

REVIEW OF THE FINANCIAL REGULATION

Public consultation

INTRODUCTION

Second triennial review of the Financial Regulation & its Implementing Rules– call for contributions

This is an invitation to contribute to a public consultation on the financial rules for the programmes funded by the budget of the European Union (EU). Contributions will help the Commission in its second review of the Financial Regulation (FR)¹ and its Implementing Rules (IR)². The Commission will present its proposals in mid-2010.

These regulations contain the financial rules which must be respected to ensure that Community funds are spent efficiently and effectively for the purpose intended by the budgetary and legislative authority of the European Union (European Parliament and Council).

A synoptic overview of these pieces of legislation is available on the following website:

http://ec.europa.eu/budget/documents/financial_regulation_en.htm

An open and targeted consultation...

The Commission's approach is one of openness: it will prepare this review with no preconceptions and encourages all interested parties to send a contribution. In particular, the Commission counts on contributors' valuable experience as project managers and beneficiaries of public funding. Any best practice examples of funding requirements involving other international, European, national or local funders are of particular interest. The Commission is eager to receive contributions which can help make project implementation more user-friendly and administratively less burdensome, while ensuring a strict and adequate monitoring and control of tax payers' money by the Commission.

All stakeholders are invited to express their views on current rules, how they impact their day-to-day business and to suggest ways of improvement.

In order to make the task easier, the Commission has identified two major topics which may most directly concern recipients of EU funds (potential contractors, grant beneficiaries and other partners). These topics are:

- The award of grants³;
- The Commission's handling of financial files.

However, **any contribution relating to other topics** covered by the Financial Regulation will be appreciated and will feed the Commission's own thinking.

For your convenience and ease of reading, [hyperlinks](#) are included hereafter to any reference made to specific articles of the Financial Regulation or its Implementing Rules.

¹ Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities, OJ L248 of 16.9.2002, p. 1.

² Commission Regulation (EC, Euratom), No 2342/2002 of 23 December 2002 (OJ L357 of 31.12.2002, p. 1).

³ Although public procurement rules are important for potential contractors, the rules laid down in the Financial Regulation stem from the procurement directives adopted by the Council and the European Parliament within the framework of the World Trade Organisation's Government Procurement Agreement. Therefore, modifications to procurement rules in the Financial Regulation can only be limited in scope.

On how best to prepare the next generation of EU programmes

The Commission is responsible for the implementation of the Budget of the European Union and is committed to the simplification of applicable financial rules. The last revision of the Financial Regulation already improved simplification and transparency. However, the current political and economic challenges call for further improvements while preserving the budget against misspending and fraud. In addition, the Commission recently committed itself to tougher targets for payment-times⁴.

The public consultation in 2007 on the Budget Reform already sent a clear message on the urgent need for more efficient delivery mechanisms and a thorough simplification of rules and procedures. This message also needs to be delivered in the next multiannual Financial Framework (post-2013) and future EU programmes in all policy areas.

A democratic debate

Once the Commission has presented its proposal, the European Parliament and Council will then start negotiating. Under the Lisbon Treaty, the Financial Regulation is to be jointly adopted by the European Parliament and Council, after consultation of the Court of Auditors, under the ordinary legislative procedure, which gives an equal voice to both institutions.

1 - GRANTS

Background: According to the Financial Regulation ([Title VI](#)), grants must be awarded in an open and fair manner, in particular through public calls for proposals. Grants may neither be cumulative nor awarded retrospectively. They must involve co-financing and cannot generate profit for the beneficiary. In addition, only costs actually incurred can be covered.

The Commission is determined to simplify and reshape its system for the award of grants. With this goal in mind, the following issues could be explored.

- **Information about grant opportunities:** Calls for proposals are already widely published ([Art. 110 FR](#) and [Art. 166 IR](#)), notably on the Internet.

Question 1: Are you sufficiently informed about upcoming calls for proposals in a timely manner? What improvements would you suggest?

- **Co-financing and contributions in kind** ([Art. 109 FR](#) and [Art. 172 IR](#)): EU grants must involve co-financing, sometime quite substantially. This obligation is often challenging for actors, in particular when there is no possibility to include contributions in kind like volunteer work as part of the project manager's own contribution.

Question 2: should the rules be more flexible on co-financing requirements taking into account the type of actions and project managers? How could in-kind contributions best be dealt with, while adhering to the non-profit principle?

4

- **Performance-based grants** ([Art. 108a FR](#) and [Art. 180a & 181 IR](#)): The current system for the management of grants obliges beneficiaries to meet detailed eligibility conditions and requires multiple checks throughout the duration of a project. This can sometimes discourage potential beneficiaries from even applying for a grant. More simplified management of grants could be achieved through the use of various methods (such as lump-sums, scale of unit costs and flat-rates) avoiding the current complex accounting of costs. The Commission could also envisage a new management system to cover costs based on the expected outputs of a project, i.e. the concrete objectives which are achieved.

Question 3: Should the use of lump sums, flat rates become the norm rather than the exception? Should the rules allow for costs to be covered on the basis of expected outputs? If yes, can you provide concrete examples?

- **Non profit rule** ([Art. 109 FR](#) and [Art. 165 IR](#)): EU grants cannot generate profit for beneficiaries since a subsidy should remain a mere incentive to support projects rather than have a commercial purpose. This often creates misunderstandings between the Commission and the beneficiaries as well as excessive administrative work.

Question 4: Should the rules strictly adhere to the non-profit principle or should there be room for some flexibility in this matter? Do you have examples of good practices from other public authorities?

