

Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012

PART ONE

FINANCIAL REGULATION

TITLE VIII

GRANTS

CHAPTER 1

Scope and form of grants

Article 180

Scope and form of grants

- 1 This Title applies to grants awarded under direct management.
- 2 Grants may be awarded in order to finance any of the following:
 - a an action intended to help achieve a Union policy objective ('action grants');
 - b the functioning of a body which has an objective forming part of, and supporting, a Union policy ('operating grants').

Operating grants shall take the form of a financial contribution to the work programme of the body referred to in point (b) of the first subparagraph.

- 3 Grants may take any of the forms provided for in Article 125(1).

Where the grant takes the form of financing not linked to costs pursuant to point (a) of the first subparagraph of Article 125(1):

- a the provisions related to eligibility and verification of costs laid down in this Title, in particular Articles 182, 184 and 185, Article 186(2), (3) and (4), Article 190, Articles 191(3) and 203(4), shall not apply;
 - b as regards Article 181, only the procedure and the requirements referred to in paragraphs 2 and 3 of that Article, points (a) and (d) of the first subparagraph and the second subparagraph of paragraph 4, and paragraph 5, of that Article shall apply.
- 4 Each Union institution may award public contracts or grants for communication activities. Grants may be awarded where the use of procurement is not appropriate due to the nature of activities.

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5 The JRC may receive funding charged to appropriations other than research and technological development appropriations in respect of its participation in grant award procedures financed in whole or in part from the budget. In such cases, Article 198(4), as far as financial capacity is concerned, and points (a) to (d) of Article 196(1) shall not apply.

Article 181

Lump sums, unit costs and flat-rate financing

1 Where the grant takes the form of lump sums, unit costs or flat-rate financing as referred to in point (c), (d) or (e) of the first subparagraph of Article 125(1), this Title shall apply, with the exception of the provisions or parts of the provisions related to the verification of eligible costs actually incurred.

2 Where possible and appropriate, lump sums, unit costs or flat rates shall be determined in such a way as to allow their payment upon achievement of concrete outputs and/or results.

3 Unless otherwise provided in the basic act, the use of lump sums, unit costs or flat-rate financing shall be authorised by a decision of the authorising officer responsible, who shall act in accordance with the internal rules of the Union institution concerned.

4 The authorisation decision shall contain at least 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 be considered eligible in accordance with points (c), (e) and (f) of Article 186(3) and Article 186(4), and 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. Those methods shall be based on one of the following:
 - (i) statistical data, similar objective means or an expert judgement provided by internally available experts or procured in accordance with the applicable rules; or
 - (ii) beneficiary-by-beneficiary approach, by reference to certified or auditable historical data of the beneficiary or to its usual cost accounting practices;
- d where possible, the essential conditions triggering the payment, including, where applicable, the achievement of outputs and/or results;
- e where lump sums, unit costs and flat rates are not output based and/or result based, a justification on why an output based and/or result based approach is not possible or appropriate.

The methods referred to in point (c) of the first subparagraph shall ensure:

- a the respect for the principle of sound financial management, in particular the appropriateness of the respective amounts with regard to the required outputs and/or results taking into account foreseeable revenue to be generated by the actions or work programmes;
- b reasonable compliance with the principles of co-financing and no double funding.

5 The authorisation decision shall apply for the duration of the programme or programmes unless otherwise provided in that decision.

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The authorisation decision may cover the use of lump sums, unit costs or flat rates applicable to more than one specific funding programme where the nature of the activities or of the expenditure allow for a common approach. In such cases, the authorising decision may be adopted by the following:

- a the authorising officers responsible where all activities concerned fall under their responsibility;
- b the Commission where this is appropriate in view of the nature of the activities or of the expenditure or in view of the number of authorising officers concerned.

6 The authorising officer responsible 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. A higher flat rate may be authorised by a reasoned Commission decision. The authorising officer responsible shall report in the annual activity report referred to in Article 74(9) on any such decision taken, the flat rate authorised and the reasons leading to that decision.

