



# **Rules for Applicants and Beneficiaries**

## **General Part**

### **Operational Programme**

### **Research, Development and Education**

Programming period 2014–2020

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MINISTERSTVO ŠKOLSTVÍ,  
MLÁDEŽE A TĚLOVÝCHOVY

<b><i>Rules for applicants and beneficiaries – the General Part</i></b>		
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## Registration sheet

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## Overview of changes

Chapter	Specification of the change (from version 3, effective from 20 January 2016)	Justification of the revision
1.	<p>The Rules for Applicants and Beneficiaries – the General Part (hereinafter "Rules for Applicants and Beneficiaries") are issued by the Managing Authority of the Operational Programme Research, Development and Education (hereinafter OP RDE MA). RfAB are intended for the applicants and beneficiaries applying for a grant to OP RDE, respectively, implementing projects within OP RDE (excluding the applicants/beneficiaries of the projects of one the simplified forms of accounting – a standard scale of unit costs, which follow the Rules for Applicants and Beneficiaries for SPs).</p> <p>Within the documentation for a call, the Rules for Applicants and Beneficiaries – Specific Part are issued, amending or altering these framework RfAB for specific project types and specialisations.</p> <p>The purpose of the Rules for Applicants and Beneficiaries is to provide the applicants with basic information about how to proceed with the grant application preparation, about all obligatory formal requirements of the application and about the main risks that might affect its due and timely submission.</p> <p>The Rules are further aimed at a description and explanation of the wider context of the obligatory and the recommended procedures of project implementation to the beneficiaries and their partners.</p> <p><b>Preparation of grant application</b></p> <p>When preparing the grant application, the applicant is obliged to comply with the currently applicable and effective version of RfAB. If in the course of preparing of the grant application / approval process, the next version of the RfAB is released, the applicant shall follow:</p> <p>1. still the version of the Rules for Applicants and Beneficiaries – General and Specific Part that was valid and effective as of the date of announcement of the call, this only applies to round type calls, or a version of the Rules for Applicants and Beneficiaries – General and Specific Part that was valid and effective on the day of submission of the grant application to the approval process, this applies to continuous calls.</p> <p>Between individual versions of the RfAB, the Methodological letters regarding certain chapter/sub-chapter that amend/alter the RfAB can be issued by OP RDE MA. The applicant shall follow these Methodical letters as of their validity and effect.</p> <p><b>Project implementation</b></p> <p>During the project implementation, the beneficiary shall follow the version of the Rules for Applicants and Beneficiaries – the general part and the specific part which are valid and effective on the date of signature of the legal act on grant award/transfer, i.e. RfAB mentioned in the legal act on grant award/transfer and the conditions that are defined in the announced call and also the Methodological letters valid on the date of signing the legal act on grant award/transfer.</p> <p>The legal act on grant award/transfer lays down the main conditions for the project implementation. In addition to the documents listed above, the beneficiary is obliged to follow in the course of the project also valid and effective legislation of the Czech Republic and EU. The RfAB enter to force on the date of its publication on the website of the Ministry of Education, they come into effect on the date specified in the RfAB, but not before the date of their entry to force.</p>	Specification of information, validity and effect.

Chapter	Specification of the change (from version 3, effective from 20 January 2016)	Justification of the revision
2.	<p>Definitions modified: "Budgetary measures" was renamed to "Deputy Minister Measures", the "Date of assumed/actual start of the physical implementation of the project" was renamed to "Date of Physical Project Implementation Start (Assumed/Actual)" and, concurrently, the explanation of this concept was modified and complemented. "Date of completion of the physical implementation of the project" was renamed to "Date of (Physical) Project Implementation Completion" and, consequently, the concept was replaced with the new term throughout the whole document. Letter from Minister – renamed to the Letter (notice) of the Deputy Minister</p> <p>Concept "Financial Service" partially modified</p> <p>Adding definitions: Date of Grant Award, Aid Intensity, SME, Organization for Research and Dissemination of Knowledge, Company, Undertaking in Difficulty, Contracted Research, Research Infrastructure, Research Organisation, Industrial Research, Basic Research, Oriented Research, Monitoring Indicators.</p> <p>Removal of definitions: Absorption Capacity, Administrative Capacity, Arachne.</p> <p>Merging concepts Publicity Tool and Manual of Uniform Visual Style of ESIF in the Programming Period 2014–2020, Indicator and Monitoring Indicator.</p>	Aligning with the wording of the Operational Manual of OP RDE. Clarification of terminology. Removal of definitions that are not related to the preparation, implementation and sustainability of projects OP RDE. Complementing missing definitions.
2.	The definitions Publicity Tool and UVS Manual merged.	Thematic coherence of publicity terminology.
3.	Updating legislation on State Aid, updating legal regulations.	Updating data.
3.3	The point Material MEYS added to the overview: Digital learning strategies as amended.	Complementing material.
4.1	The information on the IS ESF2014+ moved from Chapter 11 to Chapter 4.1.	Clarifying information for applicants/beneficiaries.
4.1	In the part of IS KP14+ at the point •in case of the registered user – the concept of user changed to the contact person.	Specification of information for better understanding.
4.1	In the part Types of Internal Dispatches in Clause point• Users Dispatches, the meanings of the concepts of internal and external users were corrected: the external one (user of IS KP14+/applicant/beneficiary), the internal one (user of CSSF14+ / MA implementation structure ). The concepts were explained in reverse, which was incorrect.	Correcting erroneous information.
4.2	Address of MEYS fixed – Karmelitská 529/5.	Correcting erroneous information.
4.2	The contact email for general questions to OP RDE moved from the Personal Consultations section to the Phone and Email Communication section.	Putting information into the right place.
4.2	The text Contact Persons added	Clarifying information for applicants
5.2	In the Preparing Grant Application chapter in the Information Collection/Study part, the part recommending applicants to consult the project plan deleted. Furthermore, a link to the MEYS website added.	Adjustment based on the comments of section IV.
5.2.1	<p>The requirement for proof of the ownership structure of the applicant/partner together with the financial contribution specified.</p> <p>The condition for submission of the list of the actual owners – applicants that are not natural persons in accordance with Act No. 253/2008 Coll.,</p>	Specification of the eligibility of applicants/partners.

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	<p>on Some Measures against the Legalisation of Yield from Criminal Activities and Terrorism Financing was added on the basis of a methodical letter updating MPFT from MoRD.</p> <p>The entities which may ask the applicant for additional proof of the facts stated in the affidavit added.</p> <p>The condition of liquidation, execution and insolvency detailed – the clear references to the legislation, which the mentioned parts follow, supplemented.</p> <p>The condition of financial stability/health, which must be met by applicants listed in Annex No. 1 and 2 of Act No. 111/1998 Coll., on Universities, as amended, and applicants mentioned in Annex No. 1 and 2 of Act No. 341 / 2005 Coll., on Public Research Institutions, as amended, were added.</p> <p>Rewording.</p>	
5.2.1	A definition of worker / key worker and an excellent worker supplemented.	Clarification of the terms "key worker" and "excellent worker".
5.2.4	<p>Sentences modified: For all OP RDE projects, a mandatory key activity of the project is the Project Management, unless the Rules for Applicants and Beneficiaries – Specific Part stipulate otherwise.</p> <p>The applicant must specify this activity as a separate key project activity entitled for instance: Project Management / Management of a Project etc. The content of the description must include:</p>	Clarifying information for applicants and beneficiaries
5.2.1	The obligation and documents that the applicant shall present to prove the ownership structure and conflicts of interests were supplemented into the chapter. The basic definition of a conflict of interests while inspecting the grant application was also added.	Amendment based on the recommendation of audit designation.
5.2.2	Information supplemented: . The activities outside the EU cannot be implemented within ERDF, the activities outside the EU can be carried out in the context of ESF if the call allows them.	Clarifying information for applicants and beneficiaries.
5.2.5	<p>A footnote allowing the applicants to state ineligible expenditures, e.g. in the Feasibility Study, if this is relevant for the project, was supplemented.</p> <p>Adding the footnotes that recommend to the applicant/beneficiary when setting a budget and financial plan for the project to consult the tables of wage limits and asset prices in the common place and time.</p>	Amendment based on internal comment in section IV.
5.2.5.1.2	The exception that the change of date is possible in exceptional cases, e.g. if the period of the project implementation extends, was added to a footnote	Amendment based on comments in section IV.
5.2.6	New CBA chapter. The text was moved from Chapter 8.9.1 and modified in accordance with the UME and control documentation of OP RDE MA.	Aligning with the new conditions UME.
5.4	The period of seven months for the approval process removed – in line with the current UME.	Aligning with the new conditions UME.
5.4.1	Aligning with UME – repairability of criteria, distribution of inspections in multiple steps and so on.	Aligning with the new conditions UME.
5.4.2	Aligning with UME – procedures for assessing arbitrator. Rewording.	Clarifying the procedure, compliance with the UME.
5.4.3	Rewording.	
5.4.4	A new chapter added – a specific phase of the approval process for major projects.	Compliance with the General Regulation and UME

Chapter	Specification of the change (from version 3, effective from 20 January 2016)	Justification of the revision
5.5	Rewording.	
5.5.3	A sentence deleted that in relevant cases the reservation may be part of the legal act on grant award/transfer.	Aligning with legislation. Deleted on the basis of the comments in section IV.
5.6	In the chapter, a section describing the notification for unsuccessful applicants revised.	Aligning with the terms of UME and the law.
6.	Putting chapters in accordance with the UME and the management documents of the MA (the Operational Manual of OP RDE MA).	Aligning with the new conditions UME.
6.3	Clarification of Announcement mandatory content	Aligning with the new conditions UME.
6.4	Rewording. Supplement of documenting and the location of the sample attachments without changing the meaning of the text.	Specification of the text.
6.4	Removing the annex Declaration of major changes	All changes are reported by the applicant through change management. Required data are available to the MA.
6.5	Provision of the service modified. Complemented by the rules of change management.	Specification of the text in accordance with the law.
7.1	At the end of the first paragraph, the following text was added: "Monitoring of the project can be carried out either through administrative verification (through monitoring reports and monitoring visits), or through on-site inspections (see Chapter 9.1)".	Clarifying information for applicants/beneficiaries.
7.1	The part Types of Monitoring Reports, at the end of this chapter, a new paragraph with the following text was inserted: As needed, the OP RDE MA will perform so-called "monitoring visit "to verify the status of the project and to discuss and solve ambiguities and/or problems of the project requiring consultations between the beneficiary and the OP RDE MA. This is to prevent eventual incorrigible malpractices or sanctioning of the beneficiary. The OP RDE MA prepares the record from monitoring visit in the MS2014 + (the Monitoring Visit module). The OP RDE MA shall inform the beneficiary about the recording process of the monitoring visit via an internal dispatch."	Adding information for applicants/beneficiaries for project monitoring.
7.1	Part of the Evaluation activities, the original wording of the second sentence replaced with the revised wording: "The aim of the implementation of evaluation activities of the program is the evaluation of the success of the OP RDE interventions implemented at the level of the program, priority axis, investment priorities, specific objectives, calls and individual projects."	Clarifying information for applicants/beneficiaries.
7.1.1	Adjusting the approval process of the PIR.	The output of the Working Group in Chapter 6 of the Operating Manual.
7.1.1	Part "Deadlines for the submission of PIR/PA: The original wording of the second sentence of the first paragraph replaced by the revised wording: "The first interim PIR/PA, including all necessary annexes is to be submitted by the beneficiary within 20 business days after expiration of 3 months from the date of the issue of the legal act on grant award/transfer and each further PIR/PA within 20 business days; as a rule after the expiration of 6 months after the termination of the previous monitoring period". At the end of this section, the following text added: "If the retroactive expenditure eligibility (thus initiating a project / the start of the physical implementation of the project is possible before issuing a legal act on grant award/transfer) is defined by the call,	Aligning with a unified methodological environment and because of the clarification of information for applicants/beneficiaries.

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	the beneficiary submits such retroactive eligible expenditures usually in its first continuous PIR/PA". After the first sentence of the first paragraph, the text in brackets was supplemented (e.g. time schedule of key activities, documents of payment of the expenditures included in the list of documents, invoices, etc.)".	
7.1.1	Part Postponement of the deadline for the submission of PIR/PA: The original wording of the last sentence of the first paragraph replaced by the revised wording: In the case of non-fulfilment of the alternative deadline for the PIR/PA, the MA shall proceed to apply a financial penalty according to the legal act on grant award/transfer.	Based on comments from the VPR.
7.1.1	Part Returning the PIR/PA for revision. At the end of this section, the text in brackets was added: "when administrating the project PIR/PA, if it is returned for the revision, it is important to meet the deadline of 90 calendar days."	Based on comments from the VPR.
7.1.1	At the end of the part "Earlier submission of project PIR/PA", the following text was added: "In case of ex-ante funding, the first interim report of the PIR/PA may be presented at an earlier date, but only after payment of the first advance from the granting authority."	Clarifying information for applicants/beneficiaries.
7.1.1	Part Submission of the PIR/PA. For ex-ante funding, the text was supplemented: In the case that all funds from the national budget designated for the implementation of the project were transferred to the beneficiary the beneficiary will submit the Request for payment, which must only contain the settlement of the previous advance payment. Before the submission of each Request for payment, the beneficiary must revise the balance of spending the financial funds on the approved project and in the case that the beneficiary considers they have sufficient financial reserve for pre-financing for the following period for the implementation of the project they are to submit the Request for payment, which must only contain the settlement of the previous advance payment." New second paragraph added as follows: "In case of projects implemented by the applicant/beneficiary that is obliged, according to Section 2 par. 1 of Act No. 340/2015 Coll., on special conditions for the effect of some contracts, the disclosure of these contracts and the Contract Register, as amended (hereinafter the "Act on Contract Register"), the applicant/beneficiary has an obligation to each such registered contract related to the project implementation and which serves to prove the eligibility of expenditures of the project to indicate the relevant contract ID in its presentation, under which is registered in the Contract Register. The applicant/beneficiary indicates this contract ID either in the actual contract or it enters it into the text field within the relevant activity of the PIR within which the contract was concluded."	Based on the comments of VPR and due clarification of information for applicants/beneficiaries.
7.1.1	The part of the Agreement between the OP RDE MA and the beneficiary on the failure of the presentation of last interim report of the PIR/PA; the original wording of the second sentence replaced with revised wording: "This agreement is possible in the case that the last continuous PIR/PA was to be submitted two months prior to the termination of the project implementation or within a deadline shorter than two months before the termination of the project implementation".	Based on comments from the VPR.
7.1.1	The parts Administration of the PIR and Administration of the PA were merged into one section entitled "Administration of the PIR/PA" and, concurrently, the texts of both parts were merged and amended in relation with this change.	Based on comments from the VPR.

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7.1.1	The part "Return of funds unused during the implementation of the project": the concept OP RDE MA replaced with "the granting authority". The original wording of the last four sentences of this part replaced with a revised wording: At the same time, it must be valid that it concerns financial funds that the beneficiary will not use up to the end of the respective calendar year. In the case that the beneficiary will send the above-mentioned return of financial funds, they must send on the basis of this call, an advice note, through the internal dispatch, for the returned amount to the financial administrator of the respective department of the OP RDE MA best five business days in advance but a minimum of one business day before sending the financial funds to the account of the granting authority. For the simplification, the beneficiary is to indicate the registration number of the project as a variable symbol in the advice note, as the obligatory detail. The funds must be in the account of the granting authority by the deadline, which is stipulated by the granting authority in the formal notice to perform the return of funds." At the same time, the following footnote was added: "Due to the closure of the accounts of granting authority in a given calendar year."	Clarifying information for applicants/beneficiaries based on comments from the VPR.
7.1.2	The following text was supplemented into the chapter: "In case of the requirement to submit the IoP, the minimum information which must be sent to OA MA via the internal dispatch in MS2014+ is: - specific frequency/period, by which the IoP should be submitted, including preliminary information, during which period this report will be required from the beneficiary; - based on what facts the submission of this report is required." "The following IoP can be submitted by the beneficiary, as soon as the previous information is approved by the MA."	Clarifying information for applicants/beneficiaries.
7.1.5	The first paragraph, second sentence: the concept of "actual" date of termination of the (physical) implementation of the project ... added	Clarifying information for applicants/beneficiaries.
7.2	Part of the text regarding the effect of the changes: "As a rule, change is effective the day following the date of approval of the significant change. The OP RDE MA may state the effective date later." shall be adjusted as follows: "A change is usually effective as of the date of approval of the significant change by the MA. The effective date may be set later than the date of approval. In this case, the change is effective only after the stipulated date."  The text relating to the change management was supplemented by the information on the changes in the period from submission of grant application to the publication of legal act on grant award/transfer.  The text relating to significant changes was specified.  The text related to the information of the beneficiary about the approval/rejection of the significant changes expanded.	Based on the comments from OA and due to the specification of information for applicants/beneficiaries.
7.2	Rewording – the term "in advance" replaced by "well in advance". Extending the text: specific items which were reduced/cancelled in the budget based on the recommendation of the evaluation/selection committee, cannot be increased/restored by the beneficiary during the implementation of the project by changing the insignificant change to the significant/insignificant change"	Clarifying information for the beneficiaries.
7.1.2	The information that insignificant changes were taken into account by the MA added to the text.	Clarifying information for the beneficiaries.

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	<p>The provision that the confirmation of the insignificant change or the approval of the significant change automatically does not mean the eligibility of expenditure, which will be submitted on basis of this change, was supplemented. The eligibility will be assessed by the MA on the basis of the submission of the relevant documents within the relevant PA.</p> <p>The recommendation to the beneficiaries to submit the significant changes well in advance before submitting the PA in case that the insignificant change concerns this PA was added</p> <p>Extending the text of insignificant changes of construction–technical character.</p> <p>Adding a definition of insignificant changes upon the key/excellent worker exchange. Following this adjustment, the text on how to change the contact person if, at the same time, he/she is a key/excellent worker was updated.</p>	
7.2.2.1	<p>Replacing the term “earlier completion of the project” by a newly introduced concept “reducing the period of the project implementation”.</p> <p>The change of beneficiary’s/partner’s ID was included into the significant changes founding the change the legal act</p>	Clarifying information for the beneficiaries.
7.2.2.1	<p>Supplementing situation when the project is not registered in EDS/SMVS, but, in the course of implementation, the need to use the investments arises.</p> <p>Rewording the text concerning the change of beneficiary.</p>	Clarifying information for the beneficiaries.
7.2.2.2	Clarification/adjustment of the categories of significant changes.	Updating internal instructions of MEYS.
7.2.2.2	<p>From the text describing the change of key activity/phase of the project – “when the purpose or objectives of the activity/phase are changed”– the term “objectives of the activity/phase” removed.</p> <p>Modifying the wording under the bullet “Replacing a worker at a key position”, the text “who possess the key knowledge and skills necessary for the implementation of the project, and...” added</p> <p>Adding a definition of a significant change while exchanging the key/excellent worker. Limits of the change of the target values of binding output and result indicators adjusted.</p> <p>From the significant changes that do not constitute a change of the legal act, the change of the location of the project was removed, it was a duplication of the change of the location of the project implementation that initiates a change of the legal act.</p>	Clarifying information for applicants/beneficiaries.
7.4.2	Clarification of the text in the first paragraph.	Clarifying information for applicants/beneficiaries.
7.4.3	The original deadline for keeping the document was modified to 31 December 2033 and the original text of footnote No. 64 was also modified as follows: The time limit was set with regard to Art. 140 of the General Regulation, which determines that the period during which the original documents must be available to the Commission and the European Court of Auditors in accordance with Art. 140 of the General Regulation is two years after the submission of financial statement by the OP RDE, in which the final expenditures of the terminated operation are included and with regard to the provision of Section 44a, Par. 11 of Budgetary Rules.	Aligning with the UME and, concurrently, adjusted in accordance with the Act on Budgetary Rules.
8.1.2	The second paragraph, the original of the first sentence replaced with a revised wording as follows: “The percentage amount of the first	Clarifying information for applicants/beneficiaries.

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	advance payment is given in the call text, and it is calculated based on the sum of the planned expenditures of the submitted projects financial plan usually for the first two monitoring periods, unless the call states otherwise.”.	
8.1.5	A comprehensive revision of the chapter 8.1.5.	Clarifying information for applicants/beneficiaries.
8.1.5	<p>Table No. 1 – overview of rates of co-financing by beneficiaries in the projects within the programming period 2014-2020:</p> <p>In the column Type of applicant/beneficiary, the footnote was added in:</p> <p>line 2 – “This category of applicants/beneficiaries also includes schools and school facilities which are funded organisations of territorial self-governing units and the voluntary associations of municipalities, registered in the school register.”</p> <p>line 3 – “Voluntary associations of municipalities are also included in this category of applicants/beneficiaries.”</p> <p>line 4 – “Definition of research organisation is based on the definition mentioned in the Community Framework for State Aid for research, development and innovation in the General Block Exemption Regulation (GBER) and in Act No. 130/2002 Coll., on Support of research, experimental development and innovation. According to Act No. 130/2002 Coll., the research organisation is obligated to reinvest its whole profit in scientific activities.”</p> <p>line 5 – at the end of the note, the following text was supplemented: “but the 0% co-financing does not apply to them.”</p>	Clarifying information for applicants/beneficiaries.
8.2	Supplementing the provision on marking documents with registration number of the project.	The obligation results from the cash flows MP (MoF).
8.2	After the fifth paragraph, the following text was supplemented: “In case of expenditures subject to the mode determined by simplified expenditure reporting, the beneficiary keeps accounts or tax records, but in its accounts or tax records individual accounting items need not to be assigned to a specific project and need not to prove by accounting documents the actual expenditures in relation to the project. In case of the use of flat rates, direct costs clearly defined in the relevant legal act on grant award/transfer, which must be adequately documented through accounting documents by the beneficiary, are the basis for determining the flat rate. For expenditures reported in other modes of simplified expenditure reporting, documents necessary to verify that the activities or outputs that are listed in the legal act of grant award/transfer were actually carried out are submitted. In such cases, the beneficiary does not need to substantiate its expenditures by specific accounting documents in the payment application. For beneficiaries that keep their accounts according to the Accounting Act or tax records pursuant to Act No. 586/1992 Coll., on income taxes, no obligation to clearly assign all accounting items applies to expenditures reported in a simplified form unless such an obligation is stipulated by regulations of the Czech Republic.”	Clarifying information for applicants/beneficiaries.
8.5	<p>The text regarding the reporting and documentation of eligible VAT in cases that the entity can claim a partial deduction of VAT was modified.</p> <p>The clarifying information for reporting VAT for the entities with the fulfilment within the regime of the transferred tax obligation – services of construction and assembly work was added to the footnote</p>	Clarifying information for applicants/beneficiaries.
8.7.1	Time eligibility of expenditure – at the beginning of the first paragraph, a new text was added: In terms of time the expenditures are eligible if they incurred and were actually paid during project implementation. If	Clarifying information for applicants/beneficiaries.
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Chapter	Specification of the change (from version 3, effective from 20 January 2016)	Justification of the revision
	<p>accounting documents are issued by a person that is not a VAT payer, the moment of incurring of eligible expenditures is the date of the transaction. In most cases, the moment of the transaction is identical to the time of preparation of the document. For tax documents issued by VAT payer, the date of incurring of eligible expenditures is the date of a chargeable event. Also apply here, that the date of a chargeable event is a necessary requirement of a tax document in accordance with the VAT Act, as amended. The date of origination is consequently decisive for the determination of which monitoring period the accounting document shall be included in.</p> <p>The expenditures spent after the termination of the project, in terms of time, are eligible under the condition that their material implementation relates to the period in which the project was carried out and they are accounted no later than in the final payment application. It follows from the above that ..."</p>	
8.7.1	<p>A new text supplemented: Proof of expenditure</p> <p>The beneficiary is required to submit eligible direct expenditures claimed for the project by relevant accounting document or other supporting documentation. The beneficiary proves the time eligibility of incurring of expenditure, direct relation of expenditure spent to the project and its necessity for the project through accounting, tax or other documents. The expenditures, even eligible from a contextual viewpoint, which are not properly documented are always considered ineligible expenditures. Further information about the documentation of expenditures are listed in Chapter 8.2 and 8.7.2.</p>	The description of the general conditions of eligibility of expenditure specified.
8.7.2	<p>At the end of the first paragraph, a new text was added: "Expenditure as such, can be divided into the expenditures to which the project applies full reporting (i.e. direct expenditures, see Chapter 8.6.1) and the expenditures within the mode of simplified expenditure reporting (see Chapter 8.6.2)."</p> <p>The original name "Direct expenditures (further distribution by categories)" was replaced by the new wording "Categories of eligible expenditures".</p> <p>The title of part A of this chapter was renamed to "Expenditures on direct activities – investments" and part B to "Expenditures on direct activities – non-investment".</p>	The description of the general conditions of proof and the eligibility of expenditure specified.
8.7.2	The length of vacation for other workers adjusted: a maximum of 5 weeks a year, if it is allowed by the collective agreement or internal regulations of the organisation: for all other employers;	The settlement of the conditions of eligible expenditures for all applicants and beneficiaries of OP RDE in accordance with the MP.
8.7.2	Part A. Direct expenditures – Investment, Buildings and constructions: was clarified, respectively, this type of expenditure was divided into 3 parts 1) a new construction, 2) the construction works of the existing construction, 3) the acquisition of real estates. In relation to this distribution, the documents by which the eligibility of expenditures are proved, were also specified.	Clarifying information and a clear classification of the expenditure types.
8.7.2	Adding some of the eligible expenditures for the implementation of new constructions.	Clarification of the eligibility of expenditures.
8.7.2	The calculation of the eligible expenditures of common areas in case of construction and reconstruction of buildings was added.	Complementing the procedure.

Chapter	Specification of the change (from version 3, effective from 20 January 2016)	Justification of the revision
8.7.2	Complementing the text of the Budget Commentary annex, the information on new constructions supplemented.	Complementing the procedure.
8.7.2	Clarification of Clauses a) and b) of the description of the proof of eligibility of Salary expenditures, as follows: a) labour contracts or agreements - documented only with the first application of the expenditure (labour contracts or agreements, including work duties, wage rates and the level of the workload for the project). If the employment contract or agreement is changed, it is necessary to submit the amendment to the employment contract or agreement no later than with the first application of the expenditure after making the change; wage recapitulations or other suitable forms of documentation for the total eligible wage expenditure of employees (e.g. specification of wage expenditure, payroll sheets, payroll cards, printouts of the accounting payroll system) for the monitoring period. Submitted documents must contain information enabling the proper inspection of the amount of personal expenditures related to the project (this is e.g. data of the number of hours worked, the number of vacation hours, sick leave and other obstacles at work, the amount of gross wage, the amount of social security and health insurance, the super-gross wage and others).	Clarification of the documentation of Salary expenditures.
8.7.2	For selected types of expenditures (Machinery and Equipment, Hardware and Personal Equipment, Intangible Assets, Small Intangible Assets), the description documenting the eligibility of expenditure was modified. The possibility of documenting of a "contract" in case that the expenditure was expended under the contract and not within the order was added.	Completion of the list of documents which must be submitted by the beneficiary to prove the eligibility of expenditures.
8.7.2	Travel allowances – in the introduction to this part, the following text was deleted: "The purpose of a business trip must relate to the project. The employer (beneficiary or partner) may only delegate for a business trip an employee who on the basis of the concluded labour-legal relation is involved in the project."	Settlement of conditions and the elimination of the duplication rule.
8.7.2	Per diems – the original wording of the first sentence of the fourth paragraph replaced with revised wording: "The beneficiary documents any other contract concluded with a foreign expert or the signed affidavit of a foreign expert where the identification of an event is mentioned (e.g. conference, seminar), plus the date and the declaration that the expert was not paid by any other subject."	Clarifying information for applicants/beneficiaries.
8.7.2	In the Travel Allowances part, the requirement for conducting market surveys in the arranging of accommodation was adapted as follows: At least three different offers must be included in the market research.	Clarifying information for applicants/beneficiaries.
8.7.2	Tangible assets and materials – in the introduction to this part, the following text was inserted: "The recommended maximum prices of the equipment are stipulated in the List of common equipment prices placed on the website of MEYS: <a href="http://www.msmt.cz/strukturalni-fondy-1/seznam-obvyklych-cen-vybaveni">http://www.msmt.cz/strukturalni-fondy-1/seznam-obvyklych-cen-vybaveni</a> . The document also sets out the procedure when it is appropriate to exceed the recommended usual prices."	Clarifying information for applicants/beneficiaries.
8.7.2	In the introduction of this part, the following text was added: "The budget chapter purchase of services includes, for example: – energy– necessary for the implementation of activities of the project - operation of machines and equipment, research centres, etc.; – repairs and maintenance – maintenance of machines and buildings, always in relation to the activities of the project;	Clarifying information for applicants/beneficiaries.

