

Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (repealed)

PART ONE

COMMON PROVISIONS

TITLE VI

GRANTS

CHAPTER 1

Scope and form of grants

Article 121

Scope of grants

1 Grants are direct financial contributions, by way of donation, from the budget in order to finance any of the following:

- a an action intended to help achieve a Union policy objective;
- b the functioning of a body which pursues an aim of general Union interest or has an objective forming part of, and supporting, a Union policy ('operating grants').

Grants shall be covered either by a written agreement or by a Commission decision notified to the successful applicant of a grant.

The Commission may establish secure electronic systems for exchanges with the beneficiaries.

The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning the detailed specification of the scope of grants, and concerning rules determining whether grant agreements or grant decisions are to be used. Furthermore, the Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning details of the electronic exchange system, including the conditions under which documents submitted by means of such systems, including grant agreements, are to be deemed originals and to have been signed, and the use of framework partnerships.

2 The following do not constitute grants within the meaning of this Title:

- a expenditure on the members and staff of the institutions and contributions to the European schools;
- b public contracts as referred to in Article 101, aid paid as macro-financial assistance, and budget support;
- c financial instruments, as well as shareholdings or equity participation in international financial institutions such as the European Bank for Reconstruction and Development (EBRD) or specialised Union bodies such as the European Investment Fund;

- d contributions paid by the Union as subscriptions to bodies of which it is a member;
- e expenditure implemented under shared management and indirect management within the meaning of Articles 58, 59 and 60, unless specified otherwise in the financial rules applicable to the budget of the entities or persons entrusted pursuant to point (c) of Article 58(1) or in delegation agreements;
- f contributions to executive agencies referred to in Article 62, made by virtue of each agency's constitutive act;
- g expenditure relating to fisheries markets as referred to in point (f) of Article 3(2) of Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy⁽¹⁾;
- h repayment of travel and subsistence expenses incurred by, or where appropriate any other indemnities paid to, persons invited or mandated by the institutions;
- i prizes given as rewards for a contest, to which Title VII of Part One applies.

3 Interest rate rebates and guarantee fee subsidies shall be treated as grants, provided that they are not combined in a single measure with financial instruments as referred to in Title VIII of Part One.

Such rebates and subsidies shall be subject to the provisions of this Title, with the exception of the following:

- a the co-financing principle as set out in Article 125(3);
- b the no-profit principle as set out in Article 125(4);
- c for actions where the objective is to reinforce the financial capacity of a beneficiary or to generate an income, the assessment of the financial capacity of the applicant as referred to in Article 132(1).

4 Each institution may award grants for communication activities where, for duly justified reasons, the use of public procurement procedures is not appropriate.

Article 122

Beneficiaries

1 Where several entities satisfy the criteria for being awarded a grant and together form one entity, that entity may be treated as the sole beneficiary, including where the entity is specifically established for the purpose of implementing the action to be financed by the grant.

2 For the purpose of this Title, the following entities shall be considered as entities affiliated to the beneficiary:

- a entities forming the beneficiary in accordance with paragraph 1;
- b entities that satisfy the eligibility criteria and that do not fall within one of the situations referred to in Article 131(4) and that have a link with the beneficiary, in particular a legal or capital link, which is neither limited to the action nor established for the sole purpose of its implementation.

3 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning the minimum content of grant agreements or decisions, in particular, where a grant is awarded to several entities, the specific obligations of the coordinator, if any, and of the other beneficiaries, the applicable responsibility regime and the conditions for adding or removing a beneficiary.

Article 123

Forms of grants

- 1 Grants may take any of the following forms:
 - a reimbursement of a specified proportion of the eligible costs, referred to in Article 126, actually incurred;
 - b reimbursement on the basis of unit costs;
 - c lump sums;
 - d flat-rate financing;
 - e a combination of the forms referred to in points (a) to (d).
- 2 When determining the appropriate form of a grant, the potential beneficiaries' interests and accounting methods shall be taken into account to the greatest possible extent.
- 3 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning rules for the different forms of grants, including low value grants.

Article 124

Lump sums, unit costs and flat-rate financing

1 Without prejudice to the provisions of the basic act, the use of lump sums, unit costs or flat-rate financing shall be authorised by way of a Commission decision ensuring respect for the principle of equal treatment of beneficiaries for the same category of actions or work programmes.

Where the maximum amount per grant does not exceed the amount of a low value grant, the authorisation may be given by the authorising officer responsible.

- 2 The authorisation shall at least be supported by the following:
 - a justification concerning the appropriateness of such forms of financing with regard to the nature of the supported actions or work programmes, as well as to the risks of irregularities and fraud and costs of control;
 - b identification of the costs or categories of costs covered by lump sums, unit costs or flat-rate financing, which shall exclude ineligible costs under the applicable Union rules;
 - c description of the methods for determining lump sums, unit costs or flat-rate financing, and of the conditions for reasonably ensuring that the no-profit and co-financing principles are complied with and that double financing of costs is avoided. Those methods shall be based on:
 - (i) statistical data or similar objective means; or
 - (ii) a beneficiary-by-beneficiary approach, by reference to certified or auditable historical data of the beneficiary or to its usual cost accounting practices.

3 Where recourse to the usual cost accounting practices of the beneficiary is authorised, the authorising officer responsible may assess compliance of those practices *ex ante* with the conditions set out in paragraph 2 or through an appropriate strategy for *ex post* controls.

If the compliance of the beneficiary's usual cost accounting practices with the conditions referred to in paragraph 2 has been established *ex ante*, the amounts of lump sums, unit

costs or flat-rate financing determined by application of those practices shall not be challenged by *ex post* controls.

The authorising officer responsible may consider that the usual cost accounting practices of the beneficiary are compliant with the conditions referred to in paragraph 2 if they are accepted by national authorities under comparable funding schemes.

4 The grant decision or agreement may authorise or impose, in the form of flat-rates, funding of the beneficiary's indirect costs up to a maximum of 7 % of total eligible direct costs for the action, except where the beneficiary is in receipt of an operating grant financed from the budget. The 7 % ceiling may be exceeded on the basis of a reasoned decision of the Commission.

5 SME owners and other natural persons who do not receive a salary may declare eligible personnel costs for the work carried out under an action or work programme, on the basis of unit costs determined by way of a Commission decision.

6 The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules regarding lump sums, unit costs and flat-rate financing.

(1) OJ L 209, 11.8.2005, p. 1.