7 SME owners and other natural persons who do not receive a salary may declare eligible personnel costs for the work carried out by themselves under an action or work programme, on the basis of unit costs authorised in accordance with paragraphs 1 to 6.

8 Beneficiaries may declare personnel costs for the work carried out by volunteers under an action or work programme, on the basis of unit costs authorised in accordance with paragraphs 1 to 6.

Article 182

Single lump sums

1 A lump sum as referred to in point (d) of the first subparagraph of Article 125(1) may cover the entire eligible costs of an action or a work programme ('single lump sum').

2 In accordance with Article 181(4), single lump sums may be determined on the basis of the estimated budget of the action or work programme. Such estimated budget shall comply with the principles of economy, efficiency and effectiveness. The compliance with those principles shall be verified *ex ante* at the time of evaluation of the grant application.

3 When authorising single lump sums the authorising officer responsible shall comply with Article 181.

Article 183

Checks and controls on beneficiaries related to lump sums, unit costs and flat rates

1 The authorising officer responsible shall check, at the latest before the payment of the balance, the fulfilment of the conditions triggering the payment of lump sums, unit costs or flat-rates, including, where required, the achievement of outputs and/or results. In addition, the fulfilment of those conditions may be subject to *ex post* controls.

The amounts of lump sums, unit costs or flat-rate financing determined *ex ante* by application of the method authorised by the authorising officer responsible or the Commission in accordance with Article 181 shall not be challenged by *ex post* controls. This is without prejudice to the right of the authorising officer responsible to check that the conditions triggering the payment as referred to in the first subparagraph of this paragraph are fulfilled, and to reduce the grant in accordance with Article 131(4) where

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those conditions are not fulfilled or in the event of irregularity, fraud or a breach of other obligations. Where lump sums, unit costs or flat rates are established on the basis of the usual cost accounting practices of the beneficiary Article 185(2) shall apply.

2 The frequency and scope of checks and controls may depend, inter alia, upon the nature of the action or the beneficiary, including past irregularities or fraud attributable to that beneficiary.

3 The conditions triggering the payment of lump sums, unit costs or flat-rates shall not require reporting on the costs actually incurred by the beneficiary.

4 Payment of the grant on the basis of lump sums, unit costs or flat-rate financing shall not affect the right of access to the statutory records of the beneficiaries for the purposes referred to in Articles 129 and 184.

5 For the purposes of the checks and controls referred to in paragraph 1 of this Article, points (a) and (b) of Article 186(3) shall apply.

Article 184

Periodic assessment of lump sums, unit costs or flat-rates

The method for determining lump sums, unit costs or flat rates, the underlying data and the resulting amounts, as well as the adequateness of those amounts with regard to the output and/or results delivered, shall be assessed periodically and, where appropriate, adjusted in accordance with Article 181. The frequency and scope of assessments shall depend on the evolution and the nature of the costs, in particular taking into account substantial changes in market prices and other relevant circumstances.

Article 185

Usual cost accounting practices of the beneficiary

1 Where recourse to the usual cost accounting practices of the beneficiary is authorised, the authorising officer responsible may assess compliance of those practices with the conditions set out in Article 181(4). That assessment may be carried out *ex ante* or by using an appropriate strategy for *ex post* controls.

2 If the compliance of the beneficiary's usual cost accounting practices with the conditions set out in Article 181(4) 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. This shall not affect the right of the authorising officer responsible to reduce the grant in accordance with Article 131(4).

3 The authorising officer responsible may consider that the usual cost accounting practices of the beneficiary comply with the conditions set out in Article 181(4) if they are accepted by national authorities under comparable funding schemes.

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Article 186

Eligible costs

1 Grants shall not exceed an overall ceiling expressed in terms of an absolute value ('maximum grant amount') which shall be established on the basis of:

- a the overall amount of financing not linked to costs in the case referred to in point (a) of the first subparagraph of Article 125(1);
- b estimated eligible costs, where possible, in the case referred to in point (b) of the first subparagraph of Article 125(1);
- c the overall amount of the estimated eligible costs clearly defined in advance in the form of lump sums, unit costs or flat rates as referred to in points (c), (d) and (e) of the first subparagraph of Article 125(1).

