

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 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 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.

## 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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*Status: This is the original version (as it was originally adopted).*

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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').

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.

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;

- (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.