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	– other expenditure – expenditure for legal consultancy, expert opinions, administration of orders ensured by external suppliers and other non specified above mentioned services directly related to the activities of the project and if they are necessary for implementation (e.g., expenditure necessary for the education of the professional team members related to the project)", which was removed from the Outsourced Services part.	
8.7.2	Administrative and other charges – text removed: "Ineligible expenditure within the direct costs are bank fees, interest from due amounts, penalties and fines."	Clarifying information for applicants/beneficiaries.
8.7.3	In the first sentence of the first paragraph, the following text was supplemented: "were not purchased from ESIF."  The requirement for an expert opinion (an expert opinion according to Act No. 151/1997 Coll., on property valuation and related applicable legislation) clarified.  The description of setting a deadline for the expert opinion specified.  The description of reporting the contextual contribution in the framework of the project PIR specified.	Clarifying information for applicants/beneficiaries.
8.7.4	The definition of the indirect costs, their use and inspection was detailed	Specification.
8.7.4.1	The text on the use of flat rates was added to this chapter.	Based on VPR comments.
8.7.4.2	The possibility of calculating the indirect costs at the rate of 15% of the direct personnel costs for ERDF supplemented	Adding the option.
8.7.4.3	The definition of indirect costs added – the administrative positions are not included in indirect costs in all variants of indirect and flat-rate costs	Specification resulting from the Guidance on simplified cost options.
8.7.4.3	Clause 3), fourth bullet – the original text modified as follows: the cost for the purchase of devices and equipment and consumables which are procured in order to ensure the publicity of ESIF." In Clause 4, the bullet point dedicated to bank charges was removed.	Clarifying information for applicants/beneficiaries based on the comments from the VPR.
8.8	Supplementing bank charges to the ineligible direct expenditures	The difficulty of assigning bank charges to the specific payments of the project.
8.8	Adding a definition of ineligible expenditures	Clarification of the definition for the beneficiary.
8.9	Inserting a provision that the bank interest is not another financial income	Result of methodological specification in cooperation with MoRD and MF.
8.9.1	The text in the Chapter 8.9.1 CBA moved to a separate Chapter 5.2.6.	Greater clarity of the text.
9.1	The entire chapter was revised and part of the text was deleted.	Clarifying information for applicants and beneficiaries, while bringing it into line with OP RDE OM.
9.2	The chapter name was modified as follows: Non-compliance and methods of its settlement."  This entire chapter was revised.	Specification of the information for applicants and beneficiaries based on comments from VPR, while bringing it into line with OP RDE OM.

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Chapter	Specification of the change (from version 3, effective from 20 January 2016)	Justification of the revision
10.	The chapter was revised for better clarity in accordance with the UME and the control documentation of the OP RDE MA.	Alignment. With UME.
10.1	<p>Modified:</p> <ul style="list-style-type: none"> <li>the evaluator is critical to the lack of description of some part of the grant application and the applicant shows that the description is given in the grant application;<del>the evaluator's contextual errors in formulation of comments / objections or lack of justification of the objection;</del></li> </ul> <p>The underlined text has been added:</p> <ul style="list-style-type: none"> <li><u>appealing against professional evaluator's opinion without proof of evidence of a breach of a specific rule of OP RDE (e.g. the evaluator is critical of the lacking (rather than insufficient) specific description and the applicant shall prove that the description was written in the grant application);</u></li> </ul>	Clarifying information on comments of the MA documents in the project approval process.
11.3.1	Chapter 11.3.1 Personal data protection was complemented Renumbering of the original chapter 11.3.1 and 11.3.2 to 11.3.2 Common Indicators and 11.3.3 Program-specific indicators	Adding information about personal data protection arising from the position of OfPDP.
11.3.2	<p>Added:</p> <p>The evidence must be registered at the latest following the completion of the project, i.e. at the time of the final project implementation report. IS ESF2014+ can calculate the indicators relating to the project participants on the basis of the data available in the IS ESF2014+ in the supported persons within a particular project and pass them into IS KP14+ to the processed project implementation report. For these reasons, the beneficiary cannot directly modify the data in KP14 IS+ on the indicators related to the project participants.</p> <p>Added:</p> <p>The supported person shall be recognized in the indicator 6 00 00 once they have crossed the threshold of trivial support, even if it is not presented in the other indicators of supported persons. They will for example not complete the course, but they will spend more time in it than the limit for trivial support.</p>	The information on IS ESF2014+ and reporting participants were supplemented.
11.3.3	Added: Specific person, specific organisation, publication, patent application, graduate etc. is included in the outcomes within the project only once, unless a definition, call or related documentation stipulates otherwise. The inclusion of e-learning was also supplemented.	Clarifying information for applicants and beneficiaries.
12.	The acronym RfSS removed, PPA supplemented, the initial provisions removed. The heading supplemented by the word inspection.	Simplification and clarification of the information for the beneficiaries.
12.4.2 to 12.4.9	Specification and finalisation of the chapters.	Clarifying information for the beneficiaries.
15.	The entire chapter was rewoded.	Specification of the chapter for better comprehensibility of the text.
15.1	More detailed specification of individual characters of state aid.	Specification of the chapter for better comprehensibility of the text.
15.2	Supplementing the basic principles for assessing state aid in the field of education.	Completion and specification of the information for the applicants/beneficiaries.

Chapter	Specification of the change (from version 3, effective from 20 January 2016)	Justification of the revision
15.3.1	Text added: The aid according to the Commission Regulation No. 651/2014 cannot be provided to the enterprise, to which a collection order was issued following the Commission decision, in which the aid is declared illegal and not in accordance with internal market	Addition in accordance with the text of Commission Regulation No. 651/2014
15.3.2	Text added: Regarding the provided aid that the beneficiary did not draw down in full, the granting authority may modify the record in the RDM to match the actual amount of the de minimis aid disbursed. This step must be preceded by the change of the legal act, in which the granting authority declares the amount of the de minimis aid that the beneficiary actually received and that by this revision it loses the legal claim for the remaining part of the aid to which it was legally entitled in the primary legal act of providing de minimis aid. The amendment of the legal act needs to be asked for by the beneficiary.	Adding information for applicants/beneficiaries.
15.7	Adding a new sub-chapter: Consequences of a breach of state aid rules	Adding information for applicants/beneficiaries.
17.1	Modifying the wording – the sentence of the amount of the EU grant was replaced by the sentence of the information on financial support from the Union as amended: "This project is co-financed by the EU."	Accordance with the Methodological Guideline for publicity ESIF for the period 2014-2020
17.1	Specification of deadline for the placement of tools of the obligatory publicity and related activities.	Accordance with the Methodological Guideline for publicity ESIF for the period 2014-2020
17.1	Addition of a link to the Generator of tools of the obligatory publicity (designed by MoRD for all OPs)	Launching the full version in June 2016.
18.9	Editing the title and text of the annex, the term "notification" was replaced by "information".	Editing text and terminology according to the act on budgetary rules.
18.2	Update of defined fields in a pattern Interim/final implementation report	Addition of the updated field according to MS2014+
18.10	Modifying terminology – the following modification " <del>combined</del> joint territorial and building proceedings" was made in the part Documents under the building act, option C.	Editing terminology according to the law.

# 1. CHAPTER – INTRODUCTION

The Rules for Applicants and Beneficiaries – the General Part (hereinafter "Rules for Applicants and Beneficiaries") are issued by the Managing Authority of the Operational Programme Research, Development and Education (hereinafter OP RDE MA). The RfAB are intended for the applicants and beneficiaries applying for a grant under OP RDE or implementing projects within OP RDE (excluding the applicants/beneficiaries of the projects of one the simplified forms of accounting – a standard scale of unit costs, which follow the Rules for Applicants and Beneficiaries for SPs).

Within the documentation for a call, the Rules for Applicants and Beneficiaries – Specific Part are issued, amending or altering these framework RfAB for specific project types and specialisations.

The purpose of the Rules for Applicants and Beneficiaries is to provide the applicants with basic information about how to proceed with the grant application preparation, about all obligatory formal requirements of the application and about the main risks that might affect its due and timely submission.

The Rules are further aimed at a description and explanation of the wider context of the obligatory and the recommended procedures of project implementation to the beneficiaries and their partners.

## **Preparation of grant application**

When preparing the grant application, the applicant is obliged to comply with the currently applicable and effective version of RfAB. If in the course of preparing the grant application / approval process, the next version of the RfAB is released, the applicant shall follow:

- a) still the same version of the Rules for Applicants and Beneficiaries – general and specific part that was valid and effective on the date of the publication of the call, this only applies to the round type of the call, or
- b) version of the Rules for Applicants and Beneficiaries – general and specific part that was valid and effective on the date of submission of the grant application to the approval process, this applies to continuous calls.

Between individual versions of the RfAB, the Methodological letters regarding certain chapter/sub-chapter that amend/alter the RfAB can be issued by OP RDE MA. The applicant shall follow these Methodical letters as of their validity and effect.

## **Project implementation**

During the project implementation, the beneficiary must follow the version of the Rules for Applicants and Beneficiaries – the general part and the specific part valid and effective on the date of signature of the legal act of grant award/transfer, i.e. RfAB mentioned in the legal act on grant award/transfer and the conditions that are defined by the published call and also the Methodological letters valid at the date of signing the legal act on grant award/transfer.

The legal act on grant award/transfer lays down the main conditions for the project implementation. In addition to the above-mentioned documents the beneficiary is obliged to implement its project in compliance with the applicable legislation of the Czech Republic and the EU.

The RfAB enter to force as of their date of publication on the web site of the MEYS and take effect as of the effect date specified therein but not before the date of their entry to force.

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## 1.1 Overview of priority axis, investment priorities and specific objectives of OP RDE.

The aim of the Operational programme Research, Development and Education is to contribute to the development **of the knowledge society**, where the knowledge and skills of human resources shall be the key factor in the competitiveness of the Czech Republic.

Priority Axis	Fund	Investment priorities	Specific objectives corresponding to investment priority
1. Strengthening the Capacities for Excellence in Research	ERDF	Strengthening the research and innovation infrastructure and capacities to develop an excellence level in both research and innovation and the support of the expert centres which are subject of Europe-wide interest	<ol style="list-style-type: none"> <li>1. Increase in the international quality research and its results.</li> <li>2. Building capacity and strengthening the long-term collaboration between research organisations and the application sphere.</li> <li>3. Improving the quality of infrastructure for research and educational purposes.</li> <li>4. Improvement of strategic management research at the national level.</li> </ol>
2. Development of higher education and human resources for research and development	ESF	Improving quality and efficiency, access to tertiary and equitable education, especially for disadvantaged groups to increase the participation and the educational attainment levels	<ol style="list-style-type: none"> <li>1. Increasing the quality of education at universities and its relevance to the needs of the labour market.</li> <li>2. Increase in the participation of students with special needs, from socio-economically disadvantaged groups and ethnic minorities on higher education study and the reduction of the student failure rate.</li> <li>3. Improving the quality of the conditions for lifelong learning at universities.</li> <li>4. Setting up and developing the system of evaluation and quality assurance and strategic management of universities.</li> <li>5. Improving conditions for the education related to the research and the human resources development in the field of research and development.</li> </ol>

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Priority Axis	Fund	Investment priorities	Specific objectives corresponding to investment priority
	ERDF	Investing in education, training and vocational training for skills and lifelong learning by developing education and training infrastructure	1. Improving the quality of education infrastructure at universities in order to ensure high quality teaching, improving access for disadvantaged groups and increase the openness of universities.
3. Equal access to high-quality pre-school, primary and secondary education	ESF	Socio-economic integration of marginalised groups, such as Roma people	1. Social integration of children and pupils, including Roma children in the education.
		Combating all forms of discrimination and promoting equal opportunities	1. Quality conditions for the inclusive education.
		Reducing and preventing early school-leaving and promoting equal access to good quality early-childhood, primary and secondary education including formal, non-formal and informal learning pathways for reintegrating into education and training	1. Increasing the quality of early childhood education, including facilitating the transition of children to primary school. 2. Improving the quality of education and results of pupils in key competencies. 3. Development of strategic management system and quality assessment in education. 4. Improving the training of future and starting teachers. 5. Increase in the quality of education and training, including enhancing their relevance for the labour market.
4. Technical Assistance	ERDF	N/A	1. Ensuring the effective administration. 2. Ensuring the awareness, publicity and absorption capacity.

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## 2. CHAPTER – DEFINITIONS OF TERMS USED

### Administrative Team

This term covers all staff responsible for the project administration including its operation, monitoring, accounting and publicity. The aim of their activities is not the work with the target group. In most cases, this concerns the project and financial manager, assistant, PR manager, etc.

### Audit Authority

The authority responsible for auditing for the purpose of verification of effective functioning of the management and control system of the operation programme and performance of activities in compliance with Article 127 of the Regulation (EU) No. 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No. 1083/2006 (hereinafter "General Regulation").

### Block Exemption

Block exemption means an *exception (or legal title) from the general prohibition of state aid* pursuant to Commission Regulation (EU) No. 651/2014 of 17/06/2014, declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (hereinafter "GBER"), laying down types or categories of aid (exemptions) which, under certain conditions to be complied with, are compatible with internal market without the notification obligation towards the Commission before granting the aid.

### Certification

Expenditures certification means confirmation of correctness of expenditure data in compliance with EU and CR regulations submitted by the managing authorities to the Payment and Certification Authority. The result of the certification is preparation and provision of incurred expenditure certificate together with the expenditure report attached to the Request for Payment by the Payment and Certification Authority to the European Commission.

### Total Expenditure

Total project expenditure is the sum of eligible and non-eligible project expenditure.

### Lifelong Learning

Lifelong learning is the sum of all educational activities of an individual from early childhood to the retirement age with the aim to obtain corresponding knowledge and skills in the areas of personal, civic, social and professional development. Lifelong learning includes formal education, informal education and informal learning.

### Central Register of Grants from the National Budget (CRSB)

The General Financial Directorate keeps central register for processing of data on grants provided from the national budget, state funds, state financial assets and the National Fund. Their providers are obliged to provide data to the Central Register about them and their beneficiaries or transfer

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the data there from other registers containing the relevant data. The content and scope of the data entered in or transferred to the Central Register of Grants and the procedures performed by the providers in this context are defined by the Ministry in Decree No. 286/2007 Coll., on Central Register of Grants.

### **Central de Minimis Register (RDM)**

The Central de minimis register was established as of 1 January 2010. The purpose of the register is central evidence of de minimis supports. The Central de minimis register is administered by the Office for the Protection of Competition and the Ministry of Agriculture who is also its keeper. The Central de minimis register is available on <http://eagri.cz/public/app/RDM/Portal>.

### **Excellence Centre**

A clearly thematically profiled site of research and development (such as higher education institution, research institute or its clearly defined part or a similar detached part shared by more research institutions). Excellence Centre is an active research site, often of multidisciplinary nature, interconnecting R&D, education (especially of doctoral students and young research staff) and innovation activity. Excellence Centre reaches critical sizes of personnel and technical equipment to be able to achieve top quality research results internationally. Through long-term strategic partnerships the Excellence Centre cooperates with prestigious international R&D centres as well as with partners from the application sphere and other major sites active in the field on the national level. Revenues from foreign resources (with respect for professional specifics) substantially contribute to the total R&D budget of the Centre and its total operation expenditure.

### **Popularisation Centre**

A centre of knowledge and entertainment offering spontaneous popular forms of education in and understanding of the essence of physical and natural phenomena using interactive elements/exhibits/aids.

### **Target Group**

A group of entities or individuals which the programme is focused on who take benefits from the programme in the course of its implementation, including its sustainability period (such as children, students, teachers and research staff).

### **Cost – benefit analysis (CBA)**

The cost-benefit analysis defines socio-economic effects of the planned project. The analysis is a simple expression of the benefits of the project and the expenditures needed for their implementation. The analysis defines the group of all direct and indirect stakeholders of the project. The analysis enumerates not only all financial expenditures and gains but also major estimable positive and negative consequences of the project. This allows for consideration of interventions which are not profit-making and financially rewarding but show non-financial, such as social positives

### **Database of Outputs of OP RDE**

Information system for publication of relevant project outputs.

### **Date of Grant Award**

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The date of grant award is the date when the legal title for the grant is constituted for the beneficiary pursuant to the valid national legislation.

#### **Date of Physical Project Implementation Start (Assumed/Actual)**

**Assumed date of physical project start** is the date as of which the applicant/beneficiary plans to start its project implementation physically (may be the same as the project start date, unless otherwise specified in the call). This date is to be provided by the applicant in the grant application. Following successful completion of the approval process the applicant must submit, in addition to the required documents needed for issue **of the legal act on grant award/transfer, the actual date of physical project implementation start, which may also be later than the assumed date. This date is to be entered in the legal act on grant award/transfer.** The project can be physically started before/together with/after issue of the legal act on grant award/transfer. **The applicant shall however be obliged to start the project physically in 6 months from the legal act on grant award/transfer issue.** The length of the project monitoring period is calculated from the actual physical project implementation date or from the date of issue of the legal act on grant award/transfer, whichever comes later.

The difference between the assumed and the actual physical project implementation date is in that the assumed date is entered in the grant application while the actual date is submitted for the purpose of issue of the legal act on grant award/transfer. The two dates may but need not be the same. The actual physical project implementation date may not be earlier than the assumed physical project implementation date.

#### **Date of (Physical) Project Implementation Completion**

This date, entered in the legal act on grant award/transfer is the final deadline for due and timely<sup>1</sup> project completion by the beneficiary. Achievement of the required project outputs will be evaluated as of that date of project implementation termination by the OP RDE MA.

If a permit or decision of a competent authority is needed for use of the project outputs then the project completion date may not be before the date of legal force of that permit or decision.

#### **Date of Project Start**

Possible date of incurring of eligible project expenditures as defined by the MA of OP RDE in the published call. Following successful completion of the approval process the applicant must submit, in addition to the required documents needed for issue of the legal act on grant award/transfer, the actual date of project start, which may also be later than the date stated in the call. This date is to be entered in the legal act on grant award/transfer. The first possible date of incurring eligible project expenditures is 01/01/2014. Expenditures incurred before that date cannot be eligible expenditure. If the project start date is earlier than the physical project start date then the eligible expenditures after the project start date may only include expenditures of the project preparation but not expenditures connected with key project activities.

#### **Partnership Agreement**

A document prepared by a Member State with assistance of partners in compliance with multilevel management approach defining the Member State strategy, priorities and measures

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<sup>1</sup> This is the physical, rather than administration, completion. I.e. some administrative tasks related to the project can be made after this date, e.g. the final report on implementation, the settlement of the grant with the state budget etc.

for effective and efficient use of ESIF for the purpose of fulfilment of objectives of the Europe 2020 strategy.

### **Supplier**

A natural person or legal entity supplying goods, providing services or implementing construction works.

### **Letter (Notification) of Deputy Minister on Grant Transfer**

The legal act of the notification of the grant transfer stipulating the terms and conditions of the project implementation issued by the MEYS as the granting authority for another state organisation unit and its contributory organisations as the grant beneficiary.

### **EDS/SMVS**

This is an information system for programme financing – EDS/SMVS – former Information System for Programme Financing – ISPROFIN).

### **Electronic Marketplace**

A web application allowing for electronic order placement, the system of electronic market places is governed by CR Government Resolution No. 343 of 10. 5. 2010.

### **Evaluation/Rating**

A process based on profound information collection and professional evaluation with the aim to obtain reliable ground for implementation management and strategic decision-making. Evaluation thus contributed to economic public fund management and allocation.

In the case of evaluations in the areas of ERDF/ESF the evaluated aspects include strategic, policy, programme and project setting, design, implementation and effects. The purpose is to evaluate objective fulfilment (purposefulness) and effectiveness, economy and sustainability achievement. The evaluations are performed before the programming period or programme implementation start (ex-ante), in the course of the programming period (ad-hoc, ongoing or mid-term) and after its end (ex-post).

### **European Structural and Investment Funds (ESIF)**

European structural and investment funds: European Regional Development Fund (ERDF), European Social Fund (ESF), Cohesion Fund (CF), European Agricultural Fund for Rural Development (EAFRD) and European Maritime and Fisheries Fund (EMFF).

### **The European Anti-Fraud Office ( “European Anti-Fraud Office” – OLAF)**

Office established by Commission decision (Commission Decision (EU) 2015/512 of 25 March 2015) with the mission to investigate frauds concerning EU budget, corruption in EU bodies and institutions and serious defaults of their staff. OLAF prepares anti-fraud policy for the European Commission.

The main task of the office is to conduct administrative investigations in Member States concerning financial interests of EU (external investigations) and investigations of EU bodies and their staff (internal investigations).

The legal basis of the anti-fraud activity in the EU is Article 325 of the Treaty on the Functioning of the European Union (replacing Article 280 of the EC Treaty).

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## **Ex-ante and Ex-post Financing**

Depending on the nature of the project and the contractual relationship between the MA of OP RDE and the beneficiary projects may be financed by periodic advance payments (ex-ante financing), or by retrospective refund of eligible project expenditures (ex-post financing).

## **Experimental Research and Development**

Systematic creative work aimed at extending human knowledge, including knowledge of the man, its culture and society with the aim of finding new ways of use of this knowledge.

## **Cash Flows**

Transfers of cash between bodies involved in the programme implementation and beneficiaries.

## **Time Schedule of Calls**

A publicly available document used to obtain information about when the new calls will be announced, their focus and the amount of funds that the managing authority allocated to the call.

Framework plan for OP RDE for the current calendar year on the basis of which calls for particular interventions are published in the course of the year. The time schedule of calls is part of the Strategic Implementation Plan.

## **Individual Project**

A complete set of activities financed from the OP RDE heading towards achievement of predefined measurable objectives. The project is implemented within a defined time horizon according to the defined strategy and within the allocated budget.

## **Individual Systemic Project**

A project addressing a complex issue of a region or the whole Czech Republic. The main feature of ISP is concentrated and targeted support. The process of ISP preparation and monitoring will involve the monitoring committee of the OP RDE. ISP project implementation will place greater emphasis on management, monitoring and continuous evaluation.

## **Aid Intensity**

Aid intensity means the gross amount of aid expressed as a percentage<sup>2</sup> of eligible expenditures before tax and other levies.

## **Investment Priority**

Priorities specified in specific regulations on ERDF, ESF, implementing particular thematic objectives defined in the General Regulation and eligible for support from the respective fund.

## **Collaborative research**

The collaborative research means such research that is implemented through effective cooperation if at least two independent parties, of which at least one is a research organisation or research infrastructure, have a common objective based on the division of work will jointly determine the scope of the project, participate in its drafting, contribute to its implementation and share the financial, technological, scientific and other risks of the project and its results. The conditions of the project cooperation, particularly with regard to contributions to its costs, sharing

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<sup>2</sup> The percentage indicates the max. amount of the grant that can be awarded for the specific operation.

of risks and results, result dissemination, access to the intellectual property rights and rules for the allocation of these rights should be determined before starting the project. Collaborative research is not considered as a form of the provision of research services.

### **Complementarity**

Complementarity is the relationship between interventions that are complementary in nature. Complementarity may be implemented separately, not requiring conditionality of the complementary intervention implementation.

### **Combined Payment**

Means a payment covering both incurred and not yet incurred expenditures on condition of compliance with the conditions defined in the text of the call.

### **Final Beneficiary**

Final recipient of the grant is the entity implementing the project and receiving money from the Structural Funds and the Cohesion Fund as project co-financing. In the case of grant schemes the final recipients are the implementers of the grant events submitted within the grant schemes. The grant scheme owners are the beneficiaries. If there is no grant scheme, i.e. in the case of national individual projects the final beneficiaries are identical with final recipients.

### **Controlling**

The controlling authority checks whether the controlled entity fulfils its liabilities following from the applicable legislation or required by the executed legal act on grant award/transfer.

### **Monitoring Indicators**

A monitoring indicator is an instrument for measurement of objectives/plans, progress or achieved effects on individual implementation levels. The indicator must be accurately defined and consists of a code, a name, a transparent definition, unit of measurement including description of the measurement method, source of data, and the baseline, target and actually achieved values. "Indicator" has the same meaning as its Czech equivalent ("ukazatel").

### **Monitoring System (MS2014+)**

Information system for monitoring, management, evaluation and reporting of ESIF implementation in the Czech Republic in the programming period 2014–2020 on all implementation levels (project, programme, partnership agreement).

### **Monitoring Committee**

The committee in charge of evaluation of the programme implementation. The monitoring committee works in compliance with Article 49 of the General Regulation and further specifically in compliance with Article 110 of the same. Members of the monitoring committee include representatives of the relevant management and coordination bodies and partners (such as ministerial departments, partner ministries, regions, municipalities, non-governmental non-profit organizations, etc.).

### **SME (Small and Medium-Sized Enterprises)**

Enterprises meeting conditions in Annex I of Commission Regulation (EU) No. 651/2014 of 17/06/2014, declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.

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Number of employees and financial thresholds determining enterprise categories:

1. The category of micro-, small- and medium-sized enterprises (SME) is made up of the enterprises which employ fewer than 250 persons and whose annual turnover does not exceed 50 MEUR or whose annual balance sheet total does not exceed 43 MEUR.
2. Within the category of small- and medium-sized enterprises, a small enterprise is defined as an enterprise which employs fewer than 50 persons and whose annual turnover or annual balance sheet total does not exceed 10 MEUR.
3. Within the SME category, a micro enterprise is defined as an enterprise which employs fewer than 10 persons and whose annual turnover or annual balance sheet total does not exceed 2 MEUR.

In the case of an autonomous enterprise, the data, including the number of staff, are determined exclusively on the basis of the financial statements of the company. The data, including the number of employees in the enterprise having partner enterprises or linked enterprises are determined on the basis of the financial statements and other data of the enterprise or on the basis of the consolidated financial statements of the company, if it is compiled or consolidated financial statements in which the enterprise is included within consolidation<sup>3</sup>.

### **National Coordination Authority and Partnership Agreement**

The central methodology and coordination body for implementation of programmes co-financed from ESIF in the Czech Republic in the programming period 2014–2020. The authority is the partner to the European Commission on behalf of the Czech Republic, manages the Partnership Agreement on the national level, administers the monitoring system of MS2014+, defines the methodology of implementation and acts as the central authority for publicity.

### **Publicity Tool and Manual of Uniform Visual Style of ESIF in the Programming Period 2014–2020**

The publicity tool means measures/instruments/activities for assurance of general public awareness of the grants provided from the European Structural and Investment Funds. Obligatory instruments are laid down by the Regulation of the European Parliament and of the Council (EU) No. 1303/2013 and are binding for the National Coordination Authority, Managing Authority, intermediate bodies and beneficiaries.

The UVS Manual defines rules for use of graphic elements and defines the uniform visual style for the programming period 2014–2020. The Manual defines minimum requirements for preparation of the obligatory publicity instruments.

### **Non-compliance**

Non-compliance means violation of EU or CR legislation by action or omission of an economic entity<sup>4</sup>, which will or might lead to a loss in the summary budget of the EU or in the public budget of the Czech Republic, represented by inclusion of incorrect cost in the summary budget of the EU or the public budget of the Czech Republic. In the case of a levy for the reason of breach of discipline the reason must be potential or actual loss of the public budget of the Czech Republic

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<sup>3</sup> For further explanation of the terms autonomous and partner enterprise see Annex 1 to Commission Regulation (EU) No. 651/2014.

<sup>4</sup> An economic entity means an entity pursuant to Art. 2 of the General Regulation.

by inclusion of an incorrect cost. However, the non-compliance does not include incurring of the ineligible expenditure by a state organization unit, provided that the ineligible expenditure was detected and the proper financial adjustment was performed before approval of the payment application by MA. In addition, the non-compliance does not include incurring of ineligible expenditure at the beneficiary level, if it is provided in the ex-ante mode and also provided that the ineligible expenditure was detected and the proper financial adjustment was performed before approval of the payment application. These cases will however continue to represent suspected breach of budgetary discipline (as this term is defined by Section 44 of the Budgetary Rules Act) to be further addressed pursuant to the applicable legislation of the Czech Republic<sup>5</sup>. Criminal acts committed in the context of implementation of programmes or projects co-financed from EU budget will always be considered a non-compliance.

### **Ineligible Expenditure**

Non-eligible expenditures is expenditures not to be co-financed from the ESIF for their non-compliance with the relevant EU regulations, national or other rules defined by the granting authority or legal act on grant award/transfer.

### **Professional Team**

Project employees performing the professional aspects of the project, such as research, lecturing, professional guarantee and other key professional and factual project activities.

### **Deputy Minister Measure**

Deputy Minister Measure is an internal legal act on grant award/transfer defining conditions for the grant drawing for project purposes. This legal act is issued for technical assistance projects and to beneficiary material sections of the MEYS and state organisation unit falling within the MEYS (such as the Czech School Inspection).