Without prejudice to the basic act, grants may in addition be expressed as a percentage of the estimated eligible costs, where the grant takes the form specified in point (b) of the first subparagraph, or as a percentage of the lump sums, unit costs or flat rate financing referred to in point (c) of the first subparagraph.

Where the grant takes the form specified in point (b) of the first subparagraph of this paragraph and where, due to specificities of an action, the grant can only be expressed in terms of an absolute value, the verification of the eligible costs shall be done in accordance with Article 155(4) and, where applicable, Article 155(5).

2 Without prejudice to the maximum co-financing rate specified in the basic act:

- a the grant shall not exceed the eligible costs;
- b where the grant takes the form specified in point (b) of the first subparagraph of paragraph 1 and where the estimated eligible costs include costs for volunteers' work referred to in Article 181(8), the grant shall not exceed the estimated eligible costs other than the costs for volunteers' work.

3 Eligible costs actually incurred by the beneficiary, as referred to in point (b) of the first subparagraph of Article 125(1), shall meet all of the following criteria:

- a they are incurred during the duration of the action or of the work programme, with the exception of costs relating to final reports and audit certificates;
- b they are indicated in the estimated overall budget of the action or work programme;
- c they are necessary for the implementation of the action or of the work programme which is the subject of the grant;
- d they are identifiable and verifiable, in particular being recorded in the accounting records of the beneficiary and determined according to the applicable accounting standards of the country where the beneficiary is established and according to the usual cost accounting practices of the beneficiary;
- e they comply with the requirements of applicable tax and social legislation;
- f they are reasonable, justified, and comply with the principle of sound financial management, in particular regarding economy and efficiency.

4 Calls for proposals shall specify the categories of costs considered as eligible for Union funding.

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Unless provided otherwise in the basic act and in addition to paragraph 3 of this Article, the following categories of costs shall be eligible where the authorising officer responsible has declared them as such under the call for proposals:

- a costs relating to a pre-financing guarantee lodged by the beneficiary, where that guarantee is required by the authorising officer responsible pursuant to Article 152(1);
- b costs relating to certificates on the financial statements and operational verification reports, where such certificates or reports are required by the authorising officer responsible;
- c VAT, where it is not recoverable under the applicable national VAT legislation and is paid by a beneficiary other than a non-taxable person within the meaning of the first subparagraph of Article 13(1) of Council Directive 2006/112/EC⁽¹⁾;
- d depreciation costs, provided they are actually incurred by the beneficiary;
- e salary costs of the personnel of national administrations to the extent that they relate to the cost of activities which the relevant public authority would not carry out if the project concerned were not undertaken.

For the purposes of point (c) of the second subparagraph:

- a VAT shall be considered as not recoverable if according to national law it is attributable to any of the following activities:
 - (i) exempt activities without right of deduction;
 - (ii) activities which fall outside the scope of VAT;
 - (iii) activities, as referred to in point (i) or (ii), in respect of which VAT is not deductible but refunded by means of specific refund schemes or compensation funds not referred to in Directive 2006/112/EC, even if that scheme or fund is established by national VAT legislation;
- b 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 within the meaning of 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 187

Affiliated entities and sole beneficiary

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

- a entities forming the sole beneficiary in accordance with paragraph 2;
- b entities that satisfy the eligibility criteria and that do not fall within one of the situations referred to in Articles 136(1) and 141(1) 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.

Section 2 of Chapter 2 of Title V shall apply also to affiliated entities.

2 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.

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3 Unless otherwise provided in the call for proposals, entities affiliated to a beneficiary may participate in the implementation of the action, provided that both of the following conditions are fulfilled:

- a the entities concerned are identified in the grant agreement;
- b the entities concerned abide by the rules applicable to the beneficiary under the grant agreement with regard to:
 - (i) eligibility of costs or conditions triggering the payment;
 - (ii) rights of checks and audits by the Commission, OLAF and the Court of Auditors.

