to in Article 43.

4 The applicant shall indicate the sources and amounts of Union funding received or applied for the same action or part of the action or for its functioning during the same financial year as well as any other funding received or applied for the same action.

Article 197

Evidence of non-exclusion(Article 131 of the Financial Regulation)

Applicants shall declare on their honour that they are not in one of the situations listed in Articles 106(1) and 107 of the Financial Regulation, except in the cases provided for in points (a) and (b) of Article 131(4) of the Financial Regulation. The authorising officer responsible may, depending on a risk assessment, request that successful applicants provide the evidence referred to in Article 143. Where requested by the authorising officer responsible, successful applicants shall supply such evidence, unless there is a material impossibility recognised by the authorising officer responsible or such evidence has already been submitted for the purposes of another grant or procurement procedure, provided that the documents are not more than one year old counting from their date of issue and that they are still valid.

Article 198

Applicants without legal personality(Article 131 of the Financial Regulation)

When an application for a grant is submitted by an applicant which does not have legal personality, in accordance with Article 131(2) of the Financial Regulation, the representatives of that applicant shall prove that they have the capacity to undertake legal obligations on behalf of the applicant and that the applicant has financial and operational capacity equivalent to that of legal persons.

Article 199

Entities forming one applicant(Article 131 of the Financial Regulation)

Where several entities satisfy the criteria for applying for a grant and together form one entity, that entity may be treated by the authorising officer responsible as the sole applicant, provided that the application identifies the entities involved in the proposed action or work programme as part of the applicant.

Article 200

Financial and administrative penalties(Article 131 of the Financial Regulation)

Financial or administrative penalties, or both, may be imposed on applicants who have made false declarations or substantial errors, or committed irregularities or fraud, in accordance with the conditions laid down in Article 145.

Such financial or administrative penalties, or both, may also be imposed on beneficiaries who have been found in serious breach of their contractual obligations.

Article 201

Eligibility criteria(Article 131 of the Financial Regulation)

1 The eligibility criteria shall be published in the call for proposals.

2 The eligibility criteria shall determine the conditions for participating in a call for proposals. Those criteria shall be established with due regard for the objectives of the action and shall comply with the principles of transparency and non-discrimination.

Article 202

Selection criteria(Article 132(1) of the Financial Regulation)

1 The selection criteria shall be published in the call for proposals and shall be such as to make it possible to assess the applicant's financial and operational capacity to complete the proposed action or work programme.

2 The applicant must have stable and sufficient sources of funding to maintain his activity throughout the period during which the action is being carried out or the year for which the grant is awarded and to participate in its funding. The applicant must have the professional competencies and qualifications required to complete the proposed action or work programme unless specifically provided otherwise in the basic act.

3 Financial and operational capacity shall be verified in particular on the basis of an analysis of any of the supporting documents referred to in Article 196 and requested by the authorising officer responsible in the call for proposals.

If no supporting documents were requested in the call for proposals and if the authorising officer responsible has doubts about the financial or operational capacity of applicants, he shall request them to provide any appropriate documents.

In the case of the partnerships referred to in Article 178, that verification shall be performed before signature of the framework partnership agreement or notification of the framework partnership decision.

Article 203

Award criteria(Article 132(2) of the Financial Regulation)

1 The award criteria shall be published in the call for proposals.

2 The award criteria shall be such as to enable grants to be awarded either to the actions which maximise the overall effectiveness of the Union programme which they implement or to the bodies whose work programme is designed to attain the same result. Those criteria shall be defined in such a way as to ensure also that the Union funds are properly managed.

The award criteria shall be applied in such a way as to enable the selection of planned actions or work programmes which the Commission can be confident will comply with its objectives and priorities and guarantee the visibility of the Union financing.

3 The award criteria shall be defined in such a way that it will be possible subsequently to carry out an evaluation.

Article 204

Evaluation of applications and award(Article 133 of the Financial Regulation)

1 The authorising officer responsible shall appoint a committee to evaluate the proposals, unless the Commission decides otherwise in the framework of a specific sectorial programme.

The committee shall be made up of at least three persons representing at least two organisational entities of the institutions or bodies referred to in Articles 62 and 208 of the Financial Regulation with no hierarchical link between them. To avoid any conflict of interests, those persons shall be subject to the obligations laid down in Article 57 of the Financial Regulation.

In the representations and local units referred to in Article 72 of this Regulation and the delegated bodies referred to in Articles 62 and 208 of the Financial Regulation, if there are no separate entities, the requirement of organisational entities with no hierarchical link between them shall not apply.

Outside experts may assist the committee by decision of the authorising officer responsible. The authorising officer responsible shall ensure that these experts satisfy the obligations laid down in Article 57 of the Financial Regulation.