### **Authorised Applicant (Beneficiary)**

Authorised applicants, or beneficiaries, are defined by the wording of the operation programme for every area of support. In the case of OP RDE these include for example regions, municipalities, NGOs, higher education institutions, etc.

### **Operation**

Operation is a project, a contract, a measure or a group of projects selected by the respective programme MA or on the basis of MA authorisation in compliance with the criteria defined by the monitoring committee and contributing to the objectives of a priority or priorities to which they relate.

### **Operational Programme**

The basic strategic document of thematic, financial and technical nature for a particular thematic area or territory with a description of particular objectives and priorities for drawing from ERDF and ESF in the programming period 2014–2020, which the Member State wants to achieve in the thematic area/priority and how they are to be achieved, with regard to the Partnership

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<sup>5</sup> The fact that there is no non-compliance is not modified by any subsequent decision of BFA that in the above cases there was a breach of budgetary discipline.

Agreement and Union strategy. This is a binding document for the programme Managing Authority towards the European Commission.

OP RDE is a multi-year thematic program under the responsibilities of the MEYS, in which it is possible to draw funds from the EU structural funds for the programming period 2014-2020. The aim of OP RDE is to contribute to move the Czech Republic towards the economy based on educated, motivated and creative workforce, to the production of high-quality research results and their use for enhancing the competitiveness of the Czech Republic.

### **Organization for Research and Dissemination of Knowledge**

"Organisation for research and dissemination of knowledge" or "research organisation" is an entity (for example a university or a research institute, a technology transfer agency, an innovation mediator, a physical or virtual cooperating entity focused on research) regardless its legal status (pursuant to public or private law) or financing method, whose main aim is to perform independent fundamental research, industrial research or experimental development or public dissemination of results of these activities by means of teaching, publication or knowledge transfer. If this entity at the same time performs economic activities then separate accounts must be kept for financing, expenditures and gains of these economic activities. Entities with decisive influence on such an entity, such as shareholders or members, must not have the right to priority access to the result achieved by the entity.

### **Oriented research**

The oriented research means such a research that is directed to the field of general interest, in order to create a wide range of applications in the future. The oriented research, as opposed to the basic research, is carried out with the expectation that it will create a broad knowledge base, which will probably be the basis for a solution of already recognized or expected (current or future) problems or emerging possibility of using<sup>6</sup>.

### **Drawing Plan**

Estimated financial volumes of requests for payments for the monitoring period, such as the following month or year.

### **Payment and Certification Authority**

The authority responsible for overall finance management of funds provided to the Czech Republic from EU budget and cost certification pursuant to Article 126 of the General Regulation. For the programming period **2014–2020**, MF was authorised to ensure the performance of the payment, certification and audit authority on basis of the Government Decree No. 448 of 12 June 2013. Department 55 – National Fund of the Ministry of Finance was authorised to perform the duty of Payment and Certification Authority by the resolution of the Minister of Finance dated 19 November 2014.

### **The Enterprise**

According to the settled case of Court of Justice, the enterprises are defined as entities engaged in an economic activity, regardless of their legal status and method of financing. The designation of a particular entity as an enterprise thus depends entirely on the character of its activities.

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<sup>6</sup> The definition is based on the definition in the Frascati Manual (2002).

## Undertaking in Difficulty

An "undertaking in difficulty" is a company to which at least one of the following circumstances shall apply:

- a) In the case of a limited liability company (existing for less than three years – for the purpose of eligibility to risk financing – not a SME within seven years from the first commercial sale on the basis of due diligence implemented by a selected finance providers eligible for investment in the area of risk financing) where more than half of its subscribed share capitals disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital. For the purpose hereof the "limited liability company" especially includes company forms listed in Annex I to Directive 2013/34/EU (1) and "equity" includes any potential capital in excess.
- b) In the case of a company where at least some members have unlimited liability for the debt of the company (existing for less than three years – for the purpose of eligibility to risk financing – not a SME within seven years from the first commercial sale on the basis of due diligence implemented by a selected finance providers eligible for investment in the area of risk financing) where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses. For the purpose hereof the "company where at least some partners bear full liability for the company commitments" especially includes company forms listed in Annex II to Directive 2013/34/EU.
- c) Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.
- d) If a company received a rescue support and has not yet refunded a loan or terminated a guarantee or received a grant for restructuring and the restructuring plan still applies to it.
- e) In the case of an undertaking that is not an SME, where, for the past two years:
  - 1) the undertaking's book debt to equity ratio has been greater than 7.5 and
  - 2) the ratio of interest coverage of economic earnings of the company before interest, tax and depreciations (EBITDA) has been lower than 1.0.

## Granting Authority

The granting authority is the central state administrative authority or another entity authorised by act to award grants or refundable financial assistance from the national budget. The granting authority for the purpose of OP RDE is the Ministry of Education, Youth, and Sport.

## Rules for Applicants and Beneficiaries

Rules including the list of conditions and rules to be complied with by the applicant for a grant from OP and rules which the beneficiary must observe when implementing the approved project and in the sustainability period.

## Legal act on grant award/transfer

The legal act confirming grant award/transfer by the granting authority to the beneficiary. The act includes detailed specification of the conditions for the grant award/transfer. The act form may

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differ according to the nature of the granting authority and beneficiary and the relationship between them.

### **Supplier Profile**

Electronic instrument defined pursuant to Section 17, letter w) / Section 28, Per. 1, letter j) of the PPA.

### **Priority Axis**

Priority axis is the basic unit of an operational programme fulfilling one or more investment/thematic objectives and is co-financed from one or more funds.

### **Industrial research**

The planned research or critical investigation aimed at the acquisition of new knowledge and skills for developing new products, processes or services or in a substantial improvement in existing products, processes or services. It includes the creation of components of complex systems, and may include manufacturing of prototypes in a laboratory environment or simulated interfaces with existing systems as well as manufacturing pilot lines, if it is necessary for the industrial research, notably for generic technology validation.

### **Beneficiary**

A public or private entity responsible for start, implementation or sustainability of an operation co-financed from ESIF, which on the basis of the legal act on grant award/transfer and on the basis of fulfilment of the conditions therein laid down submits to the Managing Authority its payment application (or unified application or grant application) and accepts the claimed finance from public funds. In relation to state aid and de minimis support the "beneficiary" means the entity receiving the state aid/de minimis support.

### **EU Contribution**

EU contribution means part of the total eligible expenditure incurred in the context of programmes/projects co-financed by EU. In the case of OP RDE the EU contribution is financed from the ERDF and ESF in the amount of up to 85% of the total eligible expenditure of the projects/programme.

### **Project Implementation (Project Period)**

Activities implemented between the actual physical project implementation start date and the date of the (physical) project implementation completion. The project implementation period is accurately defined in the legal act on grant award/transfer.

### **Implementation Team**

Includes all project roles including the back-office team and the professional project team.

### **Grant Award Decision**

A unilateral legal act on grant award issued by the MEYS as the granting authority in cases where the beneficiaries are not state organisation units and their contributory organisations.

### **Human Resources Development**

Human resources development is a conceptual approach to building adequate administrative capacity.

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## **Managing Authority**

The authority responsible for purposeful, effective and economic management and implementation of the operation programme in compliance with the principles of sound financial management. The Managing Authority of an operational programme co-financed from the ERDF, ESF, CF and EMFF may be national, regional or local public administrative authority or a public or private entity. The Managing Authority performs activities in compliance with Article 125 of the General Regulation.

## **Sanctions**

The payment and penalties for breach of budgetary discipline imposed by locally appropriate financial administration.

## **Specific Objective**

The intended change to be achieved through the activities in the context of an investment priority.

## **Co-financing**

The level of involvement of the individual implementation parties to the project financing. This is the summary term for specification of EU share, maximum national budget share and minimum financial participation of the beneficiaries in the project financing. The level of co-financing is specified for the total eligible expenditure of the project depending on the type of beneficiary, nature of the activity and category of the region where the operation is implemented.

## **Synergy**

Synergy is the relationship between activities in direct functional interaction supporting each other by their effect and impact. Thus synergy may bring stronger impact than the sum of the individual activities implemented in separation. Synergic bonds may develop within and between ESIF programmes, between ESIF and EU programmes and between ESIF and national programmes.

## **Contracted Research<sup>7</sup>**

Contracted research can be characterised as research activity implemented by a research organisation and connected with services with high added value, i.e. generally with services ordered and paid by another party including coverage of the expenditure and adequate profit of the research party by the ordering party. The services mainly cover research and development including related consultations (such as sample processing, measurements and testing to order etc.).

Contracted research pursuant to Article 2.2.1 of the Community Framework for State aid of Research, Development and Innovations 2014/C 198/01 means research performed by a research organisation for a certain company as service in situations when the organisation receives adequate payment for the service provided and the company specifies conditions of the service provision. The company usually becomes owner of all research results and bears the risk of failure.

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<sup>7</sup> Definition based on material Transfer of the data of contracted research in 2015, published on [www.vyzkum.cz](http://www.vyzkum.cz) 27 August 2015.

Contracted research revenues do not include revenues from sales and lease of properties, ordinary equipment lease, revenues from sales of materials and products (except for development and manufacture of prototypes to order). Generally activities not related to the research and development activity of the research organisation are not included. Contracted research also does not include participation in RDI projects (programme and grant projects) and public projects within RDI funded from the national budget where the research organisation is in the position of the project beneficiary or partner.

Concerning revenues from leases of specialised equipment these can only be included if the lease is connected with demonstrable provision of research and development services and is motivated by the effort to effectively use the acquired equipment through secondary economic activities.

The contracted research project outcomes usually include some of the following types of results (according to RIV15) – a patent, a semi-operation, a tested technology, a variety, a race, an industrial design, a prototype, a functional sample, results reflected in legislative acts and standards, results reflected in guidelines and regulations of non-legislative nature binding for the respective provider, results reflected in approved strategic and conceptual documents of RDI and innovation issued by state administrative or self-governing bodies, a certified method, a therapeutic procedure, a conservation procedure, a specialised map with professional content, a software, a research report, or a summary research report.

### **Technical Assistance**

Funds for use by the Managing Authority in the areas of preparation, monitoring, administrative and technical support (programme implementation, studies, analyses, programme promotion, information systems, experience exchange with partners, professional staff training etc.), evaluation, audit and inspections necessary for effective implementation of the OP RDE.

### **Effective Collaboration**

Effective collaboration means collaboration of at least two independent parties for the purpose of knowledge or technology exchange or achievement of a common objective on the basis of division of labour where the parties jointly specify the scope of the collaboration project, contribute to its implementation and share risks and results. The project expenditure can be borne in any extent by one or more parties and thus rid other parties of their financial risks. Contractual research and provision of research services are not considered as forms of collaboration.

### **Project Sustainability**

The time for which the beneficiary must keep the project outcomes going. The beneficiary is bound to do so by the legal act on grant award/transfer where the granting authority exactly specifies its requirement for the project sustainability. Compliance with the liability to sustain the project may be inspected by the relevant institutions.

### **Major Project**

A project financed from ERDF or CF consisting of a series of works, activities or services aimed at achievement of a non-divisible task of accurately specified economic or technical nature, with clearly defined objectives and with total eligible expenditure exceeding € 50 million, or € 75 million

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in the case of projects contributing to fulfilment of thematic objective (i.e. support for sustainable transport and removal of obstacles in key network infrastructures).

### **State Aid**

State aid meeting the requirements of Article 107 (1) of the Treaty on the Functioning of the European Union means any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.

### **Public contracts journal**

Part of the public procurement procedure information system providing information about public procurement procedures.

### **Procurement Procedure**

Procurement procedure implemented by the Client pursuant to Section 12.3 of the RfAB for the purpose of contract award with the outcome of contract execution or procurement procedure cancellation.

### **Research Infrastructure**

Research infrastructure means facilities, resources and related services used by the research community for its research activities in the relevant fields, including research instrumentation and materials, knowledge-based resources such as collections, archives and structured research information, infrastructures of information and communication technologies, such as GRIDS, computer hardware and software, communication means as well as other unique element needed for research. These infrastructures may be "concentrated" in one place or "dispersed" across various sites.

### **Research Organization**

See the definition of organisations for research and dissemination of knowledge.

### **Call**

A call is an activity of the Managing Authority or another authorised entity within the programme requesting submission of grant applications by the applicants/future beneficiaries pursuant to predefined conditions.

**Round call** is a call type when the responding projects are compared.

**Continuous call** is a non-competing call type when the projects do not compete for the aid.

### **Public Procurement Procedure**

Procedure implemented by the contracting authority pursuant to the Public Procurement Act for the purpose of contract award with the outcome of contract execution or procurement procedure cancellation.

### **Contracting Authority**

During the project implementation, each entity performs a selection or public procurement procedure.

### **Contract**

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Contract implemented on the basis of a written order or contract between the contracting authority and one or more suppliers with the subject of supply of goods or services for a charge or implementation of construction works for a charge.

### **Fundamental research**

The basic research, according to the Regulation No. 651/2014, means an experimental or theoretical work carried out principally to acquire new knowledge of the fundamental principles of phenomena and observable facts, not focused on direct commercial application or use.

### **Bidder**

Supplier called to submit a bid in a procurement procedure of a contracting authority.

### **Waiting Projects**

Quality projects eligible for financing but not yet financed for the reason of limited funds allocated for the given call for proposals. These projects can be approved for financing in the case of additional fund allocation or in the case of decreased financial requirements of already approved projects.

### **Simplified reporting of expenditure<sup>8</sup>**

The way of project expenditure reporting based on limited requirements for financial reporting (documentation) and cost documentation by the beneficiary with related accounting documents, or these requirements are replaced with the condition of achievement of defined milestones and outputs or in the case of a predefined procedure of eligible cost calculation, with lump sum payment as a variant for example indirect expenditure, unit expenditure and one-off payments.

### **Simplified Project**

A project consisting exclusively of standardised activities with defined outputs or results specified by the Managing Authority and with predefined amount of grant per activity (output, result) in harmony with the simplified cost reporting approach.

### **Intermediate Body**

An entity authorised by the MA of OP RDE to perform some functions of the Managing Authority on the basis of delegation agreement. The agreement between the Managing Authority and the intermediate body must be in writing (see Article 123 (6) of the General Regulation).

### **Eligible Expenditure**

Expenditure incurred for the defined purpose in the course of the period specified in the legal act on grant award/transfer which are in compliance with the relevant EU and CR regulations, the relevant Methodological Guideline of MoRD – NCA (Methodological Guideline for the eligibility of expenditures and reporting in programming period 2014–2020) and other rules defined by the Managing Authority for the given operation programme.

### **Applicant**

An entity submitting a grant application. This term is used for the entity in the course of the application processing, submission to the granting authority and approval process until execution of the legal

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<sup>8</sup> EU legislation also uses the term “simplified cost reporting”, the difference between these concepts is essential for the purposes of the RfAB.

act on grant award/transfer with the granting authority. At the moment of execution of the legal act on grant award/transfer the applicant becomes beneficiary.

### **Grant Application**

The application filled out by the applicant and submitted with the aim to obtain a grant for the submitted operation in the framework of the operational programme. The application must be prepared in compliance with the terms and conditions of the operational programme.

### 3. CHAPTER – LEGAL BASIS AND OTHER UNDERLYING DOCUMENTS

#### 3.1 3.1 Legislative acts and implementing regulations of EC/EU

European legislation is available <http://eur-lex.europa.eu>.

##### European Structural and Investment Funds

- Regulation of the European Parliament and of the Council (EU) No. 1303/2013 of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No. 1083/2006 (hereinafter "General Regulation");
- Regulation of the European Parliament and of the Council (EU) No. 1301/2013 of 17 December 2013 on the European Regional Development Fund and on specific provisions concerning the Investment for growth and jobs goal and repealing Regulation (EC) No. 1080/2006 (hereinafter "ERDF Regulation");
- Regulation of the European Parliament and of the Council (EU) No. 1304/2013 of 17 December 2013 on the European Social Fund and repealing Regulation (EC) No. 1081/2006 (hereinafter "ESF Regulation");
- Regulation of the European Parliament (EC) No. 1059/2003 on the establishment of a common classification of territorial units for statistics (NUTS);
- Directive 2001/42/ES of the European Parliament and of the Council on evaluation of the Effects of Certain Plans and Programmes on the Environment;
- Commission Regulation No. 522/2014 of 11 March 2014, supplementing Regulation (EU) No. 1301/2013 of the European Parliament and of the Council with regard to the detailed rules concerning the principles for the selection and management of innovative actions in the area of sustainable urban development to be supported by the European Regional Development Fund;
- Commission Implementing Regulation (EU) No. 821/2014 of 28 July 2014 laying down rules for the application of Regulation (EU) No. 1303/2013 of the European Parliament and of the Council as regards detailed arrangements for the transfer and management of programme contributions, the reporting on financial instruments, technical characteristics of information and communication measures for operations and the system to record and store data;
- Commission Delegated Regulation (EU) No. 240/2014 of 7 January 2014 on the European code of conduct on partnership in the framework of the European Structural and Investment Funds;
- Commission Delegated Regulation (EU) No. 480/2014 of 3 March 2014 supplementing Regulation (EU) No. 1303/2013 of the European Parliament and of the Council laying down

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common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund;

- Commission Delegated Regulation (EU) No. 481/2014 of 4 March 2014 supplementing Regulation (EU) No. 1299/2013 of the European Parliament and of the Council with regard to specific rules on the eligibility of expenditure for collaboration programmes;
- Commission Implementing Regulation (EU) No. 184/2014 of 25 February 2014 laying down pursuant to Regulation (EU) No. 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund, the terms and conditions applicable to the electronic data exchange system between the Member States and the Commission and adopting pursuant to Regulation (EU) No. 1299/2013 of the European Parliament and of the Council on specific provisions for the support from the European Regional Development Fund to the European territorial collaboration goal, the nomenclature of the categories of intervention for support from the European Regional Development Fund under the European territorial collaboration goal;
- Commission Implementing Regulation (EU) No. 215/2014 of 7 March 2014 laying down rules for implementing Regulation (EU) No. 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund with regard to methodologies for climate change support, the determination of milestones and targets in the performance framework and the nomenclature of categories of intervention for the European Structural and Investment Funds;
- Commission Implementing Regulation (EU) No. 288/2014 of 25 February 2014 laying down rules pursuant to Regulation (EU) No. 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund with regard to the model for operational programmes under the Investment for growth and jobs goal and pursuant to Regulation (EU) No. 1299/2013 of the European Parliament and of the Council on specific provisions for the support from the European Regional Development Fund to the European territorial collaboration goal with regard to the model for collaboration programmes under the European territorial collaboration goal;
- Commission Implementing Regulation (EU) No. 1011/2014 of 22 September 2014 laying down

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detailed rules for implementing Regulation (EU) No. 1303/2013 of the European Parliament and of the Council as regards the models for submission of certain information to the Commission and the detailed rules concerning the exchanges of information between beneficiaries and managing authorities, certifying authorities, audit authorities and intermediate bodies;

- Commission Implementing Decision of 18 February 2014 setting out the list of regions eligible for financing from the European Regional Development Fund and the European Social Fund and of Member States eligible for financing from the Cohesion Fund for the period 2014-2020 [notified under document C(2014) 974] (2014/99/EU).

### **Public procurement procedure**

- Directive of the European Parliament and of the Council 2014/24/EU of 26 February 2014 on procurement and repealing Directive 2004/18/EC;
- Directive of the European Parliament and of the Council 2014/25/EU of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC;
- Commission Implementing Regulation (EU) No. 842/2011 of 19 August 2011 establishing standard forms for the publication of notices in the field of public procurement and repealing Regulation (EC) No. 1564/2005;
- Commission Regulation No. 1336/2013 amending Directives 2004/17/EC, 2004/18/EC and 2009/81/EC of the European Parliament and of the Council in respect of the application thresholds for the procedures for the awards of contract.

### **State Aid**

- The Treaty on the Functioning of the European Union (TFEU), Art. 107, 108 and 109;
- Commission Regulation (EU) No. 651/2014 of 17. 6. 2014, declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty;
- Council Regulation (EU) No. 2015/1588 of 13 July 2015 on application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to certain categories of horizontal state aid;
- Communication from the Commission Framework for State aid for research, development and innovation 2014/C 198/01 (hereinafter "Framework");
- Commission Communication on the notion of state aid pursuant to Art. 107 (1) of the Treaty on the Functioning of the European Union;
- Commission Regulation (EU) No. 1407/2013 of 18 December 2013 on application of Articles 107 and 108 of the Treaty on the Functioning of the European Union for de minimis support;
- Council Regulation (EU) No. 2015/1589 of 13 July 2015, laying down implementation rules to Article 108 of the Treaty on the Functioning of the European Union;
- Commission Regulation (EC) No. 794/2004 of 21 April 2004, executing Council Regulation (EC) No. 659/1999, laying down implementing rules to Article 93 of EC Treaty, as amended;
- Commission Regulation (EU) 2015/2282 of 27 November 2015 amending Regulation (EC) No.

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794/2004 regarding the forms for notification of state aid and information sheets;

- Commission Regulation No. 1125/2009 of 23 November 2009, amending Regulation No. 794/2004;
- Commission Regulation No. 271/2008 of 30 January 2008, amending Regulation No. 794/2004;
- Commission Regulation No. 1147/2008 of 31 October 2008, amending Regulation No. 794/2004;
- Council Regulation (EU) No. 733/2013 of 22 July 2013, amending Regulation (EC) No. 994/98 on the application of Articles 92 and 93 of the Treaty establishing the European Community to certain categories of horizontal State aid;
- Commission Regulation (EU) No. 360/2012 of 25 April 2012 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid granted to undertakings providing services of general economic interest (hereinafter "the SGEI Regulation");
- Commission Communication on application of the EU rules in the area of state aid for compensation provided for provision of Services of general economic interest (hereinafter "Services of general economic interest Communication");
- Commission Decision 2012/21/EU of 20 December 2011 on the application of Article 106(2) of the TFEU to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (hereinafter "Services of general economic interest Decision");
- Commission Communication European Union Framework for State Aid in the form of public service compensation (2012/C 8/03);
- Commission Communication – Criteria for analysis of compatibility of state aid for employment of disadvantaged and physically handicapped staff subject to individual reporting liability No. 2009/C 188/02;
- Commission Communication – Criteria for analysis of compatibility of state aid for education subject to individual reporting liability No. 2009/C 188/01;
- Instructions to regional state aid for the period 2014–2020 No. 2013/C 209/01 valid as of 1. 7. 2014;
- Map of regional support for the period 2014–2020.

## **R&D Regulations**

- Regulation of the European Parliament and of the Council (EU) No. 1291/2013 of 11 December 2013, introducing the Horizon 2020 – framework programme for research and innovation (2014–2020) and repealing Decision No. 1982/2006/EC;
- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Regions Committee COM (2013) 494 in the final wording of "Partnership of the Public and the Private Sector in the programme Horizon 2020: effective instrument for achievement of innovation and growth in Europe";

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- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Regional Committee COM (2012) 392 in the final wording of "Strengthened Partnership of the European Research Area for excellence and growth";
- Resolution of the Council of 27 November 2009 on the renewed Framework of European Collaboration in the Youth area(2010–2018) 2009/C 311/01.

### 3.2 Related legislation of the Czech Republic<sup>9</sup>

Statutory provisions of the Czech Republic are available on <http://aplikace.mvcr.cz/sbirka-zakonu/>.

#### Legislative Acts

- Act No. 137/2006 Coll., on public procurement and on amendment to certain other acts, as amended (hereinafter "Public Procurement Act");
- Act No. 183/2006 Coll., on town and country planning and building code and on amendment to certain other acts, as amended (hereinafter "Building Act");
- Act No. 500/2004 Coll., Code of Administrative Procedure, and on amendment to certain other acts, as amended (hereinafter "Code of Administrative Procedure");
- Act No. 215/2004 Coll., amending certain relationships in the area of state aid and on amendment to the Research and Development support Act, and on amendment to certain other acts, as amended (hereinafter "Act on Amendment of Relationships in the Area of State Aid");
- Act No. 235/2004 Coll., on value added tax and on amendment to certain other acts, as amended (hereinafter "VAT Act");
- Act No. 420/2004 Coll., on examination of asset management of territorial self-governing units and voluntary unions of municipalities and on amendment to certain other acts, as amended (hereinafter "Act on Examination of Asset Management of Territorial Self-governing Units and voluntary unions of municipalities");
- Act No. 499/2004 Coll., on arches and record management and on amendment to certain other acts, as amended (hereinafter "Archives and Record Management Act");
- Act No. 47/2002 Coll., on SME support and on amendment to Act No. 2/1969 Coll., on establishment of ministries and other central state administrative bodies of the Czech Republic, and on amendment to certain other acts, as amended (hereinafter "SME Support Act");
- Act No. 320/2001 Coll., on financial supervision in public administration and on amendment to certain other acts, as amended (hereinafter "the Act on Financial Supervision");
- Act No. 248/2000 Coll., on regional development support and on amendment to certain other acts, as amended (hereinafter "Regional Development Support Act");

<sup>9</sup> With respect to the scope, only a demonstrative list of legal norms is listed in the current version.

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- Act No. 131/2000 Coll., on the City of Prague and on amendment to certain other acts, as amended (hereinafter "City of Prague Act");
- Act No. 219/2000 Coll., on the property of the Czech Republic and the representation of the Czech Republic in legal relations and on amendment to certain other acts, as amended (hereinafter "CR Property Act");
- Act No. 218/2000 Coll., on Budgetary Rules and on amendment to certain other acts, as amended (hereinafter "Budgetary Rules");
- Act No. 166/1993 Coll., on the Supreme Audit Office and on amendment to certain other acts, as amended (hereinafter "SAO Act");
- Act No. 586/1992 Coll., on income tax and on amendment to certain other acts, as amended (hereinafter "Income Tax Act");
- Act No. 280/2009 Coll., Rules of Taxation and on amendment to certain other acts, as amended (hereinafter "Taxation Rules");
- Act No. 563/1991 Coll., on accounting and on amendment to certain other acts, as amended (hereinafter "Accounting Act");
- Act No. 255/2012 Coll., on controlling and on amendment to certain other acts, as amended (hereinafter "Controlling Rules");
- Act No. 456/2011 Coll., on finance administration of the Czech Republic and on amendment to certain other acts, as amended (hereinafter "CR Finance Administration");
- Act No. 2/1969 Coll., on establishment of ministries and other central government authorities of the Czech Republic and on amendment to certain other acts, as amended (hereinafter "Act on Establishment of Ministries and other Central Government Authorities");
- Act No. 40/2009 Coll., Criminal Code and on amendment to certain other acts, as amended (hereinafter "Criminal Code");
- Act No. 141/1961 Coll., on criminal judicial procedure and on amendment to certain other acts, as amended (hereinafter "Criminal Judicial Procedure Act");
- Act No. 418/2001 Coll., on criminal liability of legal entities and proceedings against them, as amended (hereinafter "Legal Entity Criminal Liability Act");
- Act No. 125/2008 Coll., on transformations of business corporations and cooperatives and on amendment to certain other acts, as amended (hereinafter "Business Corporation and Cooperative Transformations Act");
- Act No. 130/2002 Coll. on the Support of research and development from public funds and on the amendment to some related acts (the Act on the Support of Research and Development)
- Act No. 111/1998 Coll., on higher education institutions and on amendment to certain other acts, as amended;
- Act No. 561/2004 Coll., on preschool, basic, secondary and higher professional and other education and on amendment to certain other acts, as amended (hereinafter "Education Act");
- Act No. 89/2012 Coll., Civic Code and on amendment to certain other acts, as amended (hereinafter "Civic Code");

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- Act No. 90/2012 Coll., on business corporations and cooperatives and on amendment to certain other acts, as amended (hereinafter "Business Corporations Act");
- Act No. 262/2006 Coll., Labour Code and on amendment to certain other acts, as amended (hereinafter "Labour Code");
- Act No. 101/2000 Coll., on personal data protection and on amendment to certain other acts, as amended (hereinafter "Personal Data Protection Act");
- Act No. 106/1999 Coll., on free access to information and on amendment to certain other acts, as amended (hereinafter "Free Access to Information Act");
- Act No. 234/2014 Coll., on civil service and on amendment to certain other acts, as amended (hereinafter "Civil Service Act");
- Act No. 563/2004 Coll., on teachers and on amendment to certain other acts, as amended (hereinafter "Teachers Act");
- Act No. 256/2013 Coll., on Cadastre of Real Estates and on amendment to certain other acts, as amended. (hereinafter "the Cadastre Act");
- Act No. 250/2000 Coll., on budgetary rules for regional budgets and on amendment to certain other acts, as amended. (hereinafter the Act on Municipal Budgetary Rules);
- Act No. 341/2005 Coll., on public research institutions as amended (hereinafter "Public Research Institution Act");
- Act No. 283/1992 Coll., on the Academy of Sciences of the Czech Republic, as amended (hereinafter "Academy of Science Act");
- Act No. 128/2000 Coll., on municipalities (municipal order), as amended (hereinafter "Municipalities Act");
- Act No. 300/2008 Coll., on electronic acts and authorised conversion of documents, as amended (hereinafter "Act on electronic actions and authorised conversion of documents");
- Act No. 182/2006 Coll., on bankruptcy and methods of its settlement (Bankruptcy Act) as amended (hereinafter "Bankruptcy Act");
- Act No. 589/1992 Coll., on social security insurance and state employment policy contribution and on amendment to certain other acts, as amended (hereinafter "Social Security Act");
- Act No. 151/1997 Coll., on property valuation and on amendment to certain other acts, as amended (hereinafter "Property Valuation Act");
- Act No. 198/2002 Coll., on volunteer service and on amendment to certain other acts, as amended (hereinafter "Volunteer Service Act");
- Act No. 373/2011 Coll., on specific health services, as amended (hereinafter "Special Healthcare Service Act");
- Act No. 253/2008 Coll., on some measures against the legalisation of yields proceeding from crime and financing of terrorism, as amended (hereinafter the "AML Act").