Costs incurred by such entities may be accepted as eligible costs actually incurred or may be covered by lump sums, unit costs and flat-rate financing.

CHAPTER 2

Principles

Article 188

General principles applicable to grants

Grants shall be subject to the principles of:

- (a) equal treatment;
- (b) transparency;
- (c) co-financing;
- (d) non-cumulative award and no double financing;
- (e) non-retroactivity;
- (f) no-profit.

Article 189

Transparency

1 Grants shall be awarded following a publication of calls for proposals, except in the cases referred to in Article 195.

2 All grants awarded in the course of a financial year shall be published in accordance with Article 38(1) to (4).

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

- a the number of applicants in the preceding financial year;
- b the number and percentage of successful applications per call for proposals;
- c the average duration of the procedure from the date of closure of the call for proposals to the award of a grant;

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- d the number and amount of grants for which an *ex post* publication did not take place in the preceding financial year in accordance with Article 38(4).
- e any grant awarded to financial institutions, including the EIB or the EIF in accordance with point (g) of the first paragraph of Article 195.

Article 190

Co-financing

1 Grants shall involve co-financing. As a result, the resources necessary to carry out the action or the work programme shall not be provided entirely by the grant.

Co-financing may be provided in 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 from third parties in the form of volunteers' work valued in accordance with Article 181(8) shall be presented as eligible costs in the estimated budget. They shall be presented separately from other eligible costs. Volunteers' work may comprise up to 50 % of the co-financing. For the purposes of calculating that percentage, in-kind contributions and other co-financing shall be based on the estimates provided by the applicant.

Other in-kind contributions from third parties shall be presented separately from the contributions to the eligible costs in the estimated budget. Their approximate value shall be indicated in the estimated budget and shall not be subject to subsequent changes.

3 By way of derogation from paragraph 1, an external action may be financed in full by the grant where this is essential for it to be carried out. In such a case, justification shall be provided in the award decision.

4 This Article shall not apply to interest rate rebates and guarantee fee subsidies.

Article 191

Principle of non-cumulative award and prohibition of double funding

1 Each action may give rise to the award of only one grant from the budget to any one beneficiary, except where otherwise authorised in the relevant basic acts.

A beneficiary may be awarded only one operating grant from the budget per financial year.

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

2 The applicant shall immediately inform the authorising officers of any multiple applications and multiple grants relating to the same action or to the same work programme.

3 In no circumstances shall the same costs be financed twice by the budget.

4 In relation to the following types of support, paragraphs 1 and 2 shall not apply and, where appropriate, the Commission may decide not to verify whether the same cost was financed twice:

- a study, research, training or education support paid to natural persons;

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- b direct support paid to natural persons most in need, such as unemployed persons and refugees.

Article 192

No-profit principle

1 Grants shall not have the purpose or effect of producing a profit within the framework of the action or the work programme of the beneficiary ('no-profit principle').

2 For the purposes of paragraph 1, a profit shall be defined as a surplus, calculated at the payment of the balance, of receipts over the eligible costs of the action or work programme, where receipts are limited to the Union grant and the revenue generated by that action or work programme.

In the case of an operating grant, amounts dedicated to the building up of reserves shall not be taken into account for verifying compliance with the no-profit principle.

- 3 Paragraph 1 shall not apply to:
- a actions the objective of which is the reinforcement of the financial capacity of a beneficiary, or actions which generate income to ensure their continuity after the period of Union financing provided for in the grant agreement;
 - b study, research, training or education support paid to natural persons or other direct support paid to natural persons most in need, such as unemployed persons and refugees;
 - c actions implemented by non-profit organisations;
 - d grants in the form referred to in point (a) of the first subparagraph of Article 125(1);
 - e low value grants.

4 Where a profit is made, the Commission shall be entitled to recover the percentage of the profit corresponding to the Union contribution to the eligible costs actually incurred by the beneficiary in carrying out the action or work programme.