2 The authorising officer responsible shall, where appropriate, divide the process into several procedural stages. The rules governing the process shall be announced in the call for proposals.

Where a call for proposals specifies a two-stage submission procedure, only those applicants whose proposals satisfy the evaluation criteria for the first stage shall be requested to submit a complete proposal in the second stage.

Where a call for proposals specifies a two-stage evaluation procedure, only those proposals that pass the first stage, based on the evaluation against a limited set of criteria, shall go forward for further evaluation.

The applicants whose proposals are rejected at any stage shall be informed in accordance with Article 133(3) of the Financial Regulation.

Each subsequent stage of the procedure must be clearly distinct from the previous one.

The same documents and information shall not be required to be provided more than once during the same procedure.

3 The evaluation committee or, where appropriate, the authorising officer responsible may ask an applicant to provide additional information or to clarify the supporting documents submitted in connection with the application, provided that such information or clarification does not substantially change the proposal. In accordance with Article 96 of the Financial Regulation, in the case of obvious clerical errors, the evaluation committee or the authorising officer may refrain from doing so only in duly justified cases. The authorising officer shall keep appropriate records of contacts with applicants during the procedure.

4 Upon completion of its work, the members of the evaluation committee shall sign a record of all the proposals examined, containing an assessment of their quality and identifying those which may receive funding. Those records may be signed in an electronic system providing sufficient authentication of the signatory.

Where necessary that record shall rank the proposals examined, provide recommendations on the maximum amount to award and possible non-substantial adjustments to the grant application.

The record shall be kept for future reference.

5 The authorising officer responsible may invite an applicant to adjust its proposal in the light of the recommendations of the evaluation committee. The authorising officer responsible shall keep appropriate records of contacts with applicants during the procedure.

The authorising officer responsible shall, after evaluation, take his decision giving at least:

- a the subject and the overall amount of the decision;
- b the name of the successful applicants, the title of the actions, the amounts accepted and the reasons for that choice, including where it is inconsistent with the opinion of the evaluation committee;
- c the names of any applicants rejected and the reasons for that rejection.

6 Paragraphs 1, 2 and 4 of this Article are not compulsory for the award of grants pursuant to Article 190 of this Regulation and to Article 125(7) of the Financial Regulation.

Article 205

Information for applicants(Article 133 of the Financial Regulation)

Rejected applicants shall be informed as soon as possible of the outcome of the evaluation of their application and in any case within 15 calendar days after information has been sent to the successful applicants.

CHAPTER 4

Payment and control

Article 206

Pre-financing guarantee(Article 134 of the Financial Regulation)

1 In order to limit the financial risks connected with the payment of pre-financing, the authorising officer responsible may, on the basis of a risk assessment require the beneficiary to lodge a guarantee in advance, for up to the same amount as the pre-financing, except for low value grants, or split the payment into several instalments.

2 Whenever a guarantee is required, it is subject to the assessment and acceptance of the authorising officer responsible.

The guarantee shall be valid for a period sufficiently long to allow it to be activated.

3 The guarantee shall be provided by an approved bank or financial institution established in one of the Member States. When the beneficiary is established in a third country, the authorising officer responsible may agree that a bank or financial institution established in that third country may provide the guarantee if he considers that the bank or financial institution offers equivalent security and characteristics as those offered by a bank or financial institution established in a Member State.

At the request of the beneficiary, the guarantee referred to in the first subparagraph may be replaced by a joint and several guarantee by a third party or by the irrevocable and unconditional joint guarantee of the beneficiaries of an action who are parties to the same grant agreement or decision, after acceptance by the authorising officer responsible.

The guarantee shall be denominated in euro.

It shall have the effect of making the bank or financial institution, third party or the other beneficiaries stand as irrevocable collateral security, or first-call guarantor of the grant beneficiary's obligations.

4 The guarantee shall be released as the pre-financing is gradually cleared against interim payments or payment of the balance to the beneficiary in accordance with the conditions laid down in the grant agreement or decision.

Article 207

Supporting documents for payment requests(Article 135 of the Financial Regulation)

1 For each grant, pre-financing may be split into several instalments in accordance with sound financial management.

The payment in full of the new pre-financing payment shall be subject to the consumption of at least 70 % of the total amount of any earlier pre-financing.

Where the consumption of the previous pre-financing is less than 70 %, the amount of the new pre-financing payment shall be reduced by the unused amounts of the previous pre-financing.

The statement of the beneficiary's outlay shall be produced in support of any request for a new payment.

2 The beneficiary shall, without prejudice to Article 110, certify on his honour that information contained in payment requests is full, reliable and true. He shall also certify that the costs incurred can be considered eligible in accordance with the grant agreement or decision and that payment requests are substantiated by adequate supporting documents that can be checked.