## Government Resolutions

Government resolutions are available on <http://www.vlada.cz>

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- Czech Government Resolution of 31 August 2011 No. 650 on Summary proposal for orientation of future cohesion policy of the European Union after 2013 under the Czech Republic conditions including proposal of development priorities for drawings from EU funds after 2013;
- Czech Government Resolution of 8 September 2011 No. 664 on further procedure of preparation of the Monitoring System for Structural Funds and the Cohesion fund for the programming period 2014–2020;
- Czech Government Resolution of 21 March 2012 No. 184 on recommendations for simplification of administrative load for applicant and beneficiaries in the context of drawings from EU funds in the programming period 2014 – 2020;
- Czech Government Resolution of 22 August 2012 No. 610 on the proposal for correction of legislative barriers to implementations of the structural funds and the Cohesion Fund of the European Union in the programming period 2014 – 2020;
- Czech Government Resolution of 28 November 2012 No. 867 (hereinafter "UV 867/2012") and related material Document for preparation of the Partnership Agreement for the programming period 2014–2020 – Definition of programmes and further proceeding in preparation of the Czech Republic for effective drawings from the Common Strategic Framework funds;
- Czech Government Resolution of 15 May 2013 No. 345 on the Concept of the unified methodological environment as part of the background for implementation of the Partnership Agreement;
- Czech Government Resolution of 12 June 2013 No. 447 on the draft Partnership Agreement for the programming period 2014 – 2020;
- Czech Government Resolution of 1 June 2013 No. 448 on the Rules of management and coordination of the Partnership Agreement in the programming period 2014 – 2020;
- Czech Government Resolution of 9 August 2013 No. 597 on the collection of methodological documents on the areas of evaluation, principles of creation and use of indicators, the eligibility of expenditures and their reporting and risk management in the programming period of 2014 - 2020;
- Czech Government Resolution of 23 October 2013 No. 809 on the progress of preparation of the programming period 2014 – 2020 on the national level;
- Czech Government Resolution of 20 November 2013 No. 873 on the Methodological Guideline for management of calls for proposals, evaluations and selection of projects in the programming period 2014–2020;
- Czech Government Resolution of 15 January 2014 No. 44 on the Collection of methodological documents on monitoring, public procurement, publicity and communication and preparation of control documentation of programmes in the programming period 2014–2020;
- Czech Government Resolution of 12 March 2014 No. 166 on the Methodological Guideline on programme revision in the programming period 2014 – 2020;
- Czech Government Resolution of 9 April 2014 No. 242 on the Partnership Agreement for the

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programming period 2014 – 2020;

- Czech Government Resolution of 16 June 2014 No. 444 on the Methodological Guideline on HR development in the programming periods 2014 - 2020 and 2007–2013;
- Czech Government Resolution of 19 July 2012 No. 552 on the National priorities of oriented research, experimental development and innovations;
- Czech Government Resolution of 31 July 2013 No. 569 on the Implementation of National priorities of oriented research, experimental development and innovations;
- Czech Government Resolution No. 761/2007 on the Strategy of the Czech Republic for lifelong learning (formal education, informal education and informal learning);
- Czech Government Resolution of 9 July 2014 No. 557 on the Research, Development and Education Operation Programme;
- Czech Government Resolution of 9 July 2014 No. 536 on the Collection of methodological documents to monitoring of the European Structural and Investment Funds in the programming period 2014–2020;
- Czech Government Resolution of 14 July 2014 No. 583 on the rules of Co-Financing by the European Structural and Investment Funds in the programming period 2014–2020;
- Czech Government Resolution of 15 October 2014 No. 837 on the Methodological Guideline for cash flows of the programmes co-financed from the European Structural Funds, the Cohesion Fund and the European Maritime and Fisheries Fund for the programming period of 2014–2020;
- Czech Government Resolution of 25 June 2014 No. 473 on the Methodological Guideline governing the methodology of non-compliance reporting on the exterior level to the OLAF for the programming period 2014 – 2020;
- Czech Government Resolution of 27 October 2014 No. 867 on the Methodological Guideline for execution of controls under responsibility of managing authorities in implementation of the European Structural and Investment Funds for the period of 2014 – 2020;
- Czech Government Resolution of 12 November 2014 No. 918 on the Criteria for programme implementation start - or publication of calls for proposals before the programme approval by the European Commission in the programming period 2014 – 2020;
- Czech Government Resolution of 1 December 2014 No. 1006 on update of the Methodological Guideline for HR development in the programming periods 2014 – 2020 and 2007 – 2013;
- Czech Government Resolution of 8 December 2014 No. 1028 on the Research and Innovation Strategy for Smart Specialisation of the Czech Republic (National RIS3 strategy);
- Czech Government Resolution of 12 May 2014 No. 342 on the Concept of youth support in the period 2014 – 2020;
- Czech Government Resolution of 27 August 2014 No. 681 on the National document for territorial dimension;
- Czech Government Resolution of 27 August 2014 No. 682 on the Methodological Guideline for use of integrated instruments in the programming period 2014 - 2020.

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### 3.3 Other Binding Documents

The binding documents are available on:

<http://www.strukturalni-fondy.cz/cs/Fondy-EU/2014-2020>

#### Strategic Documents of EU

- Europe 2020 – A strategy for smart, sustainable and inclusive growth supporting inclusion, COM (2010) 2020 in the final wording;
- Strategic Framework for European Co-operation in Education and Training (ET 2020, or Education and Training 2020);
- Renewed Framework of European Collaboration in Youth Area (2010–2018);

#### Strategic Documents of CR

- Partnership Agreement for programming period 2014–2020;
- Operation programmes (OP Enterprising and innovation for competitiveness, OP Research, development and education, OP Transport, OP Environment, OP Employment, Integrated regional OP, OP Prague - pole of growth of CR, OP Technical assistance, OP Cross-boundary collaboration Czech Republic - Republic of Poland 2014–2020, OP Cross-boundary collaboration Slovak Republic – Czech Republic 2014–2020, OP Cross-boundary collaboration Republic of Austria – Czech Republic 2014–2020, Rural development programme, OP Fisheries);
- National Reform Programme of CR 2014;
- International Competitiveness Strategy of the Czech Republic 2012–2020;
- Strategy of educational policy of the Czech Republic before 2020;
- Strategy of the Czech Republic for lifelong learning;
- Priorities for areas of responsibility of the Ministry of Education, Youth and Sport of the Czech Republic in the future period of cohesion policy of the EU 2014–2020;
- MEYS material: Status of gender equality at the MEYS and proposal of medium-term strategic plan in the area of gender equality;
- MEYS material: Digital learning strategies as amended;
- Strategy of education for sustainable progress of the Czech Republic;
- State programme of environmental education, upbringing and awareness in the Czech Republic;
- Regional Development Strategy of the Czech Republic 2014–2020;
- Update of the National policy of research, development and innovations of the Czech Republic for the period 2009 –2015 with an outlook to 2020;
- National priorities of oriented research, experimental development and innovations,
- National Innovation Strategy of CR 2012 – 2020;

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- National Research and Innovation Strategy for Smart Specialisation of the Czech Republic (National RIS3 strategy);
- Concept of support for development of talents and care of talents in the period of 2014–2020;
- Strategy of the struggle against fraud and corruption in the context of CSF fund drawings in the period 2014–2020;
- Government anti-corruption strategy 2013 – 2014;
- Long-term intention of education and educational system development in the Czech Republic in the period 2015 – 2020.

#### **Other Documents**

**Documents related to preparation for the programming period 2014–2020 are available on:**  
<http://www.strukturalni-fondy.cz/cs/Fondy-EU/2014-2020/Dokumenty>

#### **Methodological Guidelines of Regional Development Ministry**

- Methodological Guideline for monitoring of implementation of the European Structural and Investment Funds in the Czech Republic in the programming period 2014–2020;
- Methodological Guideline for the area of contract awards for the programming period 2014–2020;
- Methodological Guideline for use of integrated instruments in the programming period 2014–2020;
- Methodological Guideline for the eligibility of expenditures and their reporting in the programming period 2014–2020;
- Methodological Guideline for publicity and communication of the European Structural and Investment Funds in the programming period 2014–2020;
- Methodological Guideline for management of calls, evaluation and selection of projects in the programming period 2014–2020;
- Methodological Guideline for management of risks of ESI funds in the programming period 2014–2020;
- Methodological Guideline for revision of programmes for the programming period 2014–2020;
- Methodological Guideline for principles of creation and application of indicators in the programming period 2014–2020;
- Methodological Guideline for evaluation in the programming period 2014–2020;
- Methodological Guideline for preparation of control documentation of programmes in the programming period 2014–2020;
- Methodological Guideline for HR development in the programming periods 2014–2020 and 2007–2013;
- Methodological Guideline for preparation of programme documents in the programming period 2014 – 2020;
- Methodological Guideline for management and monitoring processes of ESI funds in

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MS2014+, part 1;

- Methodological Guideline for management and monitoring processes of ESI funds in MS2014+, part 2;
- Manual of uniform visual style of ESI funds in the programming period 2014 – 2020;
- Methodology of programme management in the programming period 2014–2020.

#### **Methodological Guideline of Ministry of Finance of CR**

- Methodological Guideline for cash flows of the programmes co-financed from the European Structural Funds, the Cohesion Fund and the European Maritime and Fisheries Fund for the programming period 2014–2020;
- Methodological Guideline for execution of controlling under responsibility of management authorities in implementation of the European Structural and Investment Funds for the period 2014–2020;
- Methodological Guideline laying down methodology of non-compliance reporting on the external level to the European Anti-fraud Office (OLAF) for the programming period 2014–2020;
- Methodological Guideline for certification of expenditure for the programming period 2014–2020;
- Methodological Guideline for audits by the Audit Authority (AA) for the programming period 2014 –2020.

#### **Other Methodological Documents**

- Methodological recommendation for state support area;
- Methodological recommendation for income-generating projects in the programming period 2014– 2020;
- Methodological Guideline for the Central register of small-scale aid (hereinafter "RDM"); Methodological handbook for application of the "single enterprise" term from the viewpoint of de minimis rules;
- Handbook for users of the monitoring system MS2014+;
- Guide to Cost-benefit Analysis of Investment Projects - Economic appraisal tool for Cohesion Policy 2014–2020;
- Synergies between ESIF, Horizon 2020 + other EU smart growth programmes.

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## 4. CHAPTER –CONTACTS AND COMMUNICATION WITH THE APPLICANT AND BENEFICIARY

One of the main forms of communication between the MA (Managing Authority) and the applicant/beneficiary is represented by internal messages of the monitoring system (for more information see Chapter 4.1 Communication in IS KP14+). Appropriate and timely communication between the applicant/beneficiary and the MA of OP RDE is the basic assumption for successful project implementation.

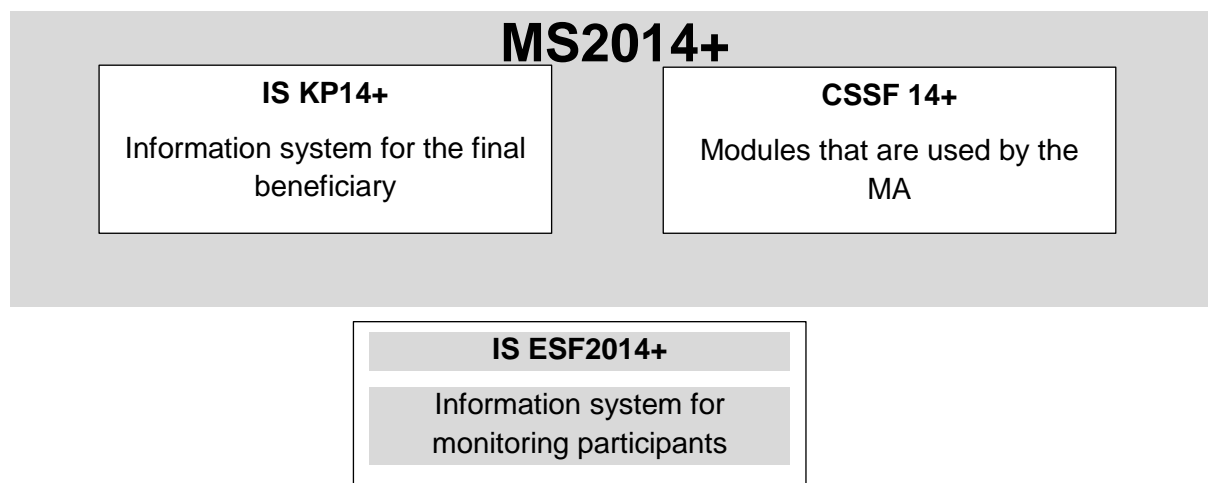
- All documents in all stages of preparation/implementation/project sustainability are placed in the form of:
  - “electronic original” (statements primarily produced electronically or documents signed by a secure electronic signature);
  - or officially verified copies in electronic form – documents created by the authorized conversion of the original in paper form into electronic form;
  - or a simple copy (scan).

Timely communication between the applicant/beneficiary and OP RDE MA can in many cases prevent problematic situations, which may result in sanctions for the beneficiary in the case of violation of the terms and conditions of the OP RDE including correction or complete return of the grant. For the purpose of successful project implementation there is the below described system of communication between the OP RDE MA and the applicants/beneficiaries.

### 4.1 Communication in IS KP14+

From the moment of submission of application of the potential grant applicant communication is possible within MS2014+ between the applicant (project manager) and MA of OP RDE (especially the project administrator), for example in the matters of inquiries about the text of the call for project, return of the grant application for correction or completion, potential requests for decision reviews, negotiations before legal act conclusion on the grant award / transfer etc.

#### Simplified Scheme of Monitoring System (MS2014+):



The term MS2014+ means the complete monitoring system, while the term IS KP14+ only refers to its part entered by the applicant/beneficiary.

### **IS ESF2014+**

IS ESF2014+ is a system for monitoring of number of participants of the interventions according to Annex I to the ESF Regulation. It enables particularly:

- monitoring of persons supported by the projects OP RDE with maximum use of actual data logged in the MLSA agenda systems, which are supplemented by collection of data from implementers of national individual projects;
- automatized calculation of indicators related to participants of national individual projects are transfer of achieved values of indicators IS KP14+.

Within the IS ESF2014+, the set of common indicators monitoring the participants of the interventions is stated as so-called **participant card**.

### **IS KP14+**

In case of inquiries concerning the monitoring system (IS KP14+) please use the following options of communication with the MA of OP RDE or the system administrator:

- in case of a non-registered user:
  - for methodological and technical inquiries please use the form on tab FAQ;
  - in case of problems with registration, use the form on the home screen of the Registration field;
- in the case of a registered user (with an existing grant application of OP RDE):
  - use the Dispatches function and send the request to the contact person specified in the call.

A detailed description of use of the Dispatch functionality is included in User Manual for IS KP14+: Instructions for completing the grant application.

### **Types of Internal Messages**

- *User Messages*

Most of communications between users of MS2014+ will use the instrument for user messages without user type limitations. Both external (user of IS KP14+/applicant/beneficiary) and internal (user of CSSF14+ / implementation structure of MA) users will receive an address on their registration and both types of users will be able to communicate by user messages from the very beginning. User messages will be created by the applicant/beneficiary, received and sent by it to the MA of OP RDE.

A specific section of internal messages is represented by user messages sent by the users to the technical support of the monitoring system. For this purpose there is the group address of OP VVV\_Žadatel\_Technická podpora (OP RDE\_Applicant\_Technical Support).

- *System Messages*

System messages will be distributed by the MA of OP RDE on the basis of system events to all users. These will include for example notifications of approaching deadlines of obligatory

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activities, information from the OP RDE MA or information about changes of status of individual processes. System messages will be only received by the applicants without replying to them and will be generated by the system or the MA of OP RDE automatically.

## 4.2 Other Forms of Communication

Applicants/beneficiaries can choose in some cases one of the following forms of communication with the MA of OP RDE with most of them taking place within the IS KP14+.

In the cases where neither these rules nor the IS KP14+ specify a communication method for the particular situation the applicant/beneficiary shall choose the best communication method on the basis of agreement with the project/finance administrator.

### Written Correspondence

The applicants/beneficiaries will communicate with the MA of OP RDE through data box information system – ISDS (unless written – printed format is used). ISDS is recommended for this type of communication by the MA of OP RDE. Communication via ISDS complies with the Act on Electronic Acts and Authorised Conversion of Documents. Communication via ISDS is based on data message sending and receiving.

**Data message must be sent to the data box of the MEYS with the following identifier: “vidaawt”.**

The beneficiary of the data message is a staff member of the MA of OP RDE, usually the project/financial administrator allocated to the project. The "Subject" field must include the project registration number.

The beneficiary may also use printed format of communication in the same cases as specified for ISDS communication. In those cases the communication is implemented by sending a letter to the MA of OP RDE by post or by courier (or by personal delivery to the registry of the MEYS) with specification of the allocated administrator of the respective project to the following address:

### **Ministry of Education, Youth and Sports**

***The Department of (insert name of department) Operational Programme Research, Development and Education***

***Title, name and surname*** (replace the name of OP RDE MA employee)

***project No.:*** (fill in the registration number of the project)

***Karmelitská 529/5, 118 12 Prague 1 – Malá Strana***

### Phone and e-mail communication

With regard to the non-existence of the audit trail when using phone communication and insufficient justification of use of electronic communication in relation to internal messages these methods of communication are not recommended by the MA of OP RDE. Phone and e-mail communication can be fully substituted with the internal messages (see Chapter 4.1), or with written correspondence (see Chapter 4.2).

Contact email in case of general inquiries to the OP RDE: [opvvv@msmt.cz](mailto:opvvv@msmt.cz).

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## Personal Consultations

The beneficiary can ask its allocated project/finance manager for personal consultation. Personal consultation is only possible on the basis of prior written/phone agreement with the project/finance administrator. For the reason of audit trail preservation the consultation is recommended to be agreed through an internal message.

## Contact Persons

The contact person for applicants is specified in the contact information on the web site of the OP RDE as well as in the text of each individual call for proposals.

The main contact person for every beneficiary in the course of the project implementation is the project/finance administrator allocated to the respective project through the IS KP14+. The main part of the communication between the beneficiary and the MA of OP RDE takes place between the contact person of the beneficiary or representative of the statutory body of the beneficiary and the allocated project/finance administrators as the representative of the MA of OP RDE. The beneficiary contacts the MA of OP RDE via the allocated project/finance administrator in regular intervals in connection with periodic project implementation activities (such as report on project implementation submissions, payment application submissions), or in irregular intervals (such as for the purpose of the report on a procurement procedure start) and also in the case of emergencies (such as requests for substantial project change).

The contact person of the beneficiary is fully responsible for communication between the beneficiary and the MA of OP RDE. That is why the appointed contact person of the beneficiary must possess the required competencies (project knowledge, OP RDE condition knowledge etc.). The contact person of the beneficiary must be readily available all the time and must be able to actively and flexibly communicate and react to potential requirements of the OP RDE MA or be temporarily substituted by another person able to take over such a role, if necessary. The contact person of the beneficiary is obliged to arrange for a substitute at the time of its absence to preserve the required fluency of communication between the beneficiary and MA of OP RDE.

MA of OP RDE recommends to appoint the contact person of the beneficiary with regard to the project period length in order to minimise the need for replacement of the contact person and to create such communication system for the contact person to have up-to-date project information or to be able to obtain and provide up-to-date information in time as needed.

## 4.3 OP Web Site

Web site of the OP RDE is available on <http://www.msmt.cz/strukturalni-fondy-1/op-vvv> represent the basic information portal for applicants and beneficiaries of OP RDE projects. The web site offers updated documents, including the Rules for Applicants and Beneficiaries of OP RDE, contact data of OP representatives (project and finance administrators), logos for publicity and new information of the MA of OP RDE concerning the progress of the OP.

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## 5. CHAPTER – PROCESSES AND RULES OF A GRANT APPLICATION, PROJECT EVALUATION AND SELECTION

### 5.1 Announcement of Call for Proposals

<http://www.dotaceeu.cz> a <http://www.msmt.cz/strukturalni-fondy-1/vyzvy-op-vvv> are used for publication of the time schedule of calls for proposals of the OP RDE for every programme year and detailed information on publication of each individual call.

**OP RDE includes the following types of calls for proposals:**

**continuous calls** – for non-competing projects. The applicants meeting the conditions of the call are awarded the grant in the order of their grant application submissions;

**round calls** – for competing projects which are mutually compared. The grant is awarded to the project complying with the call conditions in the order from the best objective evaluation to the worst.

The calls are published for at least 4 weeks<sup>10</sup>. Continuous calls are usually announced for a longer period (of up to one year) and are usually withdrawn when the allocation has been absorbed. In the case of continuous calls, the MA of OP RDE can decide about premature call withdrawal before the allocation is absorbed - this option will always be specified with each particular call.

Every call includes basic information about the grant provision conditions - content focus, time setting, form of aid information (financial allocation, the eligibility of expenditures, etc.), territorial focus, obligatory formal requirements of the grant application.

In relation to the approval process, the evaluation model, the enumeration of various phases of the approval process including deadlines, a list of entities involved in each phase, a list of criteria for evaluating projects, including the evaluation and selection for all phases of the approval process are established within each call.

**The evaluation model depends on the call focus:**

- **single round evaluation** – all data required for the evaluation must be submitted by the applicant at once in a single grant application and a single approval process is held;
- **double round evaluation** – in the first round the applicant submits a preliminary grant application with only part of project information in compliance with the call and the related documentation (with simplified forms of the obligatory annexes). If the preliminary grant application is evaluated by the MA of OP RDE as compliant the applicant is requested to submit the full text of the grant application for the second round of evaluation, i.e. the complete documentation for evaluation of the grant application. The second round is only designed for projects meeting the requirements of the first round.

<sup>10</sup> From the date of publication of the call to the deadline for the acceptance of grant applications.

## 5.2 Preparation of grant application

The grant application must be submitted electronically via the IS KP14+ (see <https://mseu.mssf.cz/index.aspx>). The applicant must first register<sup>11</sup> in the IS KP14+8, then prepare and finalise the grant application. To submit, or sign the grant application the applicant is required to possess a qualified certificate / personal electronic signature.

The procedure of filling out the electronic form of grant application (including the procedure for obtaining the qualified certificate / personal electronic signature) is described in *the User Manual for IS KP14+ – Instructions for grant application form completion* (see the OP RDE website). The User Manual for IS KP14+ includes, inter alia, the instructions for filling out the individual sections of the grant application (descriptions of the section content), which are obligatory for the applicant. The grant application including annexes is the only source of data on the basis of which the application will be evaluated and subsequently (not) recommended to be financed, therefore it must be filled out conscientiously.

### Information Collection/Study

Before preparation of the grant application in the IS KP14+ the MA of OP RDE recommends to the applicants to:

- study the call and related documents for the call;
- check the dates of seminars for applicants;
- learn about possible consultations with the MA;
- learn about the method and deadlines for the grant application submission and evaluation.

This information is available primarily at <http://www.msmt.cz/strukturalni-fondy-1/op-vvv>.

### Project proposal

The MA of OP RDE recommends to prepare a project proposal before preparation of the actual grant application in IS KP14+ with a brief definition of the expected project achievements, assets and progress of implementation.

When preparing the project proposal, the applicant should evaluate the relevance of submitting the grant application for the respective call in terms of its eligibility. Project relevance must be evaluated with consideration of all conditions and rules defined by the respective call and the related call documentation.

These include but are not limited to:

- a) Eligibility of the applicant = who can apply for grant;
- b) Eligibility of the place of project implementation and impact (localisation) = where the project can be implemented and what territories it can affect;
- c) Eligibility of target groups = who can become target group(s) of the project;
- d) Eligibility of project activities = what activities can be implemented in the context of the respective call;

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<sup>11</sup> The applicant (specific user) registration is carried out only once, when submitting the first grant application.

- e) eligibility of project partner and the notion of partnership = who can become project partner and what conditions they must meet;
- f) the eligibility of funds = what the funds can be used for, what is the minimum/maximum grant amount for a project.

The project proposal is not part of the IS KP14+ and is not evaluated by the MA of OP RDE either, its purpose is solely for use by the applicant or for potential consultation with the MA of OP RDE. Applicants can consult their project proposal with the contact person of OP RDE MA named in the call well in advance of the deadline for the grant application submission. The prepared project proposals can become the basis for a competent decision of the applicant whether to submit the grant application.

### **Grant application in IS KP14+**

Only in the case of compliance of the project proposal with the rules and conditions of eligibility defined in the call the applicant can effectively continue with the project preparation, i.e. prepare the grant application in the IS KP14+. When preparing the grant application in the IS KP14+ the applicant is required above all to observe the following principles:

- The grant application must be in harmony with the relevant call for proposals;
- The grant application must clearly define the problem and its particular solution. The preparation for the grant application should be preceded with a profound analysis of the need for the project in relation to the planned project activities and in relation to the activities already implemented in the area (outputs and results of similar projects – for prevention of duplicate financing of identical activities);
- the objectives of the grant application must be measurable and the indicator values must be attainable and adequately ambitious;
- The key activities implemented in the context of the project must be detailed and must clearly show the links to the defined needs and objectives (the detailed activity description can be submitted as a separate annex to the application); and all planned activities must be necessary for achievement of the defined goals;
- The time schedule of the grant application must be based on a logical structure;
- The budget of the grant application must be prepared in compliance with the rule of economic, purposeful and effective planned costs;
- Project sustainability must be described in detail if required by the call.

The applicant should note that under the provisions of Section 18a of Act No. 218/2000 Coll., Budgetary Rules that it shall **publish for the MEYS all documents and data**<sup>12</sup> which are **decisive for the provision of grants**. It follows that the **full text of the grant application (including annexes)**<sup>13</sup> will be available to the public on the website operated by the Ministry of

<sup>12</sup> Except as provided in Paragraph 2 of Section 18a of Act No. 218/2000 Coll., on Budgetary Rules and on the amendment to some related acts (Budgetary Rules).

<sup>13</sup> It applies to those applicants/beneficiaries for whom, due to the legal relationship between the applicant/recipient and the granting authority, the aid is provided under the grant according to Section 14 of Act No. 218/2000 Coll., on Budgetary Rules and on the amendment to some related acts (Budgetary Rules).

Finance ([www.dotinfo.cz](http://www.dotinfo.cz)). Therefore, do not include in your application any sensitive data,<sup>14</sup> any facts constituting trade secret or any copyrighted information. The applicant confirms this fact by signing the affidavit, which is mandatory part of the grant application.

The OP RDE MA recommends to the applicants attendance of the seminars for applicants/beneficiaries focused on the specifics of the individual calls, preparation of the grant application and subsequent project implementation. The dates of the seminars are published by the OP RDE MA on the OP RDE web site on <http://www.msmt.cz/strukturalni-fondy-1/seminare> and also on <http://www.dotaceeu.cz>.

### **Annexes to grant application**

The form of grant application may include obligatory, obligatory-optional and optional annexes. The obligatory annexes shall be attached by all applicants. Annexes are obligatory-optional, of which the applicant chooses a suitable alternative, i.e. they are obligatory for the applicant only under specific conditions. Optional annexes are such annexes that the applicant submits in addition to the obligatory / restrictively elective annexes. A specific list of annexes is set out for construction projects, which the applicant is required to submit along with the grant application. A general list of annexes for construction projects is provided in Annex No. 10. The list of annexes for each call can be specified in the Rules for Applicants and Beneficiaries – specific section.