Article 193

Principle of non-retroactivity

1 Unless otherwise provided in this Article grants shall not be awarded retroactively.

2 A grant may be awarded for an action which has already begun provided that the applicant can demonstrate the need for starting the action prior to signature of the grant agreement.

In such cases, costs incurred prior to the date of submission of the grant application shall not be eligible, except:

- a in duly justified exceptional cases as provided for in the basic act; or
- b in the event of extreme urgency for measures referred to in point (a) or (b) of the first paragraph of Article 195 whereby an early intervention by the Union would be of major importance.

In the case referred to in point (b) of the second subparagraph, the costs incurred by a beneficiary before the date of submission of the application shall be eligible for Union financing under the following conditions:

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- a the reasons for such derogation have been properly substantiated by the authorising officer responsible;
- b the grant agreement explicitly sets the eligibility date earlier than the date for submission of applications.

The authorising officer by delegation shall report on each of the cases referred to in this paragraph under the heading ‘Derogations from the principle of non-retroactivity pursuant to Article 193 of the Financial Regulation’ in the annual activity report referred to in Article 74(9).

3 Grants shall not be awarded retroactively for actions already completed.

4 In the case of operating grants, the grant agreement shall be signed within four months of the start of the beneficiary’s financial year. Costs incurred before the grant application was submitted or before the start of the beneficiary’s financial year shall not be eligible for financing. The first instalment shall be paid to the beneficiary within 30 calendar days of the signature of the grant agreement.

CHAPTER 3

Grant award procedure and grant agreement

Article 194

Content and publication of calls for proposals

- 1 Calls for proposals shall specify:
- a the objectives pursued;
 - b the eligibility, exclusion, selection and award criteria and the relevant supporting documents;
 - c the arrangements for Union financing, specifying all types of Union contributions, in particular the forms of grant;
 - d the arrangements and final date for the submission of proposals;
 - e 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.
- 2 The dates referred to in point (e) of paragraph 1 shall be fixed on the basis of the following periods:
- a for informing all applicants of the outcome of the evaluation of their application, a maximum of six months from the final date for submission of complete proposals;
 - b for signing grant agreements with applicants, a maximum of three months from the date of informing applicants that they have been successful.

Those periods may be adjusted in order to take into account any time needed to comply with specific procedures that may be required by the basic act in accordance with Regulation (EU) No 182/2011 and may be exceeded in exceptional, duly justified cases, in particular for complex actions, where there is a large number of proposals or delays attributable to the applicants.

The authorising officer by delegation shall report in his or her annual activity report on the average time taken to inform applicants and to sign grant agreements. In the event of

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the periods referred to in the first subparagraph being exceeded, the authorising officer by delegation shall give reasons and, where not duly justified in accordance with the second subparagraph, shall propose remedial action.

3 Calls for proposals shall be published on the website of Union institutions and by any other appropriate means, including the *Official Journal of the European Union*, where it is necessary to provide additional publicity among potential beneficiaries. Calls for proposals may be published subject to the adoption of the financing decision referred to in Article 110, including during the year preceding budget implementation. Any modification of the content of the calls for proposals shall be published under the same conditions.

Article 195

Exceptions to calls for proposals

Grants may be awarded without a call for proposals only in the following cases:

- (a) for the purposes of humanitarian aid, emergency support operations, civil protection operations or crisis management aid;
- (b) in other exceptional and duly substantiated emergencies;
- (c) to bodies with a de jure or de facto monopoly or to bodies designated by Member States, under their responsibility, where those Member States are in a de jure or de facto monopoly situation;
- (d) to bodies identified by a basic act, within the meaning of Article 58, as beneficiaries or to bodies designated by Member States, under their responsibility, where those Member States are identified by a basic act as beneficiaries;
- (e) in the case of research and technological development, to bodies identified in the work programme referred to in Article 110, 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 activities with specific characteristics that require a particular type of body on account of its technical competence, its high degree of specialisation or its administrative powers, on condition that the activities concerned do not fall within the scope of a call for proposals;
- (g) to the EIB or the EIF for actions of technical assistance. In such cases, points (a) to (d) of Article 196(1) shall not apply.

