

Commission Delegated Regulation (EU) No 1042/2014 of 25 July
2014 supplementing Regulation (EU) No 514/2014 with regard to the
designation and management and control responsibilities of Responsible
Authorities and with regard to status and obligations of Audit Authorities

CHAPTER I

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of this Regulation, the definitions in Regulation (EU) No 514/2014 shall apply. The following definitions shall also apply:

- (a) ‘designating authority’ means the ministerial authority of a Member State referred to in Article 26(1) of Regulation (EU) No 514/2014 that designates the Responsible Authority;
- (b) ‘competent authorities’ means the Responsible Authority, the Audit Authority and, where appropriate, the Delegated Authority referred to in Article 25(1) of Regulation (EU) No 514/2014;
- (c) ‘SFC2014’ means the electronic information system established by Article 2 of Commission Implementing Regulation (EU) No 802/2014⁽¹⁾;
- (d) ‘grant agreement’ means an agreement or an equivalent form of legal instrument on the basis of which the Responsible Authority provides grants to the beneficiary for the purpose of implementing a project under the national programme.

CHAPTER II

THE RESPONSIBLE AUTHORITY

SECTION I

Designation of the responsible authority

Article 2

Criteria and procedure for designating the Responsible Authority

1 The body to be designated as the Responsible Authority shall have an administrative organisation and a system of internal control that comply with the criteria set out in the Annex to this Regulation (‘the designation criteria’). The designation criteria concern:

- a internal environment,
- b control activities;

Status: Point in time view as at 25/07/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 1042/2014. (See end of Document for details)

- c internal information and communication;
- d internal monitoring and reporting.

Member States may lay down further designation criteria to take account of the size, responsibilities and other characteristics of the Responsible Authority.

2 The audit body referred to in Article 26(3) of Regulation (EU) No 514/2014 shall assess whether the prospective Responsible Authority complies with the designation criteria in the Annex and shall document its audit findings, conclusions and opinion in an audit report addressed to the designating authority.

3 If the designating authority is not satisfied that the prospective Responsible Authority complies with the designation criteria, it shall give this body specific instructions to remedy its non-compliances and a deadline for compliance before it may be designated as the Responsible Authority.

Pending compliance, the body may be granted provisional designation as Responsible Authority for no more than 12 months. The length of this provisional period shall be proportionate to the non-compliances identified.

4 Upon designating the Responsible Authority, the Member State shall notify the Commission without delay through SFC 2014. With this notification, the Member State shall transmit documentation setting out:

- a the main division of responsibilities between the organisational units of the Responsible Authority;
- b where appropriate, its relationship with delegated authorities, the activities to be delegated, and the main procedures for supervising these delegated activities; and
- c a summary of the main procedures for processing financial claims from beneficiaries and for authorising and recording expenditure.

Article 3

Supervision of the Responsible Authority and review of the designation

1 The designating authority shall supervise the Responsible Authority, in particular on the basis of the information referred to in Article 14(2) of this Regulation, and shall follow up any deficiencies identified.

2 Member States shall ensure that information indicating that the Responsible Authority no longer complies with the designation criteria is reported to the designating authority without delay.

3 When the Responsible Authority no longer fully complies with the designation criteria, or its system of internal control is so deficient as to undermine its ability to fulfil its tasks, the designating authority shall put the Responsible Authority on probation. In such cases, the designating authority shall draw up a remedial plan for the Responsible Authority to implement within a period commensurate with the seriousness of the non-compliance or deficiency. This period shall not exceed 12 months from the start of the probation period.

4 The designating authority shall promptly inform the Commission of any remedial plan drawn up pursuant to paragraph 3 and keep the Commission informed about its progress.

5 If Responsible Authority designation is ended, the designating authority shall promptly designate another Responsible Authority in accordance with Article 26 of Regulation

Status: Point in time view as at 25/07/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 1042/2014. (See end of Document for details)

(EU) No 514/2014 and Article 2 of this Regulation to ensure that payments to beneficiaries continue uninterrupted.

6 Where the Commission finds that a Member State has not complied with its obligation to draw up a remedial plan pursuant to paragraph 3, or that the Responsible Authority retains its designation while failing to implement the remedial plan within the imposed time-limit, the Commission shall address any remaining deficiencies through the conformity clearance procedure provided for in Article 47 of Regulation (EU) No 514/2014.