### **Form of Documentation of Grant Application**

- **Original**

A document filled out or prepared according to a sample, a document prepared by the applicant (No. sample available) with attached authorised electronic signature. The document need not contain an autograph signature. If a sample includes a signature field this serves as the reminder of the necessity of the electronic signature. The original data message with the electronic signature or a time stamp.

- **Certified copy**

The original document (excerpt, confirmation etc.) converted from the printed to the electronic format (authorised conversion).

- **Plain Copy**

A document scan (the original or a notarized copy must then be submitted by the applicant/partner on request of the MA or for the purpose of audit).

The form of documents to be submitted specified in the Rules of Applicants and Beneficiaries - Specific Part - is obligatory for the applicants and for the partners alike.

#### **5.2.1 Eligibility of Applicant/Partner**

Eligibility of the applicant/partner is always defined in the call, namely by type of applicant/partner, on the basis of their financial/professional/administrative/material-technical readiness, etc.

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<sup>14</sup> Sensitive data – personal data revealing nationality, racial or ethnic origin, political beliefs, trade union membership, religious and philosophical beliefs, criminal convictions, health status and sexual life of the data subject and genetic data of the data subject; sensitive data is also biometric data, which allows direct identification or authentication of the data subject (e.g. photos).

The applicant/partner is obliged to fulfil all the eligibility conditions stated by the call. In the context of applicant/partner eligibility check the following may be inspected, including but not limited to:

- The applicant/partner meets the definition of **eligible applicants/partners in the call**.
- The applicant/partner with a financial contribution – legal entity (hereinafter only the applicant/partner), published/substantiated its **ownership structure**, in accordance with the provisions of Section 14, Par. 3, Clause e) of the Budgetary Rules. The applicant documents this in the grant application, in Project Entities / Entity Persons tab, the partner documents this through the annex to the grant application.
- The applicant for grant that is not a natural person shall attach to the grant application a list of its actual owners in accordance with the provisions of Section 4, Par. 4 of the AML Act. If it is not possible to determine the actual owner under the AML Act because the particular legal form of the beneficiary is not in the AML Act explicitly stated, the applicant shall provide information on the natural person or persons who perform the top management function within it.
- In connection with the publication/documenting the structure of ownership and to avoid any potential conflict of interest, the applicant/partner is obliged to submit at the request of the OP RDE MA and other entities (PCA, AA, EC or ECA) documents proving the facts stated on the Project Entities / Entity Persons tab and the partner documents the facts stated in the annex to the grant application.
- The applicant/partner is obligated to inform the OP RDE about the changes in the ownership structure and changes which can cause conflicts of interest, namely from the grant application until the project completion.
- The applicant/partner who does not publish/submit the ownership structure or the applicant/partner who experiences a conflict of interest does not meet the conditions of a legitimate applicant/partner.

If the applicant/partner is a legal entity it is assessed whether it submitted identification information on:

1. Persons acting on behalf of the applicant/partner stating whether they act as its statutory body or they are acting based on granted power of attorney.

In the case of such persons, the applicant/partner is required to submit at the request of the OP RDE MA:

- a) whether it is the statutory body that acts on behalf of the applicant – e.g. an abstract of the commercial register, statutes, founding charter of a charitable trust;
- b) whether it is a person with a granted power of attorney that acts on behalf of the applicant – the power of attorney.

2. Persons with a share<sup>15</sup> in a legal entity of the applicant/partner.

<sup>15</sup> Share – participation and rights and obligations arising from such participation.

In the case of these persons, the applicant/partner is required to document at the request of the OP RDE MA:

- a) list of persons together with the amount of interest/shares (in the case of shares the nominal value and the number of pieces are provided) – necessary information on the natural persons (name and surname, date of birth / birth certificate number, address, ID if needed);
- b) persons with a share in a legal entity of the applicant – identification by an abstract of the commercial register or by a list of shareholders pursuant to Section 264 of Act No. 90/2012 Coll., on Business Corporations.

3. Persons in which the applicant/partner owns a share and on the amount of that share.

In the case of these persons, the applicant/partner is required to document at the request of the OP RDE MA:

- a) list of the legal entities in which the applicant has an ownership interest (apart from the person of the applicant) together with the amount of interest/shares (in the case of shares the nominal value and the number of pieces are provided) – necessary information on the natural persons (name, address, registered office and ID).
- b) Legal entities in which the applicant has an interest and the amount of this interest – identification by an abstract of the commercial register or by a list of shareholders pursuant to Section 264 of Act No. 90/2012 Coll., on Business Corporations.

The OP RDE MA verifies whether such persons are not connected to persons who decided about the allocation of public funds. For example, in the case of found ultimate owners of a company that received a state grant, it verifies whether such ultimate owners are not e.g. members of the same political party as the person who has the given contract assigned or that such ultimate owners are not relatives of the respective person.

When inspecting a grant application, potential existence of facts indicating possible conflict of interest is assessed. A conflict of interest is considered to be a situation where the interests of the persons involved or those influencing the outcome of the approval process, evaluation, and selection of projects threaten their impartiality or independence. The aforementioned interest of persons is understood as the interest to gain personal advantage or reduce the property or other benefit of the stakeholders.

- The applicant/partner is not **in insolvency proceedings** according to Act No. 182/2006 Coll., on Bankruptcy and Methods of its Settlement (Bankruptcy Act), as amended.
- The applicant/partner is not **in liquidation** in the sense of the relevant provisions of Act No. 89/2012 Coll., the Civil Code, as amended.
- The applicant/partner is not involved in any **execution proceedings** according to Act No. 120/2001 Coll., the Execution Code, as amended, administration proceedings according to Act No. 500/2004 Coll., the Code of Administrative Procedure, as amended, tax execution according to Act No. 280/2009 Coll., Tax Rules, as amended or enforcement proceedings according to Act No. 99/1963 Coll., the Civil Procedure Code.

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- Whether the applicant/partner with the financial contribution complies with the conditions of **non-indebtedness** towards state administrative authorities and self-governing units, the tax office and the health insurance companies (no recorded tax arrears in the Czech Republic as well as in the country of residence, registered seat or place of business, no underpayment of public health insurance and social security premium and penalty and contribution to the state employment policy in the Czech Republic and in the country of residence, registered seat or place of business); the non-indebtedness condition is fulfilled if the taxpayer has been granted a tax deferral or payment schedule pursuant to Section 156 of the Tax Rules or payment schedule for insurance premium or penalty pursuant to the provision of Section 20a of the Act on social security and contributions to the state employment policy.
- Whether the applicant/partner can prove **integrity**; meeting the condition of integrity<sup>16</sup> means the non-existence of legal force of a sentence for a criminal offence with the facts of the case connected with the subject of its business (activity) or for a criminal offence of economic nature of against property or regarded as such from the viewpoint of the law. Whether the applicant/partner with a financial contribution has not been subject to a **disciplinary punishment** pursuant to special legislation for professional activity or activity related to the subject of the project in the past three years.
- Whether the applicant/partner meets the minimum **number of years / history in the case of research, development and education** in compliance with the requirements of the call.
- The applicant meets the minimum **limit of annual turnover stated by the call / conditions of financial stability (health)**.

By means of the annex to the grant application, the applicant is required to demonstrate that the **annual turnover of the applicant's organisation/company** amounts at least to the min. limit laid down by the call<sup>17</sup> in relation to the total eligible expenditure stated in the grant application. In the case of projects where the implementation involves partner/partners with a financial contribution, a relevant portion corresponding to the share of the partner/s can be demonstrated by the applicant through the partner/s. The condition of achievement of the desired turnover must be met for the past two consecutive closed accounting periods<sup>18</sup> lasting 12 months (that exist)<sup>19</sup> for which the applicant had to submit the tax returns and which precede the date of submission of the grant application. The applicant demonstrates this by submitting the Profit and Loss Account for the above accounting periods. The definition of annual turnover is specified in Section 1d, Par. 2 of Act No. 563/1991 Coll., on Accounting, as amended: "The annual aggregate of the net turnover for the purposes of this Act is understood

<sup>16</sup> Integrity of the natural persons and the legal entities – a statutory body.

<sup>17</sup> The call will always set a specific minimum threshold that must be achieved by the applicant's turnover, e.g.: one half of the amount of the eligible project expenditure specified in the grant application.

<sup>18</sup> That means that the applicant demonstrates compliance with the conditions for turnover for each of the preceding two consecutive closed accounting periods separately.

<sup>19</sup> In the event that at the time of filing the grant application, the last accounting period of the applicant is not closed, the applicant shall provide, as a mandatory annex to the grant application, a statutory declaration that the turnover for the last closed period will be demonstrated before issuing the legal act on the provision/transfer of support. The evidence of proof of a sufficient annual turnover is an obligatory condition for the issuance of the legal act on grant award/transfer. If the applicant does not demonstrate a sufficient level of the turnover at the latest when submitting the documentation needed for the issuance of the legal act on grant award/transfer, its grant application will be excluded from the approval process, i.e. will not be supported.

as the amount of revenue without the sales discounts, divided by the number of commenced months for which the accounting period lasted and multiplied by twelve. "Public benefit taxpayers<sup>20</sup> as defined in the provision of Section 17a of Act No. 586/1992 Coll. on the Income Tax Act, as amended, shall include the annual aggregate of the net turnover of the overall activity, i.e. both of the main and economic activity. Taxpayers who keep tax records shall indicate the total of all revenues in the taxable period, or the period for which they filed the last income tax return."

**The applicants referred to in Annex No. 1 and 2 to Act No. 111/1998 Coll., on Higher Education Institutions**, as amended, and the **applicants mentioned in Annex No. 1 and 2 of Act No. 341/2005 Coll., on Public Research Institutions**, as amended, do not demonstrate the amount of turnover, their **financial stability (health)** are assessed through the annual report or another economic report, which the applicant submits as an attachment to the grant application. The applicant shall demonstrate that the resulting profit of the entire organisation/institution from all activities<sup>21</sup> of the applicant has attained positive or zero values. The condition of the required financial stability must be met for the past two consecutive closed accounting periods<sup>22</sup> of 12 months<sup>23</sup>, for which the organisation/institution submits tax returns and which precede the date of submission of the grant application.

- The applicant/partner disposes of min. **material – technical equipment** defined by the call.
- Whether the applicant/partner disposes with **a sufficient implementation (professional/administrative) team**, experience in project management and the professional issue to be tackled.

### **Composition of Applicant's/Partner's Implementation Team**

The grant application must include a definition of the size and composition of the project implementation team. The team composition must correspond to the assumed demand of the project management and implementation from the content and financial points of view. Quality of the implementation team significantly affects quality of project management and overall success

<sup>20</sup> A taxpayer who in accordance with its founding legal acts, statutes, Articles of Association, law or a decision of a public authority body performs as its main activity the activity that is not business. A public benefit taxpayer is not a) business corporation, b) Czech Television, Czech Radio and Czech News Agency, c) professional chamber or a taxpayer founded for the purpose of protecting and defending business interests of its members whose membership fees are not exempt from tax payment with the exception of an organisation of employers, d) health insurance companies, e) association of unit owners f) foundation, 1. which according to its founding actions serves to support persons close to the founder or 2. whose activity inclines to support people close to the founder.

<sup>21</sup> I.e. the main activity and the additional (economic) activity according to Annex No. 2 to Regulation No. 504/2002 Coll., as amended.

<sup>22</sup> I.e. the applicant shall demonstrate compliance with the conditions of the financial stability for each of the two preceding consecutive closed accounting periods separately.

<sup>23</sup> If the applicant hasn't closed the last accounting period yet at the time of the submission of the grant application, it shall submit an affidavit as a compulsory attachment to the grant application stating that it will provide the amount of the resulting profit for the last closed period before the issuance of the legal act on grant award/transfer. The evidence of financial stability is a binding requirement for the issuance of the legal act on grant award/transfer. If the applicant fails to substantiate financial stability at the latest when submitting the documentation needed for the issuance of the legal act on grant award/transfer, its grant application will be excluded from the approval process, i.e. will not be supported.

of implementation. The description of the implementation team and the project management method are mainly to be found in **the key activity of Project Management** - see Chap. 5.2.4.

The call may require submission of professional CV<sup>24</sup> of the implementation team members (administrative/professional team) or partner staff. The requirement applies to employees performing important roles in the project management and also key professionals possessing the required knowledge and skills needed for the project implementation. These CVs serve as proof that the applicant and its potential partners will dispose with sufficient personnel capacity for management and professional implementation of the proposed project activities. The CVs will for example document experience of implementation team members in similar project management, experience in work with the target group of the project and professional knowledge in the areas touched by the project and the role of the partner. The key worker may be defined in the call or the follow-up documentation.

A key worker– is a worker possessing the key knowledge and skills, which are needed for the implementation of the project and which are used actively by this worker to achieve the purpose of the project. Such a worker is a member of the administrative or professional team. If there are any qualification and expertise requirements stated in the call, the follow-up documentation and/or the grant application, they must be met by the key worker.

An excellent worker – is an expert possessing exceptional expertise and competence in the field in which he/she operates, which is needed for the implementation of the project and which is used actively to achieve the purpose of the project. Such a worker is exclusively a member of the professional team. If there are any qualification and expertise requirements stated in the call, the follow-up documentation and/or the grant application, they must be met by the excellent worker.

If the call or the follow-up documentation define the key worker and at the same time such documentation allows the calculation of wages/salaries for employees/workers according to Clause 3 of the document List of Wages/Salaries and the possible methods of calculation of wages/salaries for employees/workers involved in the implementation of projects of the Operational programme Research, Development and Education, the applicant/recipient can make use of this method of calculation of the wage/salary/remuneration stated in the agreement.

The implementation team has an administrative and a professional section<sup>25</sup>.

**A) The administrative team** is particularly responsible for:

- Coordination of project activities;
- Organisation and operational side of the project;
- Achievement of the planned project objectives including compliance with the planned indicator values;

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<sup>24</sup> The professional CV should include at least the level of the achieved qualification, work experience, completed education, professional preparation and training as well as other skills, knowledge and abilities including language skills, especially in the positions where these abilities are needed.

<sup>25</sup> One worker can perform both administrative and professional activities.

- assurance of effective communication on all levels of project implementation (towards the granting authority, the beneficiary organisation management, project partners and individual project team members).

Project management should be responsibility of a group of individuals whose activities will be able to cover all levels of project management and all project administration related activities. They can be members of the applicant/beneficiary organisation or members of partner organisations (if the call permits partnerships). In the optimum case the team should be composed of individuals with sufficient experience in project management.

### **Examples of administrative team position types**

**Chief project manager:** This individual is responsible for overall project management and usually serves as the principal contact person of the project communicating with the MA of OP RDE. This individual is responsible for project risk management, project progress evaluation, preparation of progress reports and their correctness, correctness of procurement procedures, correctness of project changes, due project run in compliance with the time schedule, monitoring of correctness and evaluation of project indicators, attendance of project controls etc.

**Project manager/administrator:** this individual is responsible for material correctness of the project administration, such as operative record keeping, administration of potential project changes, operational correspondence, directories, statistics, material preparation of progress reports, material archiving and project documentation and compliance with the rules of publicity.

**Finance manager:** this individual is responsible for financial correctness and project payments. The finance manager for example supervises project financing and project budget status, checks and prepares documentation for the requests for payments, prepares the requests for payments, prepares documents for the financial section of the progress reports on project implementation and takes part in the project controls. The finance manager may also perform activities connected with the project accounting, accounting document filing, bank account management etc.

Depending on the project focus and demand, the number of key activities, the project budget, target groups etc. the administrative team may also include other positions such as:

- Project accountant;
- Project assistant manager;
- Manager for project publicity;
- HR manager;
- ICT engineer;
- and other administrative positions.

**B) The professional team** is responsible for:

- material implementation of project activities;
- creation of project outcomes and outputs;
- active work with the target group.

The professional team composition must comply with the project objectives and specific requirements defined by the call. They can be members of the applicant/beneficiary organisation or members of partner organisations (if the call permits partnerships) and external experts.

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## Examples of professional team position types

- Methodologist;
- Teacher;
- Lecturer;
- Expert;
- Psychologist;
- Social worker;
- Research staff;
- Professional opponent;
- Professional implementer;
- Coordinator / key activity manager;
- Head of a research programme;
- Expert in the domain of technology transfer.

### 5.2.2 Territorial Eligibility of OP RDE Projects

Projects of OP RDE may be implemented in less developed regions (the 13 regions of Czech Republic), as well as in the developed regions (represented in the Czech Republic by the Capital City of Prague). OP RDE therefore includes two programme areas.

Every call will define the place of implementation or the acceptable region of project implementation and impact. The call can define the geographical scope of the projects as covering the whole of the Czech Republic including the capital city of Prague or more specifically as focusing on a socially excluded locality, municipalities with extended powers. **The particular specification of eligibility of the place of implementation and the project impact is always specified in the call or in the accompanying documentation with regard to the call focus and applicant/partner type.** The activities outside the EU cannot be implemented within ERDF, the activities outside the EU can be carried out in the context of ESF if the call allows them.

In connection with the place of implementation and project impact the defined project focus area will be evaluated for compliance with the conditions defined by the call. However, eligibility will not be considered only from the view of a territory, on which project activities will be conducted, but also from view of project activities impact on the target group. The place of implementation is decisive for the decision about the project and its expenditure territorial eligibility (see chapter 8.7.2). The projects must comply with the territorial eligibility specified in the call on the basis of which the grant was awarded throughout the project implementation period.

In the context of the project implementation the beneficiary does not document the link of the target group to the programme area, unless otherwise specified in the call or the related documentation.

Partial project activities (not the project as a whole) may in justified cases be implemented outside the call for the submission of project (including outside the Czech Republic) but must always be in favour of the defined project territory and in accordance with the call.

**Example:** The call defines a territorial orientation of the project on socially excluded localities. The applicant/beneficiary operates outside any socially excluded locality. As one of the planned project activities is education of the target group and the applicant/beneficiary operates an equipped educational centre this activity can be implemented in the registered offices of the

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applicant (in the educational centre). The educational activity must however be primarily attended by individuals from the call defined regions.

### 5.2.3 Target Group Eligibility

Eligible target groups or other information about target groups will always be specified in the respective call for submission of grant applications. The particular method of review and evaluation of target groups eligibility will always be specified in the call or in the follow-up documentation to the call. In connection with the target groups eligibility the target groups will be evaluated for compliance with the conditions of the call.

### 5.2.4 Eligibility of Project Activities

Eligible activities are activities contributing to fulfilment of the targets of the OP RDE, individual priority axes / investment priorities and specific objectives defined by the call. The particular method of review and evaluation of activity eligibility will always be specified in the call. In connection with activity eligibility the following will be checked: Whether each individual activity specified in the grant application leads to fulfilment of the activities listed in the call, whether the grant application includes all activities required by the call, or whether it does not contain any of the excluded activities.

**For all OP RDE projects, a mandatory key activity of the project is the Project Management, unless the Rules for Applicants and Beneficiaries – Specific Part stipulate otherwise.** The purpose of the **Project Management** key activity is definition of project management procedures in advance for continuous monitoring of project management and implementation. A well-defined management system allows for timely identification of potential risks and elimination of their impact on project implementation.

The applicant must specify this activity as a separate key project activity entitled for instance: Project Management etc. The content of the description must include:

- a description of the implementation team composition consisting of administrative and professional teams;
- a description of potential support systems (such as a SharePoint) for effective project management;
- other information on project management (such as implementation team meetings etc.).

If the applicants do not find the text box in IS KP14+ (see the User Manual for IS KP14+ Chapter 5) set for this key activity sufficient, they shall refer to the annex to the grant application and state this information there.

In relation to the key Project Management activity the applicant shall provide a obligatory annex entitled Implementation Team with:

- descriptions of activities of the individual team member positions with identification of their team allocation (one individual may perform both professional and administrative activities on condition that their activities are identifiable as administrative/professional);
- Every position description will include specification of project workload allocation, in the case of external contractors (agreement to perform work, employment agreement) the weekly hours allocated to the project will be specified instead, for example: 20 hours/week).

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**Other obligatory activities** may be specified in the call or in the Rules for Applicants and Beneficiaries – Specific Part. In addition to the mandatory activities the call may define activities which are restrictively elective / optional and excluded.

### 5.2.5 Project Budget and Financial Plan

When preparing project budget just expenditure that can be financed from OP RDE funds must be specified, i.e. the eligible expenditure/costs<sup>26</sup>. The rules of the eligibility of expenditures are described in detail in chapter 8.7.

OP RDE MA recommends to observe the following general principles of project budget preparation:

- the individual budget items must be linked to the planned project activities and the related expenditure;
- project expenditure must be itemised in the summary budget in the grant application (the budget structure is defined by the MA);
- The total budget and the individual budget items must be adequate and justified especially with regard to the project objectives and content, the target group size, the project length and key activity content and the target value of the outcome and output indicators<sup>27</sup>;
- The planned project expenditure must serve the project purpose, must be effective and economical.

The particular method of budget control and budget evaluation and financial plan will always be specified in the call, in the part on the evaluation method (evaluation criteria or in the Manual for Evaluators, or in the call accompanying documentation).

The applicant is obligated to submit a mandatory annex to the grant application called Comments on the Budget. When preparing such annex, the applicant is obligated to use the binding instructions for filling out the annex, see Chapter 8.7.2.

#### 5.2.5.1 Financial Milestones

The financial milestone expresses minimum project expenditure the beneficiary is obliged to clear as of the milestone date. The financial milestones (interim and boundary financial indicators) are specified by the MA of OP RDE on the basis of the submitted financial plan for pre-financing and expenditure statement by the applicant in the grant application and potentially adapted on the basis of the budget correction or adjustments before issue of the legal act on grant award / transfer.

The financial milestones are specified in the legal act on the grant award / transfer.

##### 5.2.5.1.1 Interim Financial Indicators

The interim financial indicator of the project is 80 % of the cumulative amount of the expenditure statement specified in the financial plan for each two subsequent monitoring periods in the case of the 6-month monitoring period (or four subsequent monitoring periods in the length of 3 months each). In case when the beneficiaries need to adjust the interim financial indicator during the

<sup>26</sup> The ineligible expenditure can be noted e.g. in the Feasibility Study if it is relevant for the project.

<sup>27</sup> The applicant/beneficiary may, when setting the budget and financial plan for the project, inspect the tables of limits of wages and asset prices common in the place and time.

course of the project implementation, he can ask for substantial change and adjust the interim financial indicator. Change of an interim financial indicator may be approved by the granting authority only if submitted before the project midterm for which the interim indicator was specified (i.e. usually by the last day of month 6 of the project period). Financial indicators need not be adjusted if the beneficiary is sure that they will be fulfilled in the minimum scope specified in the legal act on grant award / transfer. The beneficiary is obliged to submit adjustment of the financial plan together with adjustment of interim financial indicators.

An exception is represented by the situation when a cumulative cost saving is generated by the project in the period for which the financial indicator has been specified in the amount of up to 10% of the total eligible expenditure, see chapter 12.5. If the beneficiary does not plan to use the generated cost saving in the given time span and its non-application makes it impossible to achieve the 80% of the cumulative amount according to the financial plan then the beneficiary is entitled to request a substantial change any time before the evaluation of the interim financial indicator in question. In such case the application for the substantial change may only correspond to the amount of the cost saving. Together with the change of interim financial indicators the beneficiary is obliged to submit the amended financial plan with planned cost saving use projected. This change does not affect the boundary financial indicator, see chapter 5.2.5.1.2.

The interim financial milestones will only be monitored in the case of projects whose implementation period from the date of physical implementation start to the (physical) implementation completion will be longer than 30 months inclusive both the dates. The interim financial indicator will not be specified for periods commencing less than one year before the project completion.

Evaluation of the interim financial milestones will be done as of the date of approval of the requests for payments for all monitoring periods for which the interim financial indicator has been specified. Evaluation of compliance with the amount of an interim financial milestone will be based on the sum of all allocation amounts (after deduction of the costs which the beneficiary has excluded from the payment application on its own will) compared to the amount of the interim financial indicator. The positive difference between the interim financial indicator and the actual drawing from the past periods already penalised will not be considered again<sup>28</sup>. In the case of non-compliance with the minimum amount of an interim financial indicator the MA shall submit to the tax office a notice of suspicion for breach of discipline. The particular percentage of the sanction will be specified in the legal act on grant award / transfer<sup>29</sup>.

<sup>28</sup> Example: in the first period in which the interim financial indicator is evaluated the beneficiary shall attach to the PA the account in the amount of 8 MCZK, while the indicator was set at 10 MCZK. In the second period, the cumulative amount of the financial indicator is set at 20 MCZK, the beneficiary submitted for the account other 10 MCZK. In such a case, failure to achieve the cumulative amount of the interim financial indicator will not be considered as a suspected breach of budgetary discipline, as the difference that was subject to sanctions in the evaluation of the first interim indicator (i.e. 2 MCZK), will not be taken into account in the evaluation of the second interim financial indicator (presented drawdown = 8 + 10, the second interim milestone = 20 MCZK, credit difference of 2 MCZK, which was already subject to the sanction, is not taken into account: 20 - 2 - 10 - 8 = 0).

<sup>29</sup> If no serious reasons are found for a refusal of the sanction, e.g. the procurement procedure prepared in high quality and on time and submitted to the OPC.

#### 5.2.5.1.2 Boundary financial indicator

One of the above interim financial indicators will be specified for the beneficiaries as the obligatory boundary indicator (for that period no interim financial indicator will be defined any more). The boundary financial indicator of the project is 60 % of the cumulative expenditure statement specified in the financial plan<sup>30</sup> for the period corresponding to about 60 % of the project implementation period (the particular date shall be specified in the legal act on grant award / transfer). The boundary financial indicator cannot be substantially reduced by the beneficiary unless simultaneously asking for the substantial change of significant correction of the grant. Along with the change of the limit financial indicator the beneficiary shall submit the change of the financial plan. It is not possible to change the date to which the limit milestone is evaluated<sup>31</sup>.

Boundary financial indicators will be monitored for all projects.

Evaluation of the boundary financial milestone will be implemented as of the date of approval of the payment application for the monitoring period preceding the date of the boundary milestone evaluation. Evaluation of compliance with the amount of the boundary financial milestone will be based on the sum of all expenditure statement amounts (after deduction of the costs which the beneficiary has excluded from the payment application on its own will) compared to the amount of the boundary financial indicator.

In the case of non-compliance with the minimum amount of the boundary financial indicator the MA shall submit to the tax office a notification of suspected breach of discipline. The particular percentage of the sanction will be specified in the legal act on grant award / transfer<sup>32</sup>.

#### 5.2.6 Cost benefit analysis (CBA)

The financial and economic analysis (CBA) is used for the evaluation of 3E (economy, efficiency and the purpose) during the evaluation of projects. Outputs can be used for the evaluation of the economic performance of the project, the evaluation of its sustainability and economic impact.

The obligation to submit / not to submit the CBA is always determined by the call / follow-up documentation to the call. In the case of its obligation to submit the CBA, the applicant fills it out in the separate CBA module in IS KP14+. The exception is the CBA for major projects, which the applicants shall prepare outside the IS KP14+ and submit as an annex to the grant application.

**The financial analysis** is the basic precondition for verification of whether it is necessary to co-finance the project, as well as the initial point for the evaluation of the sustainability of the project, i.e. whether sufficient financial resources are ensured for the project. The applicant prepares the financial analysis in the CBA MS2014+ module. The obligation to prepare the financial analysis applies to:

- all revenue-generating projects according to Article 61 of the General Regulation (see Chap. 8.9);
- other projects starting from the minimum financial volume of total eligible project

<sup>30</sup> As of the issue of the legal act on grant award/transfer.

<sup>31</sup> A change of the date is possible in exceptional cases, e.g. when extending the term of implementation of the project.

<sup>32</sup> If no serious reasons are found for a refusal of the sanction, e.g. the procurement procedure prepared in high quality and on time and submitted to the OPC.

expenditure amounting to 5 MCZK.

**The economic analysis** contains the evaluation of risks and the expected impact on the stated industry and on the social-economic situation of the stated EU state and if possible, other regions of the European Union.

**The CBA submission** of the set limits of total eligible project expenditure **is not mandatory** for:

- projects where the investment expenditure does not exceed 50% of the total eligible project expenditure;
- revenue-generating projects pursuant to Art. 61 of the General Regulation, for which the potential net income is determined in advance using the method of the flat rate<sup>33</sup> or for which a reduced rate of co-financing is applied pursuant to Art. 61, Par. 5 of the General Regulation<sup>34</sup>;
- projects that should receive a grant within the programming level for which the maximum co-financing rate was reduced<sup>35</sup>;
- simplified projects.

Procedures for the applicants are described in the User Guide for IS KP14+ – Instructions for completing the CBA module.