Where the particular type of body referred to in point (f) of the first paragraph is a Member State, the grant may also be awarded without a call for proposals to the body designated by the Member State, under its responsibility, for the purpose of implementing the action.

The cases referred to in points (c) and (f) of the first paragraph shall be duly substantiated in the award decision.

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Article 196

Content of grant applications

- 1 The grant application shall contain the following:
 - a information on the legal status of the applicant;
 - b a declaration on the applicant's honour in accordance with Article 137(1) and on compliance with the eligibility and selection criteria;
 - c information necessary to demonstrate the applicant's financial and operational capacity to carry out the proposed action or work programme and, if decided by the authorising officer responsible on the basis of a risk assessment, supporting documents confirming that information, such as the profit and loss account and the balance sheet for up to the three last financial years for which the accounts were closed;

Such information and supporting documents shall not be requested from applicants to which the verification of the financial or operational capacity does not apply in accordance with Article 198(5) or (6). In addition, supporting documents shall not be requested for low value grants;

- d where the application concerns a grant for an action for which the amount exceeds EUR 750 000 or an operating grant which exceeds EUR 100 000, an audit report produced by an approved external auditor, where it is available, and always in cases where a statutory audit is required by Union or national law, certifying the accounts for up to the last three available financial years. In all other cases, the applicant shall provide a self-declaration signed by its authorised representative certifying the validity of its accounts for up to the last three available financial years;

The first subparagraph 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 the case of partnerships referred to in Article 130(4), the audit report referred to in the first subparagraph of this point, covering the last two financial years available, must be produced before signature of the financial framework partnership agreement.

The authorising officer responsible may, depending on a risk assessment, waive the obligation referred to in the first subparagraph for education and training establishments and, in the 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 shall not apply to persons and entities eligible under indirect management to the extent that they comply with the conditions specified in point (c) of the first subparagraph of Article 62(1) and in Article 154;

- e a description of the action or work programme and an estimated budget, which:
 - (i) shall have revenue and expenditure in balance; and
 - (ii) shall indicate the estimated eligible costs of the action or work programme.

Points (i) and (ii) shall not apply to multi-donor actions.

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By way of derogation from point (i), in duly justified cases, the estimated budget may include provisions for contingencies or possible variations in exchange rates;

- f indication of the sources and amounts of Union funding received or applied for in respect of the same action or part of the action or for the functioning of the applicant during the same financial year as well as any other funding received or applied for the same action.
- 2 The application may be divided in several parts that may be submitted at different stages in accordance with Article 200(2).

Article 197

Eligibility criteria

- 1 The eligibility criteria shall determine the conditions for participating in a call for proposals.
- 2 Any of the following applicants shall be eligible for participating in a call for proposals:
- a legal persons;
 - b natural persons, in so far as this is required by the nature or characteristics of the action or the objective pursued by the applicant;
 - c entities which do not have legal personality under the applicable national law, provided that their representatives have the capacity to undertake legal obligations on behalf of the entities and that the entities offer guarantees for the protection of the financial interests of the Union equivalent to those offered by legal persons. In particular the applicant shall have a financial and operational capacity equivalent to that of a legal person. The representatives of the applicant shall prove that those conditions are satisfied.
- 3 The call for proposals may lay down additional eligibility criteria which shall be established with due regard for the objectives of the action and shall comply with the principles of transparency and non-discrimination.
- 4 For the purposes of Article 180(5) and of this Article, the JRC shall be considered as a legal person established in a Member State.

Article 198

Selection criteria

- 1 The selection criteria shall be such as to make it possible to assess the applicant's ability to complete the proposed action or work programme.
- 2 The applicant shall have stable and sufficient sources of funding to maintain his or her activity throughout the period for which the grant is awarded and to participate in its funding ('financial capacity').
- 3 The applicant shall have the professional competencies and qualifications required to complete the proposed action or work programme unless specifically provided otherwise in the basic act ('operational capacity').