SECTION II

Management and control responsibilities of the responsible authority

Article 4

Tasks of the Responsible Authority

The Responsible Authority shall manage and implement the national programme in accordance with the principles of sound financial management. It shall:

- (a) consult partners in accordance with Article 12(1) of Regulation (EU) No 514/2014;
- (b) ensure the proper functioning of the monitoring committee referred to in Article 12(4) of Regulation (EU) No 514/2014;
- (c) submit a proposal to the Commission for the national programme referred to in Article 14 of Regulation (EU) No 514/2014 and any subsequent revisions using SFC2014;
- (d) define and establish the eligibility rules for projects and project costs for all activities, ensuring equality of treatment and avoiding any conflicts of interest, in accordance with the principles of sound financial management;
- (e) organise and advertise calls for tenders and proposals, and organise and advertise the subsequent selection and award of projects for financing under the national programme, in accordance with the scope and objectives of the Specific Regulations referred to in Article 2(a) of Regulation (EU) No 514/2014 and with the criteria set out in Article 9 of this Regulation;
- (f) ensure that there are systems in place to collect the data required to report the common and programme-specific indicators to the Commission, together with other data on the implementation of the programme and projects;
- (g) receive payments from the Commission, and make payments to the beneficiaries;
- (h) ensure consistency and complementarity between co-financing under the Specific Regulations and other relevant national and Union instruments;
- (i) monitor the projects and check that the expenditure declared for projects has actually been incurred and complies with Union and national rules;
- (j) ensure that there is a system for recording and storing in computerised form accounting records for each project under the national programme and that the data on implementation necessary for financial management, monitoring, control and evaluation are collected;

Status: Point in time view as at 25/07/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 1042/2014. (See end of Document for details)

- (k) without prejudice to national accounting rules, ensure that beneficiaries and other bodies involved in implementing projects financed under the national programme maintain either a separate accounting system or an adequate accounting code for all transactions relating to the project;
- (l) ensure that the evaluations of the national programme referred to in Article 56 and Article 57(1) of Regulation (EU) No 514/2014 are carried out within the relevant time limits;
- (m) ensure that the independent evaluators receive, for the purposes of carrying out the evaluation referred to in Article 56 and Article 57(1) of Regulation (EU) No 514/2014 and formulating the evaluation opinion, all necessary information on the management of the national programme;
- (n) set up procedures to ensure that all documents regarding expenditure, decisions and control activities have the required audit trail and are held in accordance with the Commission Implementing Regulations adopted on the basis of Article 27(5) of Regulation (EU) No 514/2014.
- (o) ensure that the Audit Authority receives, for the purposes of carrying out the audits referred to in Article 29 of Regulation (EU) No 514/2014 and formulating the audit opinion, all necessary information on the management and control procedures applied and expenditure financed under the Specific Regulations;
- (p) draw up the implementation reports referred to in Article 54 of Regulation (EU) No 514/2014 and the evaluation reports referred to in Article 57(1) of Regulation (EU) No 514/2014 and submit them to the Commission using SFC2014;
- (q) draw up the request for payment in accordance with Article 44 of Regulation (EU) No 514/2014, and submit it to the Commission using SFC2014;
- (r) carry out information and publicity activities and disseminate the programme's results, in accordance with Article 53 of Regulation (EU) No 514/2014;
- (s) carry out administrative controls and on-the-spot controls in accordance with Article 27 of Regulation (EU) No 514/2014;
- (t) cooperate with the Commission and the Responsible Authorities in other Member States; and
- (u) respond to the findings of the Audit Authority either by addressing them or, where the findings of the Audit Authority are not accepted, by providing a detailed justification.

Article 5

Delegated Authority

1 The Responsible Authority may delegate some or all of its tasks to a delegated authority in accordance with Article 25(1)(c) of Regulation (EU) No 514/2014. Any delegation of tasks shall comply with the principles of sound financial management, and shall ensure compliance with the principle of non-discrimination and the visibility of Union funding. The delegated tasks shall not give rise to conflicts of interest.

2 The scope of the tasks delegated by the Responsible Authority to the Delegated Authority and the detailed procedures for fulfilling them shall be set out in a document signed by

Status: Point in time view as at 25/07/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 1042/2014. (See end of Document for details)

the Responsible Authority and the Delegated Authority. This Act of Delegation shall mention at least:

- a the relevant Specific Regulation;
- b the task(s) delegated to the Delegated Authority;
- c the obligation of the Delegated Authority to verify the beneficiaries' compliance with Union and national rules;
- d the obligation of the Delegated Authority to put in place and to maintain an organisation structure and a management and control system suited to its duties;
- e the information and the supporting documents the Delegated Authority is to submit to the Responsible Authority and the time limits it is to observe; and
- f the Responsible Authority's mechanism for supervising the Delegated Authority.