## 5.3 Receipt of Grant Applications

The grant applications shall only be accepted by the MA of OP RDE in the electronic format through the IS KP14+ in its final version signed by the applicant. The final version and signature of the application must be done by the deadline specified in the call (the final deadline for the grant application receipt/date of the call expiration). The grant applications finalised/registered after the

<sup>33</sup> The flat rate method set out in Art. 61, Par. 3 of Regulation of the European Parliament and of the Council (EU) No. 1303/2013 of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund, laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No. 1083/2006.

Flat rates according to the sectors listed in Annex V to the European Parliament and Council Regulation (EU) No. 1303/2013 of 17/12/2013 on Common Provisions on the European Regional Development Fund, European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European maritime and Fisheries Fund, on the general provisions on the European Regional Development Fund, European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and on the repealing of Council Regulation (EC) No. 1083/2006 and in Commission Regulation in the transferred authority (EU) 2015/1516 of 10/6/2015 which, pursuant to European Parliament and Council Regulation (EU) No. 1303/2013, establishes the flat rate for operations financed from the European structural and investment funds in the sector of research, development and innovation.

<sup>34</sup> This reduction must be at least equal to the amount obtained by multiplying the maximum rate of Union co-financing, which arises from the rules related to each fund, by the relevant flat rate referred to in Article. 61, Par. 3 of the first Subparagraph of Letter a.).

By the application of a reduced rate of co-financing all of the net income generated during the project and after its completion is already taken into account and thus such net income is subsequently not deducted from the eligible project expenditure.

<sup>35</sup> By the application of a reduced rate of co-financing all of the net income generated during the project and after its completion is already taken into account and thus such net income is subsequently not deducted from the eligible project expenditure.

deadline specified in the call will not be accepted for the approval process. The governing date for this acceptance is the date of the application signature in the IS KP14+.

## 5.4 Project approval stage

The approval stage is the stage between the grant application receipt closing date to the issue of the legal act on grant award / transfer.

The length of the approval process will be always set by the related documentation to the call, i.e. the Rules for Applicants and Beneficiaries – specific part, namely with respect to the focus / type of activities / type of the projects of the call.

Following receipt of the grant application on the basis of the published call for application submission every grant application undergoes the individual stages of the approval process with observed principles of transparency, equal approach and non-discrimination. The process of approval of grant application usually includes:

### 1. Evaluation Process

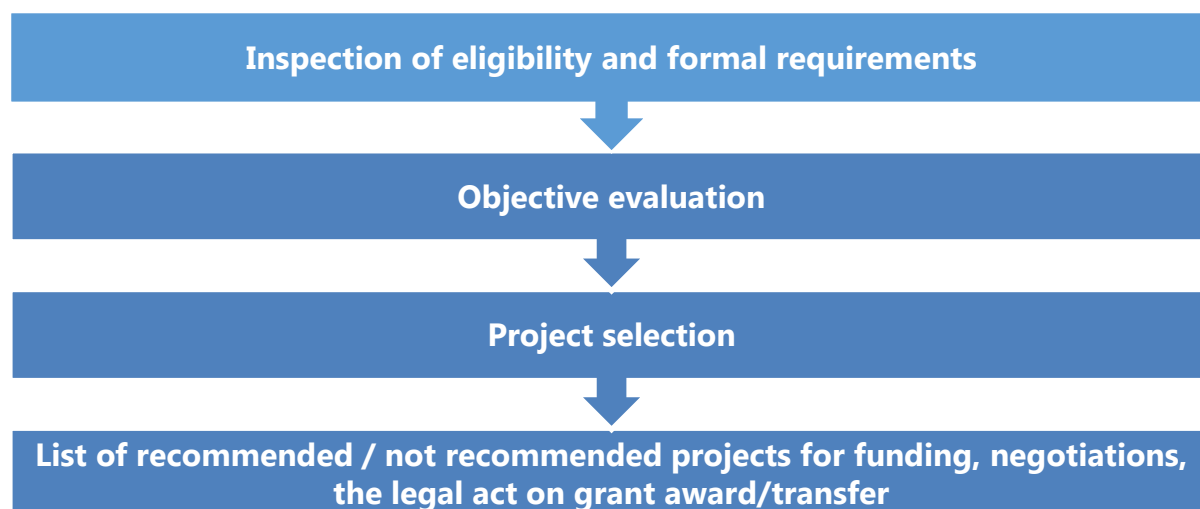
- a) Eligibility check and formal check
- b) Objective evaluation

### 2. Project Selection Process

A grant application can proceed to the following stage of the approval process only if it has fulfilled the requirements of the previous stage. The particular stages of the approval process will always be specified in the text of the call or in the Rules for Applicants and Beneficiaries - Specific Part.

All submitted grant applications will at least be checked for acceptability criteria and formal requirements. If the call specifies application of objective evaluation/project selection, this step will be assured by the OP RDE MA by means of evaluators /arbiters / evaluation committee / selection committee.

## Maximum approval Process on the Level of OP RDE



### 5.4.1 Eligibility check and formal check

The purpose of the eligibility check and formal check is especially evaluation of the basic factual and administrative requirements for the grant applications in the respective call.

Eligibility inspection and formal inspection can be performed as one step or divided into multiple steps.

The criteria of acceptability and formal requirements are exclusive, i.e. the grant application either meets or does not meet the criteria (or the criteria are not applicable to it).

When failing to comply with any of the rectifiable criteria<sup>36</sup> and., concurrently, when complying with all the non-rectifiable criteria, the applicant is always asked at least once through the IS KP14+<sup>37</sup> to fill in the missing information within a period of min. 5 working days from the date of the delivery of the request by the OP RDE MA to complete the data. The accurate deadline for application completion will be specified in the text of the call OP RDE. If the call permits more than one completion of missing information the applicant shall be called for correction repeatedly but only in the case of a response to the first call for information completion by the MA of OP RDE. If the applicant fails to complete the missing information on the basis of the request of the MA of OP RDE to do so (according to the OP RDE MA requirements and within the required deadline) then the grant application will be excluded from the approval process.

In the case of non-fulfilment of any non-rectifiable criterion the grant application will be excluded from the approval process automatically.

The criteria for the eligibility check and formal check are specified in the text of the published call (or in the related documentation) including the evaluation method.

<sup>36</sup> Rectifiable and non-rectifiable criteria will be specified within the call or in the Rules for Applicants and Beneficiaries – Specific Part.

<sup>37</sup> The exact number will be listed within the follow-up documentation of each call or in the Rules for Applicants and Beneficiaries – specific part.

### 5.4.2 Objective evaluation

The purpose of the objective evaluation is to evaluate quality of the project with regard to fulfilment of the material objectives of the programme and in the case of round calls comparison of the project on the basis of their quality.

The CBA can also be subject to objective evaluation. The obligation to prepare the financial and/or the economic analysis is always determined by the call / follow-up documentation to the call.

Within the objective evaluation it is the evaluator / evaluation committee that assesses the grant application. Criteria of objective evaluation are always specified in the call (or the related documentation) including the maximum point evaluation and evaluation method. The criteria can be distinguished according to their function as follows:

- Exclusion criteria – if the criterion is not met the grant application is excluded from the approval process;
- Evaluation criteria – point evaluation is assigned for fulfilment/non-fulfilment of the criterion;
- Combined criteria – fulfilment/non-fulfilment is scored, in the case of a point evaluation below the minimum limit the grant application is excluded from the approval process.

Grant applications meeting the conditions of the objective evaluation defined in the call will proceed to the next evaluation stage.

Objective evaluation can be implemented in one of the two ways or by the combination of the two:

- by a pair of Evaluators with potential involvement of an arbiter;
- by an evaluation committee.

The objective evaluation stage can be divided to more steps, i.e. the evaluation table of the grant application can be divided to more parts. Every part of the evaluation table is populated either by a pair of Evaluators with potential arbiter involvement or by an evaluation committee. The total score is the sum of point evaluation of all evaluation steps.

#### **Evaluators with potential arbiter Involvement**

Evaluation of grant applications in the stated step is performed by two Evaluators independently of each other.

If at least one of the following conditions is fulfilled by the evaluation by two independent Evaluators another independent Evaluator, the arbiter, is involved in the evaluation in the evaluation of the stated step:

- The point evaluation of the two independent evaluators significantly differ in at least one of the criteria<sup>38</sup>;
- the total point evaluation of the two evaluators differ significantly<sup>39</sup>;

<sup>38</sup> The minimum score difference of the evaluators for arbiter involvement will be specified in the call text or the follow-up documentation.

<sup>39</sup> The minimum total score difference of the evaluators for arbiter involvement will be specified in the call text or the follow-up documentation.

- The two Evaluators differ in the final conclusion of the evaluation, i.e. one of them recommends the grant application for approval while the other recommends its rejection.

The arbiter performs overall evaluation of the grant application in the given evaluation step. In his/her evaluation, he/she has both previous evaluations of the individual evaluators. His point evaluation for the individual evaluation criteria for the given evaluation in the grant application step must be within the range of the point evaluation of the two original evaluators. In the case of two evaluators having assigned the same number of points in some of the criteria, the arbiter may not change this result, he/she only assumes this number of points to the evaluation that he/she processes and he/she processes general comments for the given criterion.

In the case of involvement of just the pair of evaluators the total evaluation of the grant application of the objective evaluation in the stated step is calculated as the average of the point evaluation of both the evaluators and the evaluation table of both the evaluators.

In the case of involvement of the pair of evaluators and the arbiter the total evaluation of the grant application in the stated step is the score allocated to the application by the arbiter and the evaluation table of the arbiter.

### **Evaluation committee**

The evaluation committee consists of at least three evaluators who evaluate in the stated step the submitted grant applications together according to the criteria defined in the call.

The evaluation committee action is governed by the Statute and the Rules of Procedure available on <http://www.msmt.cz/strukturalni-fondy-1/vzory-dokumentu-op-vvv>.

The decisions of the evaluation committee are justified to show the basis for the decision.

Minutes are taken of the meeting of the evaluation committee and must include at least the following information: date and time of the meeting start, the list of the evaluated projects and their point evaluation including the relevant justification for every project. The minutes of the evaluation committee meeting are published in 15 business days from the date of the meeting on the programme web site (without names of the evaluation committee members). The result of the evaluation committee work in the stated step is an evaluation table of the participating projects.

### **5.4.3 Project Selection**

The purpose of project selection is to perform a transparent selection based on the objective evaluation of the grant applications contributing to fulfilment of the material and financial objectives of the programme.

The project selection is done by the selection committee. The selection committee is appointed for each relevant call/priority axis/group of projects.

The rules for evaluation of the grant application by the selection committee are defined by the Statute and the Rules of Procedure for the selection committee available on <http://www.msmt.cz/strukturalni-fondy-1/vzory-dokumentu-op-vvv>.

**The selection committee** takes decisions about selection of the evaluated projects on the basis of the evaluations prepared in the objective evaluation stage in relation to the amount of the allocation based on the results of the evaluation and the point evaluation based order of preference produced by the evaluators/the arbiter/ the evaluation committee.

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The selection committee decides whether the projects will be recommended for acceptance or rejected or recommended with reservation (i.e. the project may be supported only after fulfilment of certain conditions defined by the selection committee) or recommendation.

The decisions and standpoints of the selection committee must be justified to show the basis for the decision. Every justification must be transparent, conclusive and unambiguous. At the same time the justification must not contradict the criteria on the basis of which the project was evaluated. The selection criteria and the possible reasons for non-recommendation of a grant application will always be specified in the call or the related documentation/in the Statute and the rules of Procedure of the selection committee.

**The work of the selection committee will result** in the list of project recommended or not recommended for financing. The selection committee may compile a list of waiting projects. The minutes of the selection committee meeting are published in 15 business days from the date of the meeting on the programme web site.

#### 5.4.4 Approval of the EC major projects

After the last stage of project evaluation and selection, the MA verifies the correct identification of the type of the project or rather identifies major projects<sup>40</sup>.

In accordance with Art. 101 and 102 of the General Regulation major projects must be approved by the EC. EC processes the recommendations and comments on the received grant applications.

After the release of the EC's decision on the grant application the completion of the application begins on the side of the applicant in the form that was approved by the EC. The MA will address the applicant to substantiate the necessary documents for completion of the materials for the issuance of the legal act on grant award/transfer for the successful applicant – see the next chapter 5.5. Part of the legal act on grant award/transfer is the annex to the EC Decision.

### 5.5 Method of notification of the approval process results to the applicant

In 10 business days from completion of every approval process stage the applicants will be notified about the result of the given stage by a change of the project status in the IS KP14+ and by an internal message.

**Successful applicants** will be addressed after the completion of the last stage before the issue of the legal act by an internal message of the OP RDE MA inter alia with a request for submission of the documentation needed for the issue of the legal act on grant award/transfer – for more information, see Chapter 6.3 and 6.4.

Following the project evaluation and selection process the projects recommended with a reservation enter the process of **negotiation** in the context of which the applicant amends the grant application to bring it in compliance with the reservations by the evaluation/selection committee. The subject of the negotiation is just the method of processing of the reservations of

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<sup>40</sup> A major project is a project whose total eligible expenditure exceeds 50 MEUR. For the conversion the EC rate is used, valid on the date of approval of the grant application by MA, i.e. on the date of the recommendation of a grant application for funding (with a reservation).

the evaluation/selection committee, i.e. the way of fulfilment of the conditions specified by the evaluation/selection committee by the applicant. The negotiation must not include change of the evaluation and selection result, i.e. change of the wording of the reservations by the evaluation/selection committee. Addressing of all reservations by the applicant is a necessary condition for the project support.

The evaluation/selection committee may also formulate recommendations for successful applicants in addition to reservations. The recommendations may subsequently be negotiated but the decision whether to consider them in the grant application or not is the power of the applicant who informs the MA about its decision.

In the cases of **unsuccessful applicants**, who do not make use of the possibility to submit comments and in the cases when the grant application is not be returned to the approval process after the settlement of the comments, the MA shall issue a **Decision to Terminate the Application Administration**<sup>41</sup> and in accordance with the legal requirements for delivery and through the MS2014+ delivers it to the applicant. The decision to terminate the application administration includes at least:

- The result of the evaluation and selection of projects;
- A justification of the withdrawal of the grant application or of the non-recommendation of the project for financing, stating the reasons and documentation for the decision and how the MA dealt with an eventual statement of the applicant on the decision;
- The findings that led to the termination of administration of the grant application;
- The information that it is not possible to file a remedy against the decision to terminate the administration.

In the case of a continuous call the failing applicants may submit a reprocessed grant application repeatedly within the same call unless otherwise specified in the call.

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<sup>41</sup> The decision to terminate the application administration is subject to review at the administrative courts.

## 6. CHAPTER – PROCESSES AND RULES FOR THE ISSUANCE OF THE LEGAL ACT ON GRANT AWARD/TRANSFER

### 6.1 Award of grant to the applicant

Award of grants from the Operational Programme Research, Development and Education is governed by the terms of the OP RDE and is derived from the binding Methodological Guideline for expenditures and their reporting of the MoRD and MF mentioned in Chapter 3.3, in particular the Methodological Guideline for the eligibility of expenditures and their reporting in the programming period 2014–2020, Methodological Guideline for the area of contract awards for the programming period 2014–2020 and the Methodological Guideline of the cash flow for programmes co-financed from European structural funds, the Cohesion Fund and the European Maritime and Fisheries Fund for the 2014–2020 period, which is part of the unified methodological environment.

The applicant is familiar with some of the basic terms that apply to the assignment of the grant during the preparation process and the submission of the grant application.

This concerns:

- Operational programme Research, Development and Education;
- the wording of the announced call, including documentation for the call.

In the case of the approval of the project for financing, it is necessary that the successful applicant (i.e. the future beneficiary) is familiarized in detail with the wording of the legal act on grant award / transfer. This document contains the main terms for the grant award and the primary obligations of the beneficiary. The legal act on grant award / transfer also includes further documents containing the terms and rules that are binding for the beneficiary, which the beneficiary must follow during the project implementation.

These documents are the annexes to the legal act:

- Rules for Applicants and Beneficiaries of the OP RDE;
- any further specified documents referred to in the legal act on grant award/transfer.

These documents are updated on a regular basis. However, binding is always the version of the documents which is indicated in the legal act on grant award/transfer.

These documents are made available to the beneficiary by a method making a remote access possible, including the updated versions, on the website of the Managing Authority of the OP RDE, which is the Ministry of Education, Youth and Sports of the Czech Republic (MA) – <http://www.msmt.cz/strukturalni-fondy-1/op-vvv> and also on <http://www.dotaceeu.cz>.

Samples of legal acts on the website are only general and they are modified by the Managing Authority depending on the needs / call specifics / applicant specifics etc.

The beneficiary must, during the implementation of projects, also follow the valid and effective legislation of the Czech Republic and the European Union.

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The legal act on grant award / transfer will include the commitment of the beneficiary to provide outputs from the project for use in the outputs database and for public information with respect to the fact that it concerns public funds; see Chapter 7.3.3.

In the legal act on grant award / transfer, there can also be project milestones by which the beneficiary will be obliged to report the fulfilment of the previously stated values (contextual and financial).

In addition, in the legal act on the provision / transfer act, the beneficiary will be bound to provide assistance during the implementation of evaluation activities within the OP RDE.

## 6.2 Forms of grant award

The grant will be awarded to the beneficiary in relation to the approval of the submitted grant application and on the basis of the issue of the legal act on grant award / transfer between the granting authority and the beneficiary. The granting authority is MEYS (OP RDE MA).

Individual types of legal acts on grant award / transfer stipulate the relations between the granting authority and the beneficiary. Legal acts on grant award/transfer are processed on the basis of binding documents of OP RDE, EU directives and the valid legislation of the Czech Republic.

On the basis of the results of the evaluation of the grant applications and approval for financing, the OP RDE MA prepares the proposal for the following legal acts on grant award/transfer according to the type of beneficiary.

- a) **The Grant Award Decision** in accordance with Section 14 of the Budgetary Rules in the case of projects whose beneficiary is e.g. the SFO established by the MEYS, local government unit and SFO by which the grant is granted based on a special law **and whose beneficiary is not a state organisational unit (SOU) or a state-funded organisation (SFO SOU)**.
- b) **Measure of Deputy Minister** in case of projects where the beneficiary is a state organizational unit – MEYS, or CSI, with the specifically stated terms for the grant award.
- c) **Letter (Notification) of Deputy Minister on Grant Transfer**, which contains the Terms and Conditions, in the case of projects of out of departmental SOUs and organisations established by them, i.e. SOUs and SFO SOUs, where the founder is the MEYS. In the case that the applicant / beneficiary is contributory organisations of the state and of territorial self-governing units, state organisations outside the departmental state organization unit, or the founder of contributory organisations of the state and of territorial self-governing units, state organisations, consequently issues its own decision on the provision of Budgetary Rules in which the terms and all formal requirements sent to the MEYS are respected.

The applicants whose project was approved will be provided with financial funds for support on the basis of these legal acts on grant award / transfer depending on the type of the beneficiary.

The obligatory formal requirements of all types of legal acts on grant award/transfer are:

- name and address of the granting authority,
- designation of the grant beneficiary,
- purpose for which the grant is granted,
- amount of the granted aid,
- date of issue,
- classification of resources according to Section 44, Par. 2 of the Budgetary Rules,

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- method of providing funds for the project,
- mandatory implementation period of the supported project,
- obligations of the grant beneficiary,
- conditions for the use of the grant,
- sanctions for non-fulfilment of the conditions of the legal acts on grant award/transfer;

### 6.3 Notification of approval of the grant application from OP RDE

After the last stage of the approval process before issuing of the legal act in each round call, the OP RDE MA will compile the final list of recommended / not recommended grant applications for financing. In the case of ongoing calls such a list is not a definitive one.

The applicants are informed about the recommendation of the grant application for financing in the form of the Notification on Grant Application for Financing. This notification is sent to the applicants (or the statutory bodies provided in the grant application) through IS KP14+, as a rule within 10 business days from signing the list of recommended / not recommended projects by OP RDE MA.

#### The notification contains the following data:

- The result of the project evaluation and selection stage;
- detailed results of the project evaluation and selection including the reservations (i.e. the information about the need to make changes to the project based on the conclusions of the approval process – e.g. changes in the management of the project, eventual change in the budget – reduction, modification of the indicators and factual activities) and the recommendations (i.e. non-binding amendments to the project that are subject to the decision of the applicant);
- information concerning the start and termination of the project and the eligibility of expenditures;
- specimen legal act on grant award / transfer (or with requirement for completion of the relevant data - identification data, representative, address, activities / stages, account number);
- list and samples of additional source materials for the issue of the legal act on grant award / transfer;
- The information about the time limit of 15 calendar days, within which the applicants is obliged to familiarise itself with the results of the approval process, the legal act draft and the list of additional documents for the issuance of the legal act on grant award/transfer.

If the grant application is **recommended for financing (without reservations)**, the applicant will be asked after the time limit for submitting comments to complete the documents for the issuance of the legal act on grant award/transfer (including the deadlines for their delivery) - see Chapter 6.4.

If the grant application is **recommended for financing with a reservation**, the applicant will be asked to modify the grant application in the IS KP14+ and complete the documents for the issuance of the legal act on grant award/transfer after the settlement of the comments or, if necessary, after the vain expiration of the time limit for the submission of comments – see Chap. 10.1.

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## 6.4 Documents needed to issue a legal act on grant award / transfer

Before issuing the respective legal acts on grant award/transfer, successful applicants must send all requested documents to the provider that were notified by the granting authority in the call and in the notification on the recommendation of the grant application for financing. These documents must be sent by applicants within the stated deadline stated by the granting authority (as a rule, 15 business days). Otherwise, applicants face the risk that the grant will be awarded to another project in the sequence order classified into the “Set of alternative projects”.

The list of source materials needed for the preparation and issue of the legal act on grant award/transfer can be specified and mentioned in the call or in the related documentation to the call – see the description in this Chapter below. This list can be further specified in the notification sent to the beneficiary.

**The requested documents include, for example:**

- 1a) Certificate of indebtedness** – a certificate of indebtedness to the financial administration, health insurance companies, Czech management of social security.

Document proving that the applicant / partner does not have any enforceable tax arrears recorded in the Czech Republic, as well as in the country of the registered office, place of business or residence, does not have insurance arrears and penalties from public health insurance and/or contribution to the state unemployment policy either in the Czech Republic, as well as in the country of the registered office, place of business or residence).

The non-indebtedness condition is fulfilled if the taxpayer was granted a tax deferral or payment schedule pursuant to the provision of Section 156 of the Tax Rules or a payment schedule for insurance premium or penalty pursuant to the provisions of Section 20a of the Social Security Act and Contributions to the State Employment Policy.

After the expiration of the date of the postponement to pay tax (deferred maturity) or the date of payment of tax in the form of instalments in the certificate of indebtedness, the applicant and the partner must repeatedly submit the document regarding the indebtedness that proves the non-existence of enforceable tax arrears.

**Who submits the documents:** Applicants and partners with the exception of partners without financial co-participation.

**When is the submission made:** if the affidavit only was submitted during the submission of grant application.

**Form of submission:** original or certified copy.

- 1b) Affidavit on non-indebtedness**– applicants and partners with the exception of partners without financial co-participation.

**Who submits the documents:** Applicants and partners with the exception of partners without financial co-participation.

**When is the submission made:** if the documents on non-indebtedness have been submitted during the submission of the grant application.

**Form of submission:** original or certified copy.

The specimen of the affidavit is published on the MEYS website.

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**2) Power of attorney / authorisation for representation**

**Who submits the documents:** applicants and partners.

**When is the submission made:** if during the submission of the grant application, the power of attorney / authorisation for representation was submitted in the form of a simple copy.

**Form of submission:** original or certified copy.

**3) Affidavit on the active data box and the commitment to have the data box active during the whole period of implementation and sustainability of the project.**

**Who submits the documents:** applicants and partners if they are called to submit.

**When is the submission made:** applicants for whom the establishment of a data box is not mandatory and if they have an active data box.

**For the following subjects, the opening of data boxes is a statutory obligation:** public authority bodies, corporate bodies registered in the commercial register, corporate bodies established by act, organisation units of the enterprise of a foreign corporate body registered in the commercial register, attorneys, tax advisers and insolvency administrators.

**The opening of the data box is not obligatory for the following subjects:** corporate bodies not registered in the commercial register, i.e. associations, foundations, institutions, association of unit owners, generally beneficial companies, contributory organizations, churches, hunting companies and foreign legal entities not registered in the Czech Republic.

**Form of submission:** original or certified copy.

The specimen of the affidavit is published on the MEYS website.

**4) Partnership agreement** – if the signed agreement was not attached to the grant application, it must be delivered no later than within the deadline for the submission of source materials for the issue of the legal act on grant award / transfer stated by the granting authority.

**Form of submission:** original or certified copy.

**Who submits the documents:** applicants.

**When is the submission made:** if during the submission of the grant application, the "Principles of Partnership" annex was submitted.

A sample partnership agreement is available on the MEYS website.

A legal entity performing the activity of a school or school facility is required in the event of a financial partnership to respect the requirements stated in the provisions of Section 32a of the Educational Act *"If the contracting party is a legal entity established by the state, region, municipality or a union of municipalities, the condition of the validity of the contract includes also a document testifying the agreement of the founder with the legal entity entering the partnership agreement."*

**5) Affidavit of the partner (in the case of a partner in the project)** – acceptability (eligibility), ensuring own funds, liquidation, execution and insolvency proceedings, integrity, indebtedness, the final affidavit.

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**Who submits the documents:** partner.

**When is the submission made:** if the original or certified copy was not submitted during the submission of the grant application.

**Form of submission:** original or certified copy.

The specimen of the affidavit is published on the MEYS website.

**6) Proof of annual turnover**

**Who submits the documents:** applicants and the partners defined by the call or the follow-up documentation (e.g. MAS, microregion, private bodies, etc.).

**When is the submission made:** if during the submission of the grant application, the affidavit on the submission of the turnover was submitted.

**Form of submission:** simple copy of the profit and loss statement for the previous closed accounting period.

**7) Declaration on size of enterprise**

**Who submits the documents:** applicants and partners.

**When is the submission made:** in the case of the application of Commission Regulation No. 651/2014<sup>42</sup>.

**Form of submission:** original or certified copy.

The specimen of the affidavit is published on the MEYS website.

**8) Declaration on the relationship with other enterprises<sup>43</sup>**

**Who submits the documents:** applicants and partners.

**When is the submission made:** in the case of the application of Commission Regulation No. 1407/2013, this concerns projects to which the support is provided in the de minimis regime.

**Form of submission:** original or certified copy.

The specimen of the affidavit is published on the MEYS website.

**9) Document on bank account/sub-account<sup>44</sup> – information about the bank account or sub-account designated for financial transactions related to the approved project.**

To be accepted, the document must be issued by a bank and it must contain all the relevant information, e.g. a certified copy of the concluded contract on the account, confirmation of account keeping, account statement without financial information. The confirmation and statement (except for a concluded contract on account keeping) may not be older than 90 calendar days from the date of sending the notification for the approval of the grant by the granting authority.

<sup>42</sup> For the definitions of small, medium see Commission Regulation No. 651/2014, Annex I.

<sup>43</sup> For the definition see the Methodological manual for application of the term “single enterprise” in terms of the rules of de minimis aid, available at [www. Compet.cz](http://www.Compet.cz).

<sup>44</sup> It does not apply to the IPs.

**Who submits the documents:** the applicant.

**When is the submission made:** Always obligatory.

**Form of submission:** original or certified copy.

**10) Document on the bank account of the founder<sup>45</sup>.**

**Who submits the documents:** The applicant.

**When is the submission made:** if relevant (e.g. in the case of so-called "flow grants" – SFO of the local government authorities, municipalities etc.).

**Form of submission:** original or certified copy.

To be accepted, the document must be issued by a bank and it must contain all the relevant information, e.g. a certified copy of the concluded contract on the account, confirmation of account keeping, account statement without financial information. The confirmation (except for a concluded contract on account keeping) may not be older than 90 calendar days from the date of sending the notification for the approval of the grant by the granting authority.

**11) Changes from the submission of the grant application**

When making changes before issuing the legal act, the applicant is obliged to act in accordance with chapter 7.2 by analogy.

**12) Construction annexes**

**Who submits the documents:** as described in the documentation to the call.

**Form of submission:** as described in the documentation to the call.

**When is the submission made:** as described in the documentation to the call.

The applicant is obligated to submit a modified grant application in IS KP14+ as instructed by the administrator of the OP RDE MA including an updated financial plan of pre-financing and settlement (if necessary also the budget cuts based on the evaluation/selection), which will serve to set binding financial indicators of the project and to determine the amount of the first advance payment, which will be specified in the legal act on grant award/transfer.