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4 Financial and operational capacity shall be verified in particular on the basis of an analysis of any information or supporting documents referred to in Article 196.

If no supporting documents were requested in the call for proposals and if the authorising officer responsible has reasonable grounds to question the financial or operational capacity of an applicant, he or she shall request the applicant to provide any appropriate documents.

In the case of partnerships the verification shall be performed in accordance with Article 130(6).

- 5 The verification of financial capacity shall not apply to:
- a natural persons in receipt of education support;
 - b natural persons most in need, such as unemployed persons and refugees, and in receipt of direct support;
 - c public bodies, including Member State organisations;
 - d international organisations;
 - e persons or entities applying for interest rate rebates and guarantee fee subsidies where the objective of those rebates and subsidies is to reinforce the financial capacity of a beneficiary or to generate an income.
- 6 The authorising officer responsible may, depending on a risk assessment, waive the obligation to verify the operational capacity of public bodies, Member State organisations or international organisations.

Article 199

Award criteria

The award criteria shall be such as to make it possible to:

- (a) assess the quality of the proposals submitted in the light of the objectives and priorities set and of the expected results;
- (b) award grants to the actions or to the work programmes which maximise the overall effectiveness of the Union funding;
- (c) evaluate the grant applications.

Article 200

Evaluation procedure

1 Proposals shall be evaluated, on the basis of the pre-announced selection and award criteria, with a view to determining which proposals may be financed.

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.

The applicants whose proposals are rejected at any stage shall be informed in accordance with paragraph 7.

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

3 The evaluation committee referred to in Article 150 or, where appropriate, the authorising officer responsible may ask an applicant to provide additional information or to clarify the supporting documents submitted in accordance with Article 151. 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.

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.

6 The authorising officer responsible shall, on the basis of the evaluation, take his or her decision giving at least:

- a the subject and the overall amount of the decision;
- b the names 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.

7 The authorising officer responsible shall inform applicants in writing of the decision on their application. If the grant requested is not awarded, the Union institution concerned shall give the reasons for the rejection of the application. 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.

8 For grants awarded pursuant to Article 195, the authorising officer responsible may:

- a decide not to apply paragraphs 2 and 4 of this Article and Article 150;
- b merge the content of the evaluation report and the award decision into a single document and sign it.

Article 201

Grant agreement

1 Grants shall be covered by a written agreement.

2 The grant agreement shall at least include the following:

- a the subject;
- b the beneficiary;
- c the duration, namely:
 - (i) the date of its entry into force;

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- (ii) the starting date and the duration of the action or the financial year of the funding;
 - d a description of the action or, for an operating grant, of the work programme together with a description of the results expected;
 - e the maximum amount of Union funding expressed in euro, the estimated budget of the action or work programme and the form of the grant;
 - f the rules regarding reporting and payments and the procurement rules provided for in Article 205;
 - g the acceptance by the beneficiary of the obligations referred to in Article 129;
 - h provisions governing the visibility of the Union financial support, except in duly justified cases where public display is not possible or appropriate;
 - i the applicable law which shall be Union law, complemented, where necessary, by national law as specified in the grant agreement. Derogation may be made in the grant agreements concluded with international organisations;
 - j the competent court or arbitration tribunal to hear disputes.
- 3 Pecuniary obligations of entities or persons other than States arising from the implementation of a grant agreement shall be enforceable in accordance with Article 100(2).
- 4 Amendments to grant agreements shall not have the purpose or the effect of making such changes that would call into question the grant award decision or be contrary to the principle of equal treatment of applicants.

CHAPTER 4

Implementation of grants

Article 202

Amount of the grant and extension of audit findings

1 The amount of the grant shall not become final until after the authorising officer responsible has approved the final reports and, where applicable, the accounts, without prejudice to subsequent audits, checks and investigations by the Union institution concerned, OLAF or the Court of Auditors. Article 131(4) shall apply also after the amount of the grant has become final.