3 Pursuant to Article 25(1)(a) of Regulation (EU) No 514/2014, communication with the Commission shall not be delegated. The Delegated Authority shall communicate with the Commission via the Responsible Authority.

4 If the Delegated Authority is not a public administration or a private body with a public service mission governed by national law, the Responsible Authority shall not delegate to it executive powers that involve a large measure of discretion implying political choices.

5 The Responsible Authority shall remain responsible for the tasks it has delegated. The Responsible Authority shall regularly review the delegated tasks to confirm that the work performed is satisfactory and in compliance with Union and national rules.

6 For delegated tasks, this Regulation shall apply to the Delegated Authority by analogy.

Article 6

Outsourcing tasks

The Responsible Authority may outsource some of its tasks. It shall, however, remain responsible for them.

The Responsible Authority shall regularly review the outsourced tasks to confirm that the work performed is satisfactory and in compliance with Union and national rules.

SECTION III

Obligations of the Responsible Authority as regards public intervention

Article 7

The role of the Responsible Authority as awarding body

1 As a general rule, the Responsible Authority shall award grants for projects under the national programme on the basis of open calls for proposals.

2 The Responsible Authority may award grants for projects on the basis of a restricted call for proposals.

Status: Point in time view as at 25/07/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 1042/2014. (See end of Document for details)

Restricted calls for proposals are open only to selected organisations because of the specific nature of the project or the technical or administrative competence of the bodies invited to submit proposals.

The grounds justifying the use of a restricted call for proposals shall be set out in the call for proposals.

3 The Responsible Authority may award grants directly where the specific nature of the project or the technical or administrative competence of the relevant bodies leaves no other choice, such as in the case of *de jure* or *de facto* monopolies.

The grounds justifying the use of a direct award shall be set out in the award decision.

4 In duly justified cases, including continuation of multiannual projects which were selected after a previous call for proposals or in emergency situations, grants may be awarded without a call for proposals.

The grounds justifying that the grant was awarded without a call for proposals shall be set out in the award decision.

5 When the Responsible Authority acts as an awarding body, neither the Responsible Authority nor any Delegated Authority may be a beneficiary of a grant awarded in accordance with this Article.

6 The Responsible Authority shall determine who awards grants and shall ensure that conflicts of interest are avoided, in particular when the applicants are national bodies.

Article 8

Conditions under which the Responsible Authority acts as executing body

1 The Responsible Authority may decide to implement projects directly, either alone or in association with any other national authority, because of administrative powers, technical expertise, or because the characteristics of the project leaves no other choice for the implementation, such as a *de jure* monopoly or security requirements. In such cases, the Responsible Authority shall be the beneficiary of the grant.

2 The Responsible Authority's reasons for acting as executing body and selecting any associated national authorities as described in paragraph 1 shall be reported to the Commission in the annual implementation report referred to in Article 54 of Regulation (EU) No 514/2014.

3 When implementing projects as an executing body, the Responsible Authority shall observe the principle of value for money and prevent conflicts of interest.

4 The administrative decision to co-finance a project under the national programme shall include any information necessary to monitor the implementation of co-financed products and services and to check the expenditure incurred.

5 If the Responsible Authority is likely to act as executing body on a regular basis:

- a the Responsible Authority and the Audit Authority shall not be part of the same body, unless the Audit Authority reports to an outside body and its audit independence is guaranteed; and
- b the tasks of the Responsible Authority as set out in Article 4 shall not be affected.

Status: Point in time view as at 25/07/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 1042/2014. (See end of Document for details)

Article 9

Selection and award procedure

1 The calls for proposals referred to in Article 7(1) shall be publicised in a way that ensures open competition and appropriate publicity among potential beneficiaries. Any substantial change to the calls shall be publicised in the same way.

The calls for proposals referred to in Article 7(1) and (2) shall specify at least the following:

- a objectives;
- b selection and award criteria;
- c arrangements for Union and, if applicable, national financing, including, where applicable, the possibility to apply a higher co-financing rate in accordance with Article 16(5) of Regulation (EU) No 514/2014;
- d arrangements and final date for submission of the proposals;
- e eligibility rules for the expenditure;
- f project duration; and
- g financial and other information to be kept and reported.

2 Before the award decision is taken, the Responsible Authority shall satisfy itself that the beneficiaries in the project have the capacity to meet the selection and award criteria.