3 A certificate on the financial statements of the action or the work programme and underlying accounts, produced by an approved external auditor or in case of public bodies, by a competent and independent public officer, may be demanded by the authorising officer responsible in support of any payment, on the basis of a risk assessment. The certificate shall be attached to the payment request. The certificate shall certify, in accordance with a methodology approved by the authorising officer responsible and on the basis of agreed-upon procedures compliant with international standards, that the costs declared by the beneficiary in the financial statements on which the payment request is based are real, accurately recorded and eligible in accordance with the grant agreement or decision.

In specific and duly justified cases, the authorising officer responsible may request the certificate in the form of an opinion or other format in accordance with international standards.

The certificate on the financial statements and underlying accounts shall be compulsory for interim payments and for payments of balances in the following cases:

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- a grants for an action for which the amount awarded in the form referred to in Article 123(1)(a) of the Financial Regulation is EUR 750 000 or more, when the cumulative amounts of payment requests under that form is at least EUR 325 000;
- b operating grants for which the amount awarded in the form referred to in Article 123(1)(a) of the Financial Regulation is EUR 100 000 or more.

Depending on a risk assessment, the authorising officer responsible may also waive the obligation to provide such certificate on the financial statements and underlying accounts in the case of:

- a public bodies and the international organisations referred to in Article 43;
- b the beneficiaries of grants in connection with humanitarian aid, civil protection emergency operations and the management of crisis situations, save in respect of payments of balances;
- c for payments of balances, beneficiaries of grants in connection with humanitarian aid who have signed a framework partnership agreement or have been notified a framework partnership decision, as referred to in Article 178, and who have in place a system of control offering equivalent guarantees for such payments;
- d beneficiaries of multiple grants who have provided independent certification offering equivalent guarantees on the control systems and methodology used to prepare their claims.

The authorising officer responsible may also waive the obligation to provide a certificate on the financial statements and underlying accounts where an audit has been or will be directly done by the Commission's own staff or by a body authorised to do so on its behalf, which provides equivalent assurances about the costs declared.

In the case of an agreement between the Commission and a number of beneficiaries, the thresholds referred to in points (a) and (b) of the third subparagraph shall apply to each beneficiary.

4 An operational verification report, produced by an independent third party approved by the authorising officer responsible, may be requested by the authorising officer responsible in support of any payment, on the basis of a risk assessment. Where requested by the authorising officer responsible, the verification report shall be attached to the payment request and the corresponding costs are eligible under the same conditions as the costs relating to audit certificates as laid down in Article 126 of the Financial Regulation. The verification report shall state that the operational verification was done in accordance with a methodology approved by the authorising officer responsible and whether the action or work programme was actually implemented in accordance with the conditions set out in the grant agreement or grant decision.

Article 208

Suspension and reduction of grants(Article 135 of the Financial Regulation)

1 The implementation of the grant agreement or decision, the participation of a beneficiary in its implementation or payments may be suspended in order to verify whether presumed substantial errors or irregularities or fraud or breach of obligations have actually occurred. If they are not confirmed, implementation shall resume as soon as possible.

2 Where the agreed action or work programme is not carried out or is not carried out properly, in full or on time, the authorising officer responsible shall, provided that the beneficiary has been given the opportunity to make observations, either reduce or recover the grant in proportion, depending on the stage of the procedure.

CHAPTER 5

Implementation

Article 209

Implementation contracts(Article 137 of the Financial Regulation)

1 Without prejudice to the application of the Directive 2004/18/EC, where implementation of the action or work programme requires the award of a procurement contract, the beneficiary shall award the contract to the tender offering best value for money or, as appropriate, to the tender offering the lowest price, while avoiding any conflict of interests.

2 Where implementation of the actions or work programme requires the award of a procurement contract with a value of more than EUR 60 000, the authorising officer responsible may require the beneficiary to abide by special rules in addition to those referred to in paragraph 1.

Those special rules shall be based on rules contained in the Financial Regulation and determined with due regard for the value of the contracts concerned, the relative size of the Union contribution in relation to the total cost of the action and the risk. Such special rules shall be included in the grant decision or agreement.

Article 210

Financial support to third parties(Article 137 of the Financial Regulation)

Provided the objectives or results to be obtained are sufficiently detailed in the conditions referred to in Article 137(1) of the Financial Regulation, the margin of discretion may only be considered to be exhausted if the grant decision or agreement also specifies the following:

- (a) the maximum amount of financial support that can be paid to a third party which shall not exceed EUR 60 000, save where the financial support is the primary aim of the action, and the criteria for determining the exact amount;
- (b) the different types of activity that may receive such financial support, on the basis of a fixed list;
- (c) the definition of the persons or categories of persons which may receive such financial support and the criteria to give it.

(1) [OJ L 13, 19.1.2000, p. 12.](#)