In the case that further annexes are required outside the scope of the above-mentioned, these are mentioned in the Rules for Applicants and Beneficiaries – Specific Part / notification.

**Forms to submit annexes:**

- "electronic original" (statements primarily produced electronically or documents signed by a secure electronic signature);
- or officially verified copies in electronic form – documents created by the authorized conversion of the original in paper form into electronic form;
- or a simple copy (scan).

The original or a certified copy must then be submitted by the applicant/partner at the request of the OP RDE MA or for the purpose of checks.

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<sup>45</sup> Optional if the founder is also the granting authority.

## 6.5 Approval of grant award

After delivery of the requested documents by the applicant, the granting authority is to start the completion and preparation of source materials for the issue of the legal act on grant award / transfer. Legal act on grant award / transfer is issued no later than **within three months** from selection of the project or from the date when the applicant for the selected project submitted all source materials requested by the granting authority for the issue of the legal act on grant award / transfer. OP RDE MA may specify or shorten the deadline within the related call documentation.

The legal act on grant award / transfer is sent to the beneficiary through a public data network to the data box. If it is not possible to deliver the legal act to the data box, it is delivered via postal service. The legal act is also saved in the MS2014+ and IS KP14+. Legal act on grant award / transfer comes into effect at the date of signature by the granting authority.

With the issue of the legal act on grant award / transfer, the applicant becomes the beneficiary and during the implementation of the project must follow the binding terms mentioned in the legal act on grant award / transfer and in the rules for the applicant and the OP RDE beneficiary.

The beneficiary is entitled to request a change to the legal act on grant award / transfer only in accordance with the Budgetary Rules and the rules stated in the Rules for Applicants and Beneficiaries (in Chapter 7.2).

The change of rights or obligations in the legal act on grant award / transfer can be made on the basis of the application in the **form of change proceedings in the IS KP14+**, i.e. only on conditions enabled in Section 14(13)(a) of the Budgetary Rules.

In the legal act on grant award/transfer, the granting authority is entitled to change at the request of the beneficiary:

- the amount provided or the amount up to which the grant may be granted;
- the time limit by which the given purpose shall be achieved;
- any additional conditions that must be fulfilled by the beneficiary in connection with the use of the grant;
- in the case of grants that include financial funds according to Section 44, Par. 2, Clause b), d), f) or h) of the Budgetary Rules, the amount of such funds (Section 44, Par. 6 of the Budgetary Rules);
- other duties that the beneficiary shall fulfil in connection with the grant award and whose failure to perform is not an unauthorised use according to Section 3, Letter e).

If the beneficiary of the grant is a legal entity, the following cannot be changed in the legal act on grant award/transfer:

- name, registered office and the identification number of the entity,
- name and address of the granting authority,
- purpose for which is the amount provided intended,

unless the budgetary rules (provisions 14a to 14d) stipulate otherwise (for more details see Chapter 7.2.2).

The granting authority issues the so-called Decision on the Amendment of the Legal Act on Grant Award/Transfer, in which it sets out what requirements of the original legal act on grant

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award/transfer are being modified or replaced while the original legal act on grant award/transfer remains in force.

Corrections of evident inaccuracies, which are mainly errors in writing and numbers and changes to projects resulting from these inaccuracies that do not change the binding indicators, are made by issuing an Amendment of Legal Act on Grant Award/Transfer without application by the beneficiary.

The conditions of the legal act on grant award/transfer (Section 14, Par. 4, Clause g) of the Budgetary Rules) can be only changed until the moment at which the result of their breach causes a BoBD.

The Decision on the Amendment of the Legal Act on Grant Award/Transfer and the Correcting Decision are sent to the beneficiary via a public data network to the data box. If it is not possible to deliver the legal act to the data box, it is delivered via postal service. The Decision on the Amendment of the Legal Act on Grant Award/Transfer and the Correcting Decision are also saved in the MS2014+ and IS KP14+.

## 7. CHAPTER – PROCESSES AND RULES OF THE PROJECT MANAGEMENT

### 7.1 Monitoring

Monitoring is an integral part of the project cycle. The objective of monitoring is to regularly collect, sort, aggregate, store data and information and ascertain the status and the progress in the implementation of projects and compare the information obtained with the initial values and the proposed plan and after implementation (e.g. results indicators). In addition to control and evaluation activities, monitoring activities also have a partially preventive function related to the timely reflection of possible risks and possible discrepancies. Monitoring is a continuous activity, which is conducted throughout the whole duration of the project. Monitoring of the project can be carried out either through administrative verification (through monitoring reports and monitoring visits), or through on-site inspections (see Chapter 9.1).

The beneficiary of the grant must fulfil the obligations related to monitoring, i.e. submission of interim report on project implementation (monitoring reports).

#### Types of monitoring reports:

- interim report on project implementation (Report on project implementation),
- information about the progress of the project implementation (IoP),
- final report on project implementation,
- final report on project implementation for the whole period of implementation
- interim report on project sustainability
- final report on project sustainability

**Relevant types of monitoring reports and the frequency of their submission** are mentioned in the related documentation to the call and consequently in the legal act on grant award/ transfer.

Samples of annexes to monitoring reports / PA are published for information on the MEYS website <http://www.msmt.cz/strukturalni-fondy-1/prehled-vzoru-prilohy-monitorovacich-zprav>. The final wording of the sample annexes will be available in the IS KP14+ at the respective call.

As needed, the OP RDE MA will perform so-called “monitoring visit “to verify the status of the project and to discuss and solve ambiguities and/or problems of the project requiring consultations between the beneficiary and the OP RDE MA. This is to prevent eventual incorrigible malpractices or sanctioning of the beneficiary. The OP RDE MA prepares the record from the monitoring visit in the MS2014 + (the Monitoring Visit module). The beneficiary is informed about the processing of the monitoring visit record by the OP RDE MA in the form of an internal dispatch.

#### Evaluation activities

The project beneficiary / partner must also provide assistance during the implementation of evaluation activities within OP RDE, throughout the whole period of the implementation of the project, and during the period of its sustainability at any time if it is necessary in relation to the resolution of the project. The aim of the implementation of evaluation activities of the programme is the evaluation of the success of the OP RDE MA interventions implemented at the level of the

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programme, priority axes, investment priorities, specific objectives, calls as well as individual projects. The beneficiary of the project participates on the basis of the address of the OP RDE MA in evaluating activities, e.g. in the form of participation in controlled interviews, questionnaire investigations, etc. The commitment of the beneficiary / partner to provide assistance during the evaluation of the success of the OP RDE interventions will be an integral part of the legal act on grant award / transfer. Features for evaluating activities will be specified according to the relevant call or in related documents to the stated call.

### 7.1.1 Interim report on project implementation (including interim payment application)

The interim report on project implementation serves for informing OP RDE MA about the work procedure on the project approved within the OP RDE. It includes contextual, as well as financial monitoring of projects. It is a tool for monitoring and evaluating the work procedure within the approved project. The emphasis is placed on the description of the work carried out in the period from the submission of the previous Report on project implementation. The Report on project implementation contains information about keeping to the original time schedule for work in this period, changes in the implementation of the work and the reasons. The Report on project implementation also contains a description of the activities planned for the next period.

#### **The beneficiary submits an interim PIR together with the payment application. (PA).**

The beneficiary submits the PIR/PA depending on the type of financing of the project as follows:

- for projects with **ex-post and combined financing** together with the PA with the submitted requested documents;
- for projects **with ex-ante financing** together with the settlement of funds provided from the national budget for pre-financing and with further payment application (sending further financial funds).

#### **Deadlines for the submission of project Report on project implementation/Request for payment**

The beneficiary is required to submit continuously to the granting authority the PIR and the PA including all necessary annexes (e.g. the schedule of key activities, documents on payment of the expenditure mentioned in the list of documents, invoices). **The first interim PIR/PA, including all necessary annexes** is to be submitted by the beneficiary within 20 business days after expiration of 3 months<sup>46</sup> from the date of the issue of the legal act on grant award/transfer and each further PIR/PA within 20 business days; as a rule after the expiration of 6 months after the termination of the previous monitoring period. In the text of the call for proposals or in the legal act on grant award / transfer, the granting authority may state a shorter length of the monitoring period. If the call defines the retrospective eligibility of expenditure (the commencement of the project / commencement of the physical implementation of the project is therefore possible before the issuance of the legal act on grant award/transfer), such retrospectively eligible expenditure is presented by the beneficiary usually in the first interim PIR/PA.

<sup>46</sup> The last day of the monitoring period, from which the subsequent time limit for submission of the PIR/PA is determined, falls on the last calendar day of the last month of the monitoring period.

## **Postponement of the deadline for the submission of Report on project implementation/Request for payment**

In the case that OP RDE MA does not receive from the beneficiary the Report on project implementation /Request for payment within the deadline stated in the legal act on grant award / transfer, the request for correction is sent to the beneficiary in the form of an internal dispatch with the notification of a possible financial penalty according to the legal act on grant award / transfer. The internal dispatch states the time limit of max. 10 business days are stated for the submission of the Report on project implementation within the alternative deadline. This time limit starts from the day following the day on which the PIR/PA should be submitted in due course. The above mentioned applies even if the beneficiary requests via the internal dispatch to postpone the deadline for the PIR/PA submission prior to the due date specified in the financial plan of the project. After the evaluation of the request, the OP RDE MA informs the beneficiary via the internal dispatch about the approval/refusal of the request for the postponement. In the case of non-fulfilment of the alternative deadline for the PIR/PA, the MA shall proceed to apply a financial penalty according to the legal act on grant award/transfer.

**The deadline for the submission of the same Report on project implementation/Request for payment can be extended only once, i.e. only one alternative deadline can be stated.**

### **Returning the Report on project implementation /Request for payment for revision**

In the case that the Report on project implementation/Request for payment is returned to the beneficiary for revision, correction or amendment, the OP RDE MA always defines the full list of Request for payment /Report on project implementation defects in the project, if the OP RDE MA does not agree with the beneficiary otherwise (for example, in the case of wide ranging Report on project implementation /Request for payment, comments can be submitted in phases due to the fluent settlement). The beneficiary must settle the project Request for payment/ Report on project implementation comments within the deadline stated by OP RDE MA. The OP RDE MA usually sets the standard time limit of **10 working days**, however, depending on the character and the scope of the defects, a shorter or longer period may be stated<sup>47</sup> (in the case of its returning for revision, it is important to proceed in the administration of the PIR/PA in such a manner so as to meet the time limit of 90 calendar days).

### **Insufficient period for the settlement of comments to the project Request for payment/Report on project implementation**

In the case that the beneficiary evaluates that the deadline for the settlement of comments is not sufficient, they are to request the OP RDE MA through IS KP14+ for an extension a sufficient time in advance (a minimum of two business days before the expiration of the deadline). The OP RDE MA project administrator, after receipt of the application, notifies an alternative deadline for submitting the settlements to the comments to the Report on project implementation/Request for payment through internal dispatch IS KP14+. The maximum period for the extension of the deadline for the settlement of comments to the Report on project implementation/Request for payment is 10 business days. This period starts from the day following the date by which the settlement of comments to the Report on project implementation/Request for payment is to be

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<sup>47</sup> This time limit may be extended only on the basis of proper justification, whereas proper justification being especially an intervention of a superior power. Considered irrelevant is any taking of leave of the implementation team members, the absence of a representative of the statutory body of the beneficiary etc.

submitted. The beneficiary may request this extension only once (not during each repeated re-amending within one Report on project implementation/Request for payment – unless stated in complete cases, the OP RDE MA decides otherwise).

### **Earlier submission of the report on project implementation /Request for payment**

In extraordinary cases, the beneficiary may request the OP RDE MA for earlier submission of PIR/PA. This is done through the change proceedings where the beneficiary requests a significant change in the time schedule for the Report on project implementation and the financial plan of the project (Request for payment). If the change proceedings are approved, the beneficiary submits the PIR/PA within an earlier deadline. The time schedule for the other PIR/PA is postponed depending on the length of the monitoring period stated in the legal act on grant award/transfer. In case of ex-ante funding, the first interim report of the PIR/PA may be presented at an earlier date, but only after payment of the first advance from the granting authority.

### **Submission of Report on project implementation/Request for payment**

Project Report on project implementation/ Request for payment is submitted by the beneficiary in electronic form on the stated form mentioned in the module Reports IS KP14+. In addition to Request for payment, the beneficiary submits the scanned accounting and other documents required to prove the eligibility of expenditures in the stated Request for payment.

In case of projects implemented by the applicant/beneficiary that, according to Section 2 par. 1 of Act No. 340/2015 Coll., on special conditions for the effect of some contracts, the disclosure of these contracts and the Contract Register, as amended (hereinafter the “Act on Contract Register”), the applicant/beneficiary has an obligation to each such registered contract related to the project implementation and which serves to prove the eligibility of expenditures of the project to indicate the relevant contract ID in its presentation, under which is registered in the Contract Register. The applicant/beneficiary indicates this contract ID either in the actual contract or it enters it into the text field within the relevant activity of the PIR within which the contract was concluded.

In the case of **ex-ante financing** in the Request for payment, the beneficiary submits the settlement of financial funds pre-financed within advance payments. As a rule, it contains the request for payment of the further advance payment. In the case that all funds from **the national budget designated for the implementation of the project were transferred** to the beneficiary the beneficiary will submit the Request for payment, which must only contain the settlement of the previous advance payment. Before the submission of each Request for payment, the beneficiary must revise the balance of spending the financial funds on the approved project and in the case **that the beneficiary considers they have sufficient financial reserve for pre-financing for the following period for the implementation of the project** they are to submit the Request for payment, which must only contain the settlement of the previous advance payment.

In the case of **ex-post financing** in the PA the beneficiary submits a request for re-payment of eligible expenditure spent for implementation of the project from their own resources.

In the case of **combined payments** the beneficiary submits paid expenditure, as well as not paid costs in the Request for payment. Rules for financing in combined payments are in Chapter 8.1.3.

### **Agreement between OP RDE MA and the beneficiary on the non submission of interim report on project implementation/Request for payment**

After agreement with the OP RDE MA project administrator (in the form of internal dispatches in the IS KP14+) it is possible to agree possible the non submission of the last interim report on project implementation /Request for payment, on the basis of the application for significant change, see Chapter 7.2.2, as a change not based on the change to the legal act on grant award/transfer. This agreement is possible in the case that the last continuous PIR/PA was to be submitted two months prior to the termination of the project implementation or within a deadline shorter than two months before the termination of the project implementation. The beneficiary requests the OP RDE MA for the non submission of the Report on project implementation/Request for payment and for the revision of the financial plan in a similar manner as in the case of the previous submission of Report on project implementation/Request for payment. OP RDE MA may consequently permit the production of only the final Report on project implementation / Final payment application.

### **Deadlines for administration of Report on project implementation/Request for payment**

The total period of administration of Report on project implementation/Request for payment from submission by the beneficiary through to approval by the OP RDE MA **does not exceed 40 business days**. In the case that the submitted Report on project implementation/Request for payment, or the requested source materials contain defects or are incomplete, the OP RDE MA contacts the beneficiary with a request to remove defects within the stated deadline. In standard cases, OP RDE MA states the deadline for removing defects and amendment **within the period of 10 business days**; however, depending on the character and the scope of defects, a shorter or longer deadline may be stated<sup>48</sup>. In the time during which the Report on project implementation/Request for payment is at the beneficiary, **the period of 40 business days is paused**. As soon as the defect is removed, this period of 40 business days starts again from the beginning. The total period of administration of Report on project implementation/Request for payment, including the pause in the period, must not exceed **90 calendar days** from submission by the beneficiary **up to approval by OP RDE MA in the case of the Report on project implementation project and up to the payment in the case of Request for payment**. The beneficiary is informed of the approval/non approval of the Report on project implementation through an internal dispatch. Non approval of the Report on project implementation means disagreement with the sent form or the content of the Report on project implementation (e.g. contains false or dubious data, which the beneficiary did not manage to defend with the submission of the additional documentation). The non-approval of Request for payment by OP RDE MA is only in the case that all submitted expenditures are rejected.

### **Administration of PIR/PA**

<sup>48</sup> This time limit may be extended only on the basis of proper justification, whereas proper justification being especially an intervention of a superior power. Considered irrelevant is any taking of leave of the implementation team members, the absence of a representative of the statutory body of the beneficiary etc.

The administrator of the OP RDE MA shall verify the formal requirements of the PIR/PA. Subsequently, the OP RDE MA may return the PIR/PA to the beneficiary for amendment or can resolve any defects during the verification process for the content of the PIR/PA. The beneficiary is informed about reasons for the return through internal dispatch.

OP RDE MA sets the content of the Report on project implementation and the content and format of the annexes in the MS2014+ in relation to the announced call for the submission of grant applications for the support (i.e. the format of the Report on project implementation may differ for projects supported in various calls). The sample of the Report on project implementation is mentioned in Chapter 18 Annex No. 2.

After the approval of Request for payment, the payment (or in the case of ex-ante financing, the payment of the further advance payment) is made no later than within **10 business days** from approval by the OP RDE MA.

In the case that the beneficiary is not able to submit all accounting documents related to expenditures submitted in the stated PA (even after the additional call of the granting authority during the administration of the stated PA), these beneficiary's expenditures may be excluded from the stated PA by the OP RDE MA. These excluded expenditures are not eligible and will not be indicated as a non-compliance. In such a case, the beneficiary may submit these additionally documented expenditures within the following Request for payment. If the beneficiary will not submit these excluded expenditures no later than in the final Request for payment, these expenditures become ineligible and the beneficiary cannot apply for payment. Further information about the final Request for payment is in Chapter 7.3.3. In the case of deducting the ineligible expenditures by the MA from the list of documents, the beneficiary has the final version of the list of documents at its disposal after the automatic data transfer from the CSSF14+ to the IS KP14+.

In the case that OP RDE MA ascertains that the terms under which the grant was approved were breached, the OP RDE MA will evaluate the concerned expenditures as ineligible, and in relation to this, it has the option not to pay the concerned funds (to reduce the PA). The detailed procedure in cases of enforcement of funds affected by an error by the beneficiary is in Chapter 9.2.

In the case that during the inspection of source materials for the PIR/PA, it is necessary to request other bodies to submit a statement (and it is not possible to exclude these expenditures from the submitted PA), there is a suspension of the period of 40 business days for the administration of the respective PIR/PA for the necessary period. Similarly, deadlines are paused in the case of the application of the following paragraph.

If during the administration of Request for payment, the OP RDE MA suspects that budgetary discipline was breached according to Budgetary Rules, there was a criminal act related to the operation co-financed from the EU budget or an administrative offence by the employer or vendor pursuant to Public Procurement Act, OP RDE MA, the case will be passed to the competent body for further investigation, i.e. the financial administration body (hereinafter referred to as "BFA"), the Police of the Czech Republic or the prosecutor, Office for the Protection of Competition.

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The granting authority may propose a temporary interruption in the payment during the implementation of the project. This occurs in the case:

- where the administrator during the administration of the Request for payment identifies a significant difference between the amounts paid by the granting authority for the stated project and the amounts that were settled by the beneficiary from these advance payments;
- when, at the same time, the beneficiary does not submit the financial plan for the settlement of further monitoring periodsthat correspond to the demand to pay the requested amount of the advance payment within the stated Request for payment;
- the OP RDE MA identifies a suspicion of fraud concerning the existing unpaid amounts, which this suspicion could threaten - e.g. fraudulent obtaining of the grant award, suspicion of false reporting of activities, etc.

The administrator of the OP RDE MA with the assistance of the beneficiary, proposes a temporary suspension of the payment and takes into consideration the plan for settlement and the time schedule for the planned project activities in the further monitoring periods.

Consequently, the beneficiary is informed of the approval of the temporary suspension of payment through internal dispatch in the IS KP14+. At the same time, the beneficiary must notify the granting authority no later than by the deadline for the submission of the further Request for payment of the change to the financial plan through the change proceedings in the IS KP14+.

#### **The return of unused financial funds during the implementation of the project**

During the implementation of the project, the beneficiary may **return within one calendar year any unused financial funds that were sent in the form of advance payments**. Due to this reason, the financial administrator of the respective department of the OP RDE MA through the internal dispatch in the IS KP14+ calls the beneficiary, as a rule by the 15 February, in the stated calendar year to return any unused financial funds, which were pre-financed to the beneficiary in the stated year. At the same time, it must be valid that it concerns financial funds that the beneficiary will not use up to the end of the respective calendar year. In the case that the beneficiary will send the above-mentioned return of financial funds, they must send on the basis of this call, **an advice note**, through the internal dispatch, for the returned amount to the financial administrator of the respective department of the OP RDE MA , **at best 5 business days in advance but a minimum of 1 business day before sending the financial funds to the account of the granting authority**. For the simplification, the beneficiary is to indicate the registration number of the project as a variable symbol in the advice note, as the obligatory detail. The funds must be credited to the account of the granting authority by the deadline<sup>49</sup> which is determined by the granting authority in the sent notice to make the refund.

#### **Request for payment issued from the level of the OP RDE MA**

Request for payment are issued in the IS KP14+ by the beneficiary. Only in the following cases it is possible to issue Request for payment from the level of MA:

- a) in the case of the first advance payment** (in the case of ex-ante financing) and advance payments derived directly from the legal act on grant award / transfer;

<sup>49</sup> Due to the closure of the accounts of granting authority in a given calendar year.

**b) during the administrative return of unused financial funds**, which were pre-financed in the same year;

**c) during the administration of additional Request for payment – in the case** when the OP RDE MA during the administration of the stated Request for payment reduces the level of submitted expenditures and consequently pays the stated Request for payment at a reduced level; the beneficiary may submit the Application for investigation. If OP RDE MA accepts the application, the reduced expenditures are repaid. The beneficiary may submit the application for review during the implementation of the project if the final Request for payment was not submitted and approved – in this case, the beneficiary may re-submit these reduced expenditures in some of the other Request for payment, within which they will be consequently refunded (they must be submitted no later than in the final Request for payment). In the case that the final PA was already approved by the OP RDE MA and the OP RDE MA decides to meet the request for investigation, **the OP RDE MA** issues the so-called **additional PA**, on the basis of which the amount of reduced eligible expenditure from previous period will be paid.

### 7.1.2 Information on project implementation progress

IoP is used for regular monitoring of the procedure for the implementation of the projects approved for co-financing from the ESIF in the period from the issue of the legal act on grant award/transfer to the submission of the first PIR and in the period between the submission of the further regular and final PIRs. Information about the progress in the implementation of the project does not contain any payment application. IoP is an additional tool for the PIR, which MA may use within the management and coordination of the implementation of the programme and individual projects. The OP RDE MA may request the submission of this type of reports from the beneficiary any time during the implementation of the project from the time when it identifies in the project any principal defects or threats preventing the fluent implementation of the project activities.

In case of the requirement to submit the IoP, the minimum information which must be sent to OA MA via the internal dispatch in MS2014+ is:

- specific frequency/period under which the IoP should be submitted including the preliminary information on for how long the beneficiary shall be required to submit this report;
- which facts are required for the submission of this report.

Information about the progress in the implementation of the project is submitted by the beneficiary in electronic form on the printed form found in the module Reports IS KP14+.

The following IoP can be submitted by the beneficiary as soon as the previous information is approved by the granting authority.

Verification, approval and administration of IoP is ensured by the OP RDE MA project administrator and is performed in the same manner as the inspection of the Report on project implementation, see Chapter 7.1.1.

The OP RDE MA sets the content of the report and the content and the format of the annexes in the MS2014+ in relation to the announced call for the submission of grant applications (i.e. the

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format of the report may differ for projects supported in various calls). The IoP sample is in Chapter 18 Annex No. 4.

### 7.1.3 Final report on project implementation

The final report on project implementation provides the OP RDE MA with information about the status of the project up to the termination of its (physical) implementation. The content of the FPCR evaluates the success of the whole project and advises the results and completed activities implemented within the project. The Final report on project implementation must contain a detailed description of the terms under which the project was implemented, summary information of the measures taken for project publicity, information about the fulfilment of all conditions, parameters and indicators defined in the grant application, legal act on grant award / transfer, sources of financing and any information that can be used to evaluate the impact and synergy of the project.

The beneficiary is to submit the project Final report on project implementation containing information covering the period from the last approved Report on project implementation from the date of termination of the (physical) implementation of the project and, at the same time, the period that applies to the physical implementation of the project if the expenditures were paid after the date of termination of the (physical) implementation of the project; however, a maximum of up to the date of submission of the project Final report on project implementation. The beneficiary is to submit the FPCR together with the final PA, see Chapter 7.3.3.

The beneficiary must submit the FPCR to the OP RDE MA within **40 business days from the date of termination of the (physical) implementation of the project**<sup>50</sup>. In the case that the OP RDE MA does not receive from the beneficiary the FPCR within the deadline stated in the legal act on grant award/transfer, the request for correction is sent to the beneficiary in the form of an internal dispatch with the notification of a possible financial penalty according to the legal act on grant award/transfer. In the internal dispatch will be a deadline for the submission of the project Final report on project implementation within an alternative deadline of 10 business days. This period starts from the date of delivery of this internal dispatch. In the case of non-fulfilment of the alternative deadline for the submission of the final report on project implementation, financial sanction can be applied according to the legal act on grant award / transfer.

In the case of a project which generates income according to Article 61 of the general directive, the beneficiary submits, together with the Final report on project implementation, the calculation of the financial gap according to the actual values.

The FPCR is checked in the same manner as checking the Report on project implementation, see Chapter 7.1.1.

The OP RDE MA sets the content of the report and the content and the format of the annexes in the MS2014+ in relation to the announced call for the submission of grant applications (i.e. the format of the report may differ for projects supported in various calls). The sample of the FPCR is mentioned in Chapter 18 Annex No. 2.

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<sup>50</sup> The beneficiary may submit the final project completion report as soon as the previous interim report is approved by the OP RDE MA.

#### **7.1.4 Final report of the project for the whole period of the project implementation (hereinafter FPCR for the whole implementation period)**

The FPCR of the project for the entire period of the project implementation includes information about the entire period of the project implementation and it is submitted by the beneficiary along with the final PA.

**The submission of this report is only binding for beneficiaries fulfilling one of the following conditions:**

- a) investment projects<sup>51</sup> with the volume of total eligible expenditure above 100 MCZK according to the legal act on grant award/transfer;
- b) projects for which with the last PA or the settlement, the physical and/or financial implementation of the event<sup>52</sup> continues that was part co-financed from ESIF.

In the case of projects that meet one of the above-mentioned conditions, the beneficiary shall submit only the FPCR for the entire period of implementation, that is after the end of the (physical) implementation of the project and/or the financial implementation of the event. The time limits for the submission of this report are the same as in the case of the FPCR (see Section 7.1.3).

The FPCR for the whole implementation period is checked in the same manner as checking the PIR, see Chapter 7.1.1.

Further information about this report is in Chapter 7.3.3.

The FPCR for the whole implementation period is checked in the same manner as checking the PIR, see Chapter 7.1.1.

The OP RDE MA sets the content of the FPCR for the whole implementation period and the content and the format of the annexes in the MS2014+ in relation to the announced call for the submission of a grant application (i.e. the format of the report may differ for projects supported in various calls). The sample of the FPCR for the whole implementation period is specified in Chapter 18, Annex No. 3.

#### **7.1.5 Interim report on project sustainability**

The interim report on project sustainability is submitted by the beneficiary during the period stated in the legal act on grant award / transfer. It is always submitted per each expired year. The monitoring period is regarded as either from the actual date of termination of the (physical) implementation of the project (valid for projects financed from ESF) or from the date when the project receives central status "Project financially terminated on the part of MA" (concerns projects financed from ERDF), not later than on the 10th business day after the expiration of each year of sustainability. The specific time of the monitoring period is specified in the call / in the legal act on grant award / transfer.

Verification, approval and further administration of the regular report on the sustainability of the project is in the competence of the authorized employee of the OP RDE MA and is done in the same manner as checking the Report on project implementation; see Chapter 7.1.1.

<sup>51</sup> It applies to the projects whose investment expenditures represent more than 50% of the total eligible expenditure.

<sup>52</sup> An event is understood as a set of projects financed from multiple sources.

The beneficiary submits reports through IS KP14+, the reports do not contain a payment application. The OP RDE MA sets the content of the report and the content and the format of the annexes in the MS2014+ in relation to the announced call for the submission of grant applications (i.e. the format of the report may differ for projects supported in various calls).

The sample of the report on the sustainability of the project is in Chapter 18 Annex No. 5.

### 7.1.6 Final report on project sustainability

The beneficiary submits the Final Project Sustainability Report after the expiration of the sustainability period, which is regarded either from the actual date of termination of the (physical) implementation of the project (applied to projects financed from ESF) or from the date when the project receives the central status “Project financially terminated by the MA”(concerns projects financed from ERDF), and within 10 business days after its expiration. The report is to be submitted in the same form and content as the interim report on project sustainability. The Final report on project sustainability includes an evaluation of the success of the implementation of the project or the implemented activities; see Chapter 7.3.6.