3 The Responsible Authority shall define the procedures for the receipt of proposals. It shall subject proposals to a formal, technical and budgetary analysis and qualitative assessment applying the criteria laid down in the call for proposals in a transparent and non-discriminatory manner. The Responsible Authority shall record in writing the reasons for the rejection of the other proposals.

4 The award decision shall indicate at least the name of the beneficiaries, the essential details of the project and its operational objectives, the maximum amount of Union contribution and the maximum rate of co-financing of the total eligible costs.

5 The Responsible Authority shall inform all applicants of its decision in writing. It shall give unsuccessful candidates the reasons for their rejection with reference to the selection and award criteria.

Article 10

Documents formalising grants when the Responsible Authority acts as awarding body

1 In cases where the Responsible Authority acts as awarding body, it shall lay down project management procedures which require, at least to:

- a sign grant agreements with beneficiaries and
- b monitor the grant agreements, including any amendments thereto, by administrative means such as exchanges of correspondence or written reports.

2 The grant agreement shall include or indicate the following:

- a maximum amount of Union contribution;
- b maximum percentage of Union contribution in accordance with the relevant Specific Regulation;

Status: Point in time view as at 25/07/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 1042/2014. (See end of Document for details)

- c detailed description and timetable of the project;
 - d if applicable, any major task that the beneficiary intends to subcontract to third parties, together with the related costs;
 - e agreed forward budget and financing plan for the project, including expenditure and income, in accordance with the eligibility rules established;
 - f method for calculating the amount of Union contribution upon the project's closure;
 - g timetable and implementing provisions of the agreement, including provisions on reporting obligations, amendments to the agreement and termination of the agreement;
 - h operational objectives of the project, including quantified objectives and the indicators to be reported on;
 - i provision requiring the beneficiary to collect, in a timely manner, the requisite data for the common indicators set out in the Specific Regulation, and any programme-specific indicators, and to report these data at least once a year;
 - j definition of the eligible costs, including, where applicable, a description of the methodology for determining scale-of-unit costs, lump sums and flat-rate financing;
 - k bookkeeping requirements and conditions relating to payment of the grant;
 - l conditions relating to the audit trail;
 - m provisions relating to data protection and
 - n provisions relating to publicity.
- 3 As a general rule, the grant agreement shall be signed before any of the project activities charged to the national programme begin.
- 4 The grant agreement shall expressly stipulate that the Commission, or its representatives, and the Court of Auditors exercise powers of audit over all grant beneficiaries, contractors and sub-contractors who receive Union funding under the national programme, and will do so on the basis of documentary and on-the-spot controls.

Article 11

Documents formalising grants when the Responsible Authority acts as executing body

- 1 In cases where the Responsible Authority acts as executing body, it shall lay down project management procedures which require at least to:
- a formalise an administrative decision to co-finance projects and
 - b monitor the administrative decision and any amendments thereto by administrative means such as exchanges of correspondence or written reports.
- 2 The administrative decision shall include or indicate the following:
- a maximum amount of Union contribution;
 - b maximum percentage of Union contribution in accordance with the relevant Specific Regulation;
 - c detailed description and timetable of the project;
 - d if applicable, any major task that the beneficiary intends to subcontract to third parties, together with the related costs;
 - e agreed forward budget and financing plan for the project, including expenditure and income, in accordance with the eligibility rules established;
 - f method for calculating the amount of Union contribution upon the project's closure;
 - g operational objectives of the project, including quantified objectives and the indicators to be used;

Status: Point in time view as at 25/07/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 1042/2014. (See end of Document for details)

- h provision requiring the Responsible Authority to collect, and report at least once a year, the requisite data for the common indicators set out in the Specific Regulation, and any programme-specific indicators, and to report these data at least once a year;
- i definition of the eligible costs, including, where applicable, a description of methodology for determining scale-of-unit costs, lump sums and flat-rate financing;
- j bookkeeping requirements and conditions relating to payment of the grant;
- k conditions relating to the audit trail;
- l provisions relating to data protection and
- m provisions relating to publicity.

3 As a general rule, the administrative decision shall be taken before any of the project activities charged to the national programme begin.

4 The administrative decision shall expressly stipulate that the Commission, or its representatives, and the Court of Auditors exercise powers of audit over all grant beneficiaries, contractors and sub-contractors who receive Union funding under the national programme, and will do so on the basis of documentary and on-the-spot controls.

CHAPTER III

STATUS OF THE AUDIT AUTHORITY AND OBLIGATIONS WITH REGARDS TO AUDITS

Article 12

Status of the Audit Authority

1 In accordance with the second subparagraph of Article 59(5) of Regulation (EU, Euratom) No 966/2012 and with Article 25(1)(b) of Regulation (EU) No 514/2014, the Audit Authority shall function independently from the Responsible Authority. Functional independence shall be deemed to exist when there is no direct hierarchical relation between the Audit Authority and the Responsible Authority, and the Audit Authority has full autonomy in its opinions and declarations.

2 All audit work shall be carried out in accordance with internationally accepted audit standards.

Article 13

Outsourcing audit work

The Audit Authority may outsource part of its audit work to another audit body, provided that this body is functionally independent from the Responsible Authority. The Audit Authority shall remain responsible for the work it outsources.

Outsourced audits shall be carried out in accordance with internationally accepted audit standards and under the close monitoring and supervision of the Audit Authority.

Status: Point in time view as at 25/07/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 1042/2014. (See end of Document for details)

Article 14

Audits

1 To deliver the opinion referred to in the second subparagraph of Article 59(5) of Regulation (EU, Euratom) No 966/2012 the Audit Authority shall conduct system and financial audits.

2 System audits shall verify whether the Responsible Authority's management and control systems have functioned effectively so as to give reasonable assurance that the expenditure included in the annual accounts is legal and regular. Based on these audits, the Audit Authority shall determine whether the Responsible Authority continues to comply with the designation criteria set out in the Annex.

3 Financial audits shall be performed to provide reasonable assurance that the annual accounts give a true and fair view of the expenditure declared by the Responsible Authority.

In order to conclude whether the accounts give a true and fair view, the Audit Authority shall verify that all elements of expenditure paid and public contributions received and entered into the accounts of the Responsible Authority in the financial year are correctly recorded in the accounting system and correspond to the supporting accounting records maintained by the Responsible Authority. The Audit Authority shall in particular, on the basis of these accounts:

- a verify that the total amount of eligible expenditure declared in the request for payment of the annual balance submitted to the Commission agrees with the expenditure in the accounts of the Responsible Authority and, if there are differences, that adequate explanations have been provided in the accounts for the reconciling amounts;
- b verify that the amounts withdrawn and recovered, the amounts to be recovered, and the irrecoverable amounts as at the end of the financial year, correspond to the amounts entered in the accounting system of the Responsible Authority and are supported by documented decisions of the Responsible Authority;
- c ascertain that the Responsible Authority has performed the administrative and on-the-spot controls in compliance with Article 27 of Regulation (EU) No 514/2014.

Verifications referred to in points (a), (b) and (c) may be carried out on a sample basis.

4 As part of its system and financial audits, the Audit Authority shall re-perform some of the administrative or on-the-spot controls that were carried out by the Responsible Authority. The Audit Authority shall determine the extent of re-performance audit work based on its risk assessment.

5 If the Audit Authority's system or financial audits identify material weaknesses in the effective functioning of the Responsible Authority's management and control systems, the Audit Authority shall:

- a assess the financial and operational impact of these weaknesses;
- b make appropriate recommendations to the Responsible Authority for corrective and preventive measures;
- c monitor the Responsible Authority's implementation of these measures and assess whether an action plan to restore the effective functioning of the management and control systems is in place.

Status: Point in time view as at 25/07/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 1042/2014. (See end of Document for details)

6 Upon completing its audit activities referred to in paragraphs 1, 2 and 3, the Audit Authority shall report its findings to the designating authority, including whether, in its opinion, the Responsible Authority continues to comply with the designation criteria.

7 The Audit Authority shall ensure that all information related to its audit activities referred to in paragraphs 1, 2 and 3 is adequately reported by the Responsible Authority to the European Commission.

CHAPTER IV

FINAL PROVISION

Article 15

Entry into force

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels, 25 July 2014.

For the Commission

The President

José Manuel BARROSO

Status: Point in time view as at 25/07/2014.

Changes to legislation: There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 1042/2014. (See end of Document for details)

- (1) Commission Implementing Regulation (EU) No 802/2014 of 24 July 2014 establishing models for national programmes and establishing the terms and conditions of the electronic data exchange system between the Commission and Member States pursuant to Regulation (EU) No 514/2014 of the European Parliament and of the Council laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, prevention and combating crime and crisis management ([OJ L 219, 25.7.2014, p. 22](#)).

Status:

Point in time view as at 25/07/2014.

Changes to legislation:

There are currently no known outstanding effects for the Commission Delegated Regulation (EU) No 1042/2014.