2 Where controls or audits demonstrate systemic or recurrent irregularities, fraud or a breach of obligations attributable to the beneficiary and having a material impact on a number of grants awarded to that beneficiary under similar conditions, the authorising officer responsible may suspend the implementation of the grant agreement or payments under all the grants concerned or, where appropriate, terminate the grant agreements concerned with that beneficiary, having regard to the seriousness of the findings.

The authorising officer responsible may, in addition, reduce the grants, reject ineligible costs and recover amounts unduly paid in respect of all the grants affected by the systemic or recurrent irregularities, fraud or breach of obligations referred to in the first subparagraph that may be subject to audits, checks and investigations in accordance with the grant agreements affected.

3 The authorising officer responsible shall determine the amounts to be reduced or recovered, wherever possible and practicable, on the basis of costs unduly declared as eligible

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for each grant concerned, following acceptance of the revised reports and financial statements submitted by the beneficiary.

4 Where it is not possible or practicable to quantify precisely the amount of ineligible costs for each grant concerned, the amounts to be reduced or recovered may be determined by extrapolating the reduction or recovery rate applied to the grants for which the systemic or recurrent irregularities, fraud or breach of obligations have been demonstrated, or, where ineligible costs cannot serve as a basis for determining the amounts to be reduced or recovered, by applying a flat rate, having regard to the principle of proportionality. The beneficiary shall be given the opportunity to propose a duly substantiated alternative method or rate before the reduction or recovery is made.

Article 203

Supporting documents for payment requests

1 The authorising officer responsible shall specify the supporting documents required to accompany payment requests.

2 For each grant, pre-financing may be split into several instalments in accordance with sound financial management. The request for a further pre-financing instalment shall be accompanied by a beneficiary's statement on the consumption of previous pre-financing. The instalment shall be paid in full if at least 70 % of the total amount of any earlier pre-financing has been consumed. Otherwise, the instalment shall be reduced by the amounts still to be consumed until that threshold is reached.

3 The beneficiary shall, without prejudice to the obligation to provide supporting documents, certify on its honour that information contained in payment requests is full, reliable and true. The beneficiary shall also certify that the costs incurred are eligible in accordance with the grant agreement and that payment requests are substantiated by adequate supporting documents that may be checked.

4 A certificate on the financial statements of the action or the work programme and underlying accounts may be demanded by the authorising officer responsible in support of interim payments or payments of balances of any amount. Such a certificate shall be requested on the basis of a risk assessment taking into account, in particular, the amount of the grant, the amount of the payment, the nature of the beneficiary and the nature of the supported activities.

The certificate shall be produced by an approved external auditor or, in the case of public bodies, by a competent and independent public officer.

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. 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.

5 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. The operational 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.

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Article 204

Financial support to third parties

Where implementation of an action or a work programme requires the provision of financial support to third parties, the beneficiary may provide such financial support if the conditions for such provision are defined in the grant agreement between the beneficiary and the Commission, with no margin for discretion by the beneficiary.

No margin for discretion shall be considered to exist if the grant agreement 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 and the criteria for determining the exact amount;
- (b) the different types of activities 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 for providing it.

The threshold referred to in point (a) of the second paragraph may be exceeded where achieving the objectives of the actions would otherwise be impossible or overly difficult.

Article 205

Implementation contracts

1 Without prejudice to Directive 2014/24/EU and Directive 2014/25/EU of the European Parliament and of the Council⁽²⁾, where the implementation of the action or work programme requires the award of a public contract, the beneficiary may award the public contract in accordance with its usual purchasing practices provided that the public contract is awarded 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 action or work programme requires the award of a public contract with a value of more than EUR 60 000, the authorising officer responsible may, if duly justified, 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 this Regulation and shall be proportionate to the value of the public 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 agreement.

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- (1) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).
- (2) Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (OJ L 94, 28.3.2014, p. 243).

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