## 7.2 Project changes and project supplementation

The project must be implemented in accordance with the legal act on grant award / transfer or in accordance with the legal act and changes implemented during the project. All changes are recorded into the IS KP14+ in the form **of the change proceedings**.

When making changes before the issuance of the legal act on the grant award/transfer, the applicant is obliged to proceed similarly as in the case of changes made during the project implementation. The significant changes that can be made in this period include especially:

- A change in the registered office of the beneficiary – only if the legal conditions according to the Budgetary Rules are met.
- A change in the beneficiary’s name – only if the legal conditions according to the Budgetary Rules are met.
- A change of the ID of the beneficiary – only if the legal conditions according to the Budgetary Rules are met.
- Change to the legal form of the beneficiary – the corporate entity of the beneficiary did not expire or its assets are not transferred to its successor; only its legal relations and the legal position of their partners are changed. Change to the legal form of the beneficiary is only possible in cases where all the conditions of the authority of the applicant stated by the call are fulfilled (or related documentation in the call) and the legal act on grant award / transfer.
- Change in the name of the project.

The applicant shall submit any changes made before the issuance of the legal act on the grant award/transfer via the IS KP14+ at the earliest after receiving an internal dispatch with a notice on the approval of the grant application.

**Each change must respect the conditions for the implementation of the project stated by the OP RDE and must have a relevant justification.**

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The following changes are distinguished:

- **insignificant changes** – changes that can be made by the beneficiary without the consent of OP RDE MA;
- **significant changes** – changes for which the consent of the OP RDE MA is required;
  - initiating the change to the legal act on grant award / transfer;
  - not initiating the change to the legal act on grant award / transfer;

**Significant changes cannot be approved with retroactive efficiency.** The exception is an approval of changes falling within the period before the issuance of the legal act on the grant award/transfer and changes whose cause could not be influenced by the beneficiary.

A change is usually effective from the day of the approval of the substantial change by the MA. The effective date may be set later than the date of approval. In this case, the change is effective only after the determined date.

The beneficiary will be notified about the approval/rejection of the substantial change via an internal dispatch.

The OP RDE MA encourages all beneficiaries of the grant to consult the character<sup>53</sup> and the content of the amendments with the OP RDE MA sufficient time in advance.

### **Returning the application for change or amendment**

In the case that the application is returned to the beneficiary for revision, correction or amendment, the OP RDE MA will always define the full list of defects to the application for change. The beneficiary must settle the comments sent and submit the amended application for change within the deadline stated in the OP RDE MA. The OP RDE MA states the deadline **as 5 business days** however, depending on the character and the scope of the defects, a shorter or longer period may be stated<sup>54</sup>.

### **General rules for changes in the financial area:**

- changes in the budget may only be made with respect to the rules defined in the OP RDE documents and Czech legislation;
- in the case of any changes made, there must not be any exceeding of the binding process limits stated for individual chapters of the budget for the project mentioned in the call and all terms of the legal act on grant award / transfer must be kept;
- specific items, which were decreased/cancelled in the budget on the basis of the recommendation of the evaluation / selection committee, cannot be increased / renewed by the applicant during the implementation of the project in the form of an insignificant/significant change<sup>55</sup> (does not concern legal social items and health insurance of employees and CSNF), which were reduced in relation to the decrease of other wage item).

<sup>53</sup> Signifies a substantial/non-substantial change.

<sup>54</sup> This time limit may be extended only on the basis of a proper justification by the beneficiary with a proper justification being especially an intervention of a superior power. Considered irrelevant is any taking of leave of the implementation team members, the absence of a representative of the statutory body of the beneficiary etc.

<sup>55</sup> However, it is possible to increase the number of units if the unit price was reduced and vice versa.

## 7.2.1 Insignificant changes in the project

These are changes in the project that do not require the previous consent of the OP RDE MA before implementation ("acknowledged" only). The beneficiary **notifies insignificant changes on a regular basis (however, no later than before submitting the PIR) and the OP RDE MA confirms them.**

**If insignificant changes fall within the monitoring period of the given PIR/PA, the OP RDE MA encourages the beneficiary to report the changes sufficient time in advance in such a way so that they are confirmed by the OP RDE MA before the submission of the PIR/PA into the monitoring system. Otherwise, the beneficiary faces the risk that the change will not be included in the PIR/PA.**

### 7.2.1.1 Insignificant changes of a material character

- **Change in the beneficiary's contact data.**
- **Change in the name of the partner subject.**
- **A change in the contact person** (if it is not a key / excellent worker – then the importance of the change is distinguished into two types, non-substantial - see below in the Section 7.2.1 and substantial, see 7.2.2.2).
- **Change of the legal form of the beneficiary** resulting from the change in legislation.
- **Change of auditor** (if the beneficiary of the project must conduct an audit).
- **Change to the contract of the beneficiary with the partner having the character of an insignificant change**, which does not influence the fulfilment of the objectives or the value of the project indicators and concerns, e.g. change of the address of the partner, representative of the statutory body of the partner, change of the bank account of the partner or other changes mentioned in this chapter related to the partner of the project /with the exception of the change of the name of the partner's subject).
- **Change in VAT payer status.**
- **Change of the statutory body/person** authorised to act on behalf of the beneficiary. The beneficiary must send the notification within five business days about the change of the representative of the statutory body together with the source materials that prove this change.
- **Insignificant changes of building – technical character**– change of the construction and technical part (savings – reduction in the budget, but it may also be an increase<sup>56</sup> if the project has savings and the quality or range will increase, i.e. there may also be additional work that was objectively unforeseeable) that:
  - no negative impact on the scope and utility characteristics of the building,
  - does not cause deterioration of technical parameters of used materials.

<sup>56</sup> This provision is without prejudice to the obligations related to the PC arising from the applicable legislation and methodological documents of the OP RDE.

- **Change of the building – technical character caused by external factors**(leading to an increase<sup>57</sup> or reduction in the budget), which could not be predicted even with due care.
- **Change in the manner of performing activities / stages**, which does not have a negative impact on the fulfilment of the objectives of the project:
  - change in the planned item of key equipment / functional module or change in the research programme for which such equipment / module will be used is only valid for key equipment / functional modules with an acquisition price of above 1 million CZK without VAT and, at the same time, up to 5 million CZK without VAT if, at the same time, this change does not change any other parts of the legal act on grant award / transfer (e.g. budget or the scope of the research programme affected by the change of equipment). If changes in such key equipment exceed a total of 10 million CZK without VAT, in one calendar year, the change exceeding this limit and all following changes to the key equipment in the calendar year will be considered to be a significant change irrespective of the price of the acquired key equipment.
- **Changing a key/excellent worker**<sup>58</sup> – can be carried out without restrictions if in the call text and related documentation no requirement for the submission of a worker's CV when applying for the grant is stated<sup>59</sup>.
- **Other changes that do not affect the achievement of indicators and the fulfilment of the project objectives.**

#### **Insignificant changes of a financial character**

The confirmation of the insignificant changes by the OP RDE MA automatically does not establish the eligibility of expenditure spent on the basis of the insignificant change made. Eligibility will be assessed by the OP RDE MA on the basis of the presentation of relevant documents within the relevant PIR/PA.

The budget chapter means the summary part of the budget (e.g. travel expenditure); the budget item means its part (e.g. per diem).

- **Transfer of funds between items inside individual budget chapters** can be made without restriction with the exception of the transfer of funds concerning the human resources expenditure chapter (see below) and transfers between investments and non-investments (when it concerns a significant change);
- **Transfer of financial funds between individual chapters** – without the previous consent of the granting authority, funds can be transferred between individual chapters up to the level of 15% of the volume of eligible expenditure of the chapter (according to the valid budget) from which the financial funds are transferred. The human resources expenditure chapter may be increased by such a transfer or further transfers only up to the level of 15% of the existing volume of eligible expenditure of this chapter (according to the valid budget).

<sup>57</sup> This provision is without prejudice to the obligations related to the PC arising from the applicable legislation and methodological documents of the OP RDE.

<sup>58</sup> It also applies to the involvement of a new key/excellent worker in the project.

<sup>59</sup> If in the call text and related documentation there is a requirement for documentation of the CV of X% (e.g. 50%) of the team members, the change of such an employee that did not present his/her CV when applying for the grant is considered to be insignificant.

- **Creation of a new item or the cancellation of the item from the budget** – by the transfer of funds inside the chapter or by the transfer of funds within insignificant changes. Cancellation or the creation of the item can only be made under the condition that the activities approved in the grant application are fulfilled.
- **Modification of the financial plan** – this concerns the transfer of amounts for requested pre-financing / settlement between individual periods for the financial plan (in the case that financial milestones are applied to the project and, at the same time, it is necessary to take into consideration the rules for the change of these milestones). Change proceedings concerning the financial plan can be initiated by the beneficiary, as well as the OP RDE MA. In the case of the revision of the financial plan by the OP RDE MA, the OP RDE MA will pass its proposal for changes to the beneficiary for evaluation; consequently, the beneficiary will implement the change.
- **Transfer into the Savings to be distributed item** – on the basis of saving according to Chapter 12.5.
- **Transfer into the Savings above 10% item** – on the basis of saving according to Chapter 12.5.

### **Constraints in implementation of insignificant changes**

#### **Personnel Costs Chapter**

In this chapter, only the following changes can be made within insignificant changes:

- changing forms of labour law relationship (e.g. from CoS to CfW);
- division or merger of already approved workload (e.g. the workload of one employee 1.0 will be done by two employees, each 0.5 workload);
- the merged workload must respect the lowest approved unit wage from the merged workload (however, it must always respect the restriction on the execution of a maximum 1.2 of the concluded workload for the employee employed by the subjects involved in the project (i.e. beneficiary and partners); see the chapter for the Personnel costs budget;.
- changes caused by bonuses for work during Saturdays, Sundays and holidays, which are eligible (justified) and with their payment there will be the exceeding of budgetary expenditure of the items in this chapter;
- in cases where the wage compensation is paid by the average, which is higher than the adequate part of the wage in the stated month (the average is influenced by the low fund of working hours in the previous period); this difference can be covered within the insignificant change;
- creation of a new work position;
- decrease in wage rate;
- increase or decrease of the workload for the existing position (the approved unit price must not be exceeded, the units must be recalculated);
- creation / increase of the item for expenditure, which the beneficiary is obliged to legally pay (CSNF, legal insurance in the budget item Other binding expenditure, etc.).

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**For funded organisations with stated binding indicators for the budget, any changes in the budget in the human resources expenditure chapter which cause the transfer between limit values, are considered as significant changes.**

### **Foreign business trips**

The item can be increased within one or more insignificant changes by a maximum of 15% towards the existing volume of eligible expenditure of this item (according to the valid budget).

## **7.2.2 Significant changes in the project**

These are changes that principally change parameters and the content of the project. All significant changes in the project establish the obligation of the beneficiary to submit within the change proceedings in the IS KP14+ the application for the evaluation of the change OP RDE MA change. In the application it is necessary to mention and justify the reason of the change. The approval of a substantial change by the MA automatically does not establish the eligibility of the expenditure spent on the basis of the substantial changes made. Eligibility will be assessed by the OP RDE MA on the basis of the presentation of relevant documents within the relevant PIR/PA.

**If substantial changes are within the monitoring period of the respective PIR/PA, the OP RDE MA recommends beneficiaries to notify such changes well in advance to be approved by the OP RDE MA before founding PIR/PA in the monitoring system. Otherwise, the beneficiary runs the risk that the change will not be included in PIR/PA.**

The application for a significant change, which changes the period of the implementation of the project (non the sustainability period) must be submitted to the granting authority no **later than 40 business days** before the termination of the project, if the granting authority does not allow a shorter deadline. We distinguish significant changes, which:

- initiate the change to the legal act on grant award / transfer;
- do not initiate the change to the legal act on grant award / transfer;

### **7.2.2.1 Significant changes initiating the change to the legal act on grant award/transfer**

- **Change of the residence of the beneficiary** only if legal conditions are met in accordance with budgetary rules.
- **Changing the name of the beneficiary's entity** – only if legal conditions are met in accordance with budgetary rules.
- **Change of the beneficiary's ID number** – only if legal conditions are met in accordance with budgetary rules.
- **Change in the person of beneficiary** is possible only in the following cases:

- Change to the legal form of the beneficiary whereas the personal details shall remain unchanged<sup>60</sup>; the corporate entity of the beneficiary does not cease to exist nor are its assets transferred to its successor; only its legal relations and the legal position of their partners are changed. Change to the legal form of the beneficiary is only possible in cases where all the conditions of the authority of the applicant stated by the call are fulfilled (or related documentation in the call) and the legal act on grant award / transfer;
- change of business company or cooperative according to the Business Corporation and Cooperative Transformations Act within the scope stated in Section 14a of the Budgetary Rules;
- in the case of the merger and division of school legal entities pursuant to Section 14d, Par. 3 of the Budgetary Rules;
- legal change of the beneficiary when from a certain date there is renaming or the change of legal form.

The transfer of rights and obligations arising from the grant award decision from individual to a legal entity is not acceptable, because in this case it is not a legal succession.

- **Change in the name of the project.**
- **Changing the target values of binding output and result indicators** in the relevant years. (Exceeding of the amount of set indicators is not considered as a substantial change provided that this change is not related to the substantial change of the budget nor does it exceed 25% of the original target value of the indicator.) A request for a significant change of target values of indicators will be granted only if the beneficiary justifies its request for a change thoroughly and relevantly. The binding indicators cannot be cancelled.
- **Adding an indicator** (can only be within indicators defined in the respective call).
- **Involvement of a new partner in the project** – in extraordinary and sufficiently justified cases it is possible to involve a new partner in the project who was not mentioned in the grant application (e.g. in the case of the transformation of the subject of the partner and the origination of a successor organisation for the replacement of the partner with another partner when complying with all obligations and commitments). In the case of such change, the principles of partnership mentioned in Chapter 13 must not be breached.
- **Cancellation /change of the partner during the implementation of the project.**
- **Change of date of the termination of the project implementation** – the change is to be accompanied by the submission of the time schedule for the implementation of the project:
  - extension of the period of the implementation of the project;
  - shortening of the period of the project implementation;
- **Change to the bank account of the beneficiary** – the intention to change the bank account/sub-account must be notified in advance by the beneficiary to the granting authority. The beneficiary is entitled to make the change after the issued of the amendment to the legal act on grant award / transfer (before the issue of the amendment, the beneficiary submits a verified copy of the contract on the opening of the bank account or the form of financial identification). The

<sup>60</sup> In case of the change of the legal status or legal change of the beneficiary, the granting authority takes note of the change on the basis of the notice written by the beneficiary, however, it does not change the actual legal act on grant award/transfer (i.e. does not issue a decision on changing the legal act on grant award/transfer).

granting authority states for the beneficiary in the amendment to the legal act on grant award / transfer, the obligation to transfer all OP RDE funds designated for the implementation of the project from the original bank account of the beneficiary to the new bank account of the beneficiary. Unless another deadline is stated in the amendment, the beneficiary is to make the transfer of funds within 10 business days from the date stated in the amendment to the legal act on grant award / transfer as the date of the implementation of the change. The change of account must be reflected in the subsequent requests for payment. In the case that the change of the bank is enforced by concluding the bank operations of the bank where the original bank account of the beneficiary was opened, the beneficiary is to immediately send within 5 business days to the granting authority the notification of the change of account, which must include a copy of the contract on the opening of the new account or a printed form of financial identification confirmed by the bank along with the document on the transfer of financial funds from the original bank account to the new bank account.

- **Change in the founder's flow account.**
- **Decrease in the total eligible expenditure** and related change to the financial plan.
- **Transfer of financial funds between investment items and non-investment expenditure,** or other changes in the budget resulting in a mutual change in the total level of investment and non-investment funds and the related change to the financial plan.
  - In the case that the project is recorded in the EDS/SMVS and in the grant application does not contain investments; the change of investments is only possible in the year in which the legal act on grant award / transfer was issued.
  - In case that at the time of applying for the grant the project budget did not include investments (and therefore was not recorded in the EDS/SMVS) and no legal exceptions of records in the EDS/SMVS apply to the legal form of the beneficiary or its specialisation, the beneficiary returns unused non-investment funds to the MA in case of the identified need to transfer non-investments to investments. It additionally registers the project in EDS/SMVS, issues the change of legal act and pays the required investment funds.
  - In the case of the projects which, on the basis of legal exceptions, are not recorded in EDS/SMVS, such changes can be implemented as significant changes that establish the change in the legal act on grant award / transfer.
- **Increase of the stated maximum percentage level of the advance payment.**
- **Transfer between budget chapters exceeding 15 %** of the volume of eligible expenditure of the chapter according to the valid budget from which the funds are transferred.
- **Increase in the volume of eligible expenditure of the personnel chapter costs** according to the valid budget by more than 15%.
- **Change in the budget in the human resources** expenditure chapter for organisations with the stated binding indicators causing the transfer between the limit values.

In the case that funds were paid according to the binding indicators in the form of advance payments, the change can only be made only in the case that the provision and the change are classified into the same calendar year. In this case, the beneficiary will return the funds and the granting authority will provide them again in the requested structure.

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In the case of a significant change in the budget, items in the new valid budget are taken into consideration for which a significant change was made and all items related to the significant change that were affected by an insignificant change.

#### 7.2.2.2 Significant changes not initiating the change of the legal act on grant award / transfer

- **Change in the research programme.**
- **Change of key activity / project stage** – when the purpose or objectives of the activity/stage are changed.
- **Change to the planned item of key equipment / functional module and the research programme for which such equipment / module will be used** with an acquisition price of over 5 million CZK without VAT.
- **Change to the contract of the beneficiary where the partner has the character of a significant change** – the applicant must document the new draft contract with the partner along with the application for a significant change. For example, this concerns the change of the name of the partner, change of ID number (e.g. due to the merger of schools), change in the financial share of the partner<sup>61</sup>.
- **Changing the planned level of workload of key/excellent workers.**
- **Changing a key/excellent worker<sup>62</sup>** – if in the call text and related documentation, a requirement to present the worker's CV when applying for the grant is stated<sup>63</sup>. A new worker must always meet the criteria specified in the call text and related documentation.
- **Foreign business trips – increase of the item by more than 15% of the original volume.**
- **Transfer from the savings to be distributed item into another item in the budget (with the exception of savings above 10%)** – re-distribution of savings up to 10% into any item of the budget must always be fully justified. The transfer of financial funds must fulfil the requirements of substantive eligibility, must be economic and must contribute to improve the project outputs.
- **Increase in planned advances for the current year.**
- **Change in the time schedule for the implementation of the project concerning individual activities / stages, including data for the achievement of values of indicators** (this does not concern the extension of the overall period of the implementation of the project), the change is accompanied by the submission of the processed time schedule for implementation of the project.

<sup>61</sup> The change is possible only under the conditions of partnership, see Chapter 13: The beneficiary carries out the main, essential part of project activities, if the call does not set differently.

<sup>62</sup> It also applies to the involvement of a new key/excellent worker in the project.

<sup>63</sup> If in the call text and related documentation there is a requirement for documentation of CVs of X% (e.g. 50%) of the team members, the change of such an employee is considered to be significant if he/she presented his/her CV when applying for the grant.

- **Change to key outputs**, which fulfil individual indicators (appendix to the grant application / Report on project implementation).
- **Earlier submission of the PIR/PA** – with the approval of the proposal by OP RDE MA deadlines for the submission of the following PIR/PA are revised.
- **Creating a new budget item, which will be a contextual contribution to the project.**
- **Increase/decrease in the current budget item, which is a contextual contribution to the project**(if, concurrently with this change, the amount of financial funds is redistributed between the items of investment and non-investment expenditures, it is considered a significant change that establishes the change in the legal act on grant award/transfer).
- **Rescheduling or major technical changes to the building - technical part of the project**, for example:
  - increase or decrease in the usable area;
  - change of the eligibility index of common areas;
  - change in the construction permit or a change in the construction before termination according to the provisions of Section 118 of the building regulations;
  - all other changes in the construction, in particular changes leading to a correction in the scope of the construction, worsening of the utility properties of the construction and the worsening of the parameters of the materials used;

All the above-mentioned changes in the time schedule are accompanied by the submitted revised time schedule for the implementation of the project or the submission of the relevant part of the revised construction - technical documentation for the project.

**In the case of any doubt about the type of change, it is regarded that it concerns a significant change.**

### **7.2.2.3 Changes in the sustainability period**

Similarly as in period for the implementation of the project, in the sustainability period (particularly in relation to the monitoring of the project in this period), the beneficiary may identify the requirement to deviate in the fulfilment of the obligations stated in the legal act. At this point it appears desirable to implement the corrective measures in the form of a significant or insignificant change in the project in the sustainability period, under the precondition of respecting the objectives and the purpose of the project. For these changes, similar rules are valid as for changes in the period for the implementation of the project.

**Insignificant changes in the sustainability period**, or changes of a formal character are not the subject for the prior consent of the granting authority.

During the implementation of these changes, the beneficiary proceeds in the same manner as in the case of an insignificant change in the period of implementation, see Chapter 7.2.1.

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**An insignificant change in the sustainability period of the project is considered, for example, as a:**

- change in the contact data of the beneficiary - addresses, telephone numbers of the beneficiary (we recommend to immediately notify this);
- change in the name of the beneficiary (we recommend to immediately notify this);
- change in the registered office of the beneficiary (we recommend to immediately notify this);
- change in the representative of the statutory body (we recommend to immediately notify this);
- change in the contact person for the project and the project manager (we recommend to immediately notify this);
- change in the person of the beneficiary, e.g. in the form of merger, division, etc., when the subject submits a legal succession, not in the case of expiration when a previously non participating subject would take the obligation (we recommend to immediately notify this);
- replacement of assets acquired from the support which the beneficiary / partner is obliged to keep for a certain period, in the case of damage, loss or theft;
- change in the partnership contract of the beneficiary with the partner having the character of a significant change.

Insignificant changes are also considered to be all changes in the time schedule, number of events or number of participants in individual events, etc., when within one period of sustainability for which report on project sustainability is reported, there is the fulfilment of the commitment of the beneficiary related to this period. This concerns, for example:

- change in the time schedule of activities within the individual sustainability period for which report on project sustainability is reported;
- merger of similar events if the scope of the agenda and the number of participants remains the same;
- change in the site where the sustainability activities taking place for this change do not influence the accessibility for the target group or the manner of the performance.

### **Significant changes in the sustainability period**

In the case of the application for change, the same procedure is used as for the submission of the application for the approval of a significant change within the implementation, see Chapter 7.2.2.

**A significant sustainability change<sup>64</sup> is usually considered as:**

- change in the actual subjects with whom the beneficiary originally declared collaboration in the sustainability period;
- changes concerning monitoring indicators;
- changes in external circumstances where it is not possible to fulfil the original commitment (for example, during the development of new technologies, the beneficiary will not train using

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<sup>64</sup> Changes that lead to a modification in the manner of implementation of sustainability, which is indicated in the grant application.

outdated technological procedures, but innovated procedures or in the case of a change of legislation where it will be necessary to modify the content and the manner of training, etc.);

- merger of events originally planned in various periods of sustainability;
- change in the partner person, replacement of a partner, cancellation of a partner<sup>65</sup>;
- change in the contract of the beneficiary with the partner having the character of a significant change.

In the case of any doubt about the type of change, it is regarded that it concerns a significant change. Changes cannot be approved retroactively (i.e. Change facts taking place before the submission of the application by the beneficiary). The exception is the approval of changes where the beneficiary could not influence the reason. The change will be effective from the day following the date of approval of the significant change.

#### **Changes that cannot be made:**

- a change in the ownership of assets (equipment, investments), which were acquired from the project funds if the obligation to keep the acquired equipment results from the terms for the grant award – must remain under the ownership of the beneficiary<sup>66</sup>;
- changes which principally change the commitment to sustainability (e.g. the beneficiary wants to replace the commitment of the organization at one conference with the issue of publication or the establishment of collaboration with another subject, etc.);
- changes in the commitment proposed by the evaluating / selection committee on the basis of the evaluation of the project;
- change in the purpose of the project.
- termination or correction of the sustainability period.

The OP RDE MA recommends the beneficiaries of the support that the character<sup>67</sup> and the content of changes are consulted with the granting authority in advance.

## **7.3 Project termination and sustainability**

### **7.3.1 Time framework for termination of projects**

All types of projects must be terminated by the beneficiary within the deadline mentioned in the legal act on grant award / transfer, however, no later than 31. 12. 2023. Due to ensuring sufficient time for the termination of all project activities, for the preparation of the final report of the programme and the respective documentation to close the whole programming period on the part of the support, the OP RDE MA recommends that the project implementation is terminated by the beneficiary **no later than 30. 6. 2023, unless the announced call provides for otherwise.**

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<sup>65</sup> Once the partner withdraws, another partner or beneficiary must assume his/her commitments.

<sup>66</sup> The change of ownership between the beneficiary and financial partners can be accepted, unless this would infringe the conditions for granting state aid or de minimis aid.

<sup>67</sup> Meaning significant/insignificant changes in the sustainability period

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The implementation of the project supported from the OP RDE may be terminated earlier compared with the deadline mentioned in the legal act on grant award / transfer (hereinafter referred to as “early” or “previous”). The previous termination of the project implementation is always considered as significant change in the project. The beneficiary informs the granting authority through IS KP14+ of the intention to terminate the project implementation early and submits the application for a significant change. After approval of the significant change, the applicant submits the PIR (see Chapter 7.1.3), no later than 40 business days from the termination of the (physical) implementation of the project.

### 7.3.2 Formal technical termination of the project implementation

Beneficiaries must ensure the termination of the project from a formal / technical viewpoint, i.e. to prepare and treat all documentation related to the fulfilment of the project to store it for the demands of the European commission, European Court of Auditors and other bodies with the right to view / inspect. All assets acquired from funds of the OP RDE must be marked by the beneficiary, for example, with the inventory number to enable easy identification during the binding period (the binding period is stated, for example, as the period of sustainability of activities and outputs, the period stated for the non-transfer of assets in the legal act on grant award / transfer, partnership agreement, etc.).

#### **The OP RDE beneficiary is recommended:**

- 1) to inspect the record keeping of the documents, which ensures their explanatory power is complied with throughout the whole period (marking of documents, durability of carriers, in particular printing, etc.);
- 2) if due to legal procedures it is not possible to include the originals into the documentation (e.g. wage reports), it is necessary to attach a written notification to the documentation where it is possible to search and verify these documents (“audit trail”);
- 3) to inspect the separate accounting of project income and expenditure and accordance with the paid Request for payment and the lists of documents and reported income, to store the extract from the separate accounting records;
- 4) to make, before the termination of the project, an inventory of assets acquired from project funds and to assign the list of assets to the retained documentation while adhering to the following instructions;
  - the beneficiary will prepare an inventory list in the format which is used in standard cases for the inventory of assets; in the header in the right upper corner of the prepared list will be the registration number of the project and its shortened name;
  - the acquired, recorded assets must be marked with the inventory number to be able to identify in the case of inspection; in the list there will be the location within the respective organization (beneficiary / partner); the inventory of such assets is submitted by the beneficiary as an attachment to the FPCR/PA;
  - in the case that the acquired assets were divided between several partners or will be handed over to the partners, these facts must be documents / recorded in writing, including instructing the transferee of the binding period for the holding assets and their identification,

- including the obligation to report to the granting authority any changes in the balance of assets (e.g. destruction, theft) and changes to their location;
- the beneficiary will mark the asset cards during the binding period of assets holding to prevent cancellation or sale.
- 5) to prepare for retention all materials and documents that were produced during the publicity and promotion of the project (e.g. leaflets, publications, CD and other items);
- 6) to verify that all insignificant changes in the project were notified in writing in reports on the implementation of projects; in the case of omission, it is necessary to mention these facts in the final report on project implementation;
- 7) in relation to the obligation to implement corrective measures imposed by authorized subjects on the basis of inspections and the recommendation of completed audits, to verify the completeness of documents related to the fulfilment of measures (records/memos) and to assign them to the retained documentation;
- 8) to assign to the retained documentation any correspondence with all subjects which is relevant for any inspection of the terminated project, in particular with the Managing Authority, Payment and certification body, Audit body, EU commission, European Court of Auditors, European Office for the Prevention of Fraud (OLAF), Ministry of Finance and Financial Administration, the Supreme Audit Office, independent audit bodies, or any other bodies with the authority for inspection (MoRD-NCA, Office for the Protection of Competition, etc.);
- 9) during the sustainability period, to keep the project outputs in a suitable manner;
- 10) that staff ensