

Financial Regulation applicable to the general budget: rules for the implementation of Regulation (EC, Euratom) No 1605/2002

2005/0904(CNS) - 12/10/2005 - Legislative proposal

PURPOSE: to revise the rules for the implementation of the Financial Regulation applicable to the general budget of the European Communities.

PROPOSED ACT: Commission Regulation (EC, Euratom)

CONTENT: This draft Regulation on the revision of the implementing rules for the Financial Regulation deals with technical amendments which can be introduced under the current Financial Regulation, as requested by the Commission in the minutes of its meeting of 3 May on the occasion of the adoption of the proposal on the revision of the Financial Regulation. They aim mainly at further simplifying the administrative procedures for the institutions, economic operators and beneficiaries of grants, in particular in external actions, while maintaining a high level of protection of the Communities' financial interests in the light of the risks involved.

The main amendments considered necessary concern:

1. Budgetary principles (unity, annuality, the unit of account and of good financial management).

2. Responsibility of the accounting officer for treasury management.

3. Rules regarding imprest accounts (maximum amount which can be paid by the imprest administrator, methods of payment that can be used by imprest administrators);

4. Rules regarding liability of the financial actors: adaptation of the provisions regarding the confirmation of instructions received by an authorising officer by delegation or sub-delegation.

5. Recovery of debts: The rules on recovery of debts should be clarified and strengthened in the light of recent case law and in order to safeguard better the financial interests of the Union: recovery by offsetting has to be streamlined; bank guarantees concerning fines, periodic penalty payments and other penalties, in case of appeal by the debtor, adapted; a single system of guarantees securing a Community claim pending appeal against a fine; the content of the financing decision, which has to be adopted before any budgetary and legal commitment for expenditure implementing a basic act, needs to be further specified; payment time limits for contracts and grant agreements which depend on the approval of a report or certificate in order to ascertain that payments are made on the basis of an approved report or certificate need to be revised.

6. Public procurement and contracts

a) the management of procurement and contracts with a value below the thresholds referred to in Directive 2004/18/EC should be further facilitated. It should also be specified that all contracts with a value less than or equal to EUR 60 000 may be awarded after a negotiated procedure;

b) the implementing rules should define more precisely the procedure to be followed for certain research and development service contracts and certain service contracts intended for broadcasting which are excluded from the scope of the Directive 2004/18/EC;

c) the documentary burden should be further alleviated for economic operators and the administrative departments of the institutions, thus reducing administrative costs. To this end, for all contracts below the thresholds of Directive 2004/18/EC and in the external field, depending on the risk assessment carried out by the contracting authority, economic operators should be able to participate in a procedure on the basis of a declaration on their honour stating that they are not in one of the situations giving grounds for exclusion from that procurement procedure. However, in order to better protect the financial interests of the Communities, for high-value contracts in the external field, the economic operator to whom the contract is to be awarded should nevertheless have to provide evidence confirming the initial declaration. For the sake of clarity, all candidates and tenderers should always have to provide evidence that they are not in one of the situations giving grounds for exclusion from contracts awarded by the institutions on their own account with a value above the thresholds set out in Directive 2004/18/EC. Lastly, whenever a candidate or tenderer is required to provide evidence, the contracting authority may consider evidence provided by that candidate or tenderer in another procurement procedure launched by the same contracting authority and provided that the issuing date of the documents does not exceed six months. Regarding the technical and economic capacity, the option of not requiring proof of these capacities should be allowed up to the thresholds appropriate for each type of contracts in the field of external actions.

d) in order to simplify the management of the procurement procedure for contracts awarded by the institutions on their own account with a value below EUR 60 000 and, in the external aid, for contracts awarded after a competitive negotiated procedure or on the basis of a single bid, the contracting authority should have the possibility to simplify the content of the tender documents. In order to lighten the administrative burden, implementation of the contracts should be made easier, for example by providing scope to adapt the amount of the performance guarantee and waive the requirement for a guarantee in the event of pre-financing to a public body, without, however, diminishing the level of protection of the Communities' financial interests.

7. Grants: Simplification of the procedures for grants and for grants of small amount (less than or equal to EUR 25 000); in order to reduce the administrative burden, it should be accepted that the de jure or de facto monopoly of the beneficiary can be substantiated in the award decision; access to EC financing should be facilitated by enhancing co-financing in kind; the notion of bodies which pursue an aim of European general interest and may receive operating grants with no decrease in the event of renewal should include European bodies involved in promoting citizenship and innovation; educational bodies – and not only secondary and higher education bodies – should no longer be subject to verification of their financial capacity and applicants should be informed as soon as possible of the rejection of their application; grant applications and agreements should be made easier for grants of a small amount; the requirement for an external audit to be attached to the application should apply only to grants with a value of more than EUR 750 000 for actions and EUR 100 000 for operating grants; rules on guarantees for pre-financing should be reinforced in order to protect the Communities' financial interests while ensuring better proportionality with the risk involved; in order to take account of the rights of the other contributors, the implementation of the non-profit rule, in the case of operating grants to bodies which pursue an aim of general European interest should be limited to the percentage of co-financing corresponding to the Community contribution to the operating budget concerned if these bodies are also funded by public authorities which are themselves required to recover the percentage of the annual profit corresponding to their contribution.