- **Ceilings for small grants:** Current rules on grants comply notably with the principles of co-financing ([Art. 172 IR](#)), equal treatment and fair competition ([Art. 173 IR](#)). However, some flexibility is allowed for "low" value grants (\leq EUR 25,000 [Art. 172.3 IR](#) and [Art. 173.2 IR](#)) or "very low" value grants (\leq EUR 5,000 [Art. 114.3 FR](#) and [Art. 175b IR](#)).

Question 5: What, in your view, would be the appropriate amount for low and very low value grants?

- **Financial stability for grant applicants:** Current rules foresee a gradual decrease of 'operating' grants, i.e. financing administrative expenditure ([Art. 113.2 FR](#)), notably to encourage beneficiaries to diversify and generate own resources. For similar reasons, the duration of framework partnership agreements, established as a long-term cooperation mechanism with beneficiaries ([Art. 163 IR](#)), is limited. Such provisions could be examined in order to find the most appropriate balance between the need for financial stability and the risk of excessive reliance on EU funds.

Question 6: How could the rules on operating grants be more flexible? In which way? What are your views on the duration of framework partnership agreements?

- **'Cascading' grants involving third parties:** The possibility for a beneficiary to redistribute part of its grant through subsidies to third parties is currently strictly limited ([Art. 120 FR](#) and [Art. 184a IR](#)), with a view to notably ensuring adequate monitoring and control of tax payers' money by the Commission.

Question 7: Can you give concrete examples and types of actions where the strict limitation on cascading grants became an obstacle for achieving the goal of your action?

2 - THE COMMISSION'S HANDLING OF FINANCIAL FILES

Background: The financial handling of contracts and grants by the Commission is designed to minimise the risks of error, irregularities and fraud, and to ensure a strict and adequate monitoring and control of tax payers' money.

In practice, rules can create additional red tape and checks. The Commission is examining whether these rules can be adapted and how, so as to ensure effective project management as well as a high level of protection of the tax payers' interest.

- **Pre-financing payments to beneficiaries** ([Art. 5a FR](#)): These payments are considered as the property of the Communities until the action has been fully implemented. As a consequence, the interests generated by these payments have to be reimbursed to the EU Budget. This creates administrative and financial formalities (dedicated bank account, cash consumption analysis...) and checks.

Question 8: From your experience, what alternative solutions could be proposed for pre-financing payments while safeguarding tax payers' money?

- **Pre-financing guarantees** ([Art. 152 IR](#)): These guarantees are required to reduce the risk of EU money being lost in case the beneficiary goes bankrupt or otherwise fails to implement the project or repay the money. Yet, the corresponding amount is usually blocked by the bank guarantor, removing the advantage of the pre-financing.

Question 9: What mechanism, other than pre-financing guarantee, could be explored while ensuring adequate protection of community funds?

- **Tendering thresholds for low value contracts** ([Art. 129 IR](#)): Under certain thresholds, the procedure is simplified: contracts may be awarded on the basis of a single tenderer and payments can be paid made against invoices.

Question 10: Based on your experience, do you think current thresholds are still adequate or should they be increased, and why?

- **Paperwork for applicants** (notably [Art. 143 IR](#), [Art. 172c IR](#) and [Art. 138a IR](#)): As a rule, when participating in a tender or call for proposals, applicants are invited to provide detailed information on their organisation and to present a comprehensive proposal on their project and/or offer. To fulfil these conditions more easily, the current rules foresee the possible use of *e*-tools but, in practice, this possibility is under-utilised for various technical reasons linked, among other things, to the authentication of documents. In another effort to reduce paperwork, the Commission has also created the possibility to split the grant selection process into 2 steps ([Art. 178 IR](#)) with a view to only inviting the applicants most likely to be successful to submit a full application. However, while this new procedure reduces work for applicants, it increases the duration of the selection process quite significantly. Considering the above, one idea to continue reducing paperwork could be the introduction of a "label" system so that organisations that have successfully carried out a project and/or contract send only documents relevant to the new application.

Question 11: How could the application procedure for both grants and contracts be further improved?

HOW TO CONTRIBUTE?

This document is available on the Commission's website at:

http://ec.europa.eu/budget/consultations/FRconsult2009_en.htm

Contributions received will be published. The identity of the contributors will also be published, unless the author objects to publication of their personal data on the grounds that such publication would harm his/her legitimate interests. In this case, the contribution may be published anonymously. Otherwise, the contribution will not be published nor will its content be taken into account.

Since the launch in June 2008 of the Register for Interest Representatives (lobbyists) as part of the European Transparency Initiative, organisations are invited to use this Register to provide the Commission and the public at large with information about their objectives, funding and structures⁵. It is Commission policy that submissions from organisations will be considered as individual contributions unless the organisations have registered⁶.

The consultation will run from Monday 19 October until Friday 18 December 2009. Contributions should be sent to BUDG-FRconsult2009-Citizens@ec.europa.eu (citizens), to BUDG-FRconsult2009-Organisation@ec.europa.eu (registered organisations) or otherwise to BUDG-FRconsult2009-PublicAuthority@ec.europa.eu (public authorities).

For enquiries about this consultation: European Commission, Directorate-General for the Budget, Unit D1, BREY 12/10, B-1049 Brussels, BUDG-FRconsult2009@ec.europa.eu

⁵ <http://ec.europa.eu/transparency/regrin/>

⁶ COM(2007)127 <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/809&format=HTML&aged=0&language=EN&guiLanguage=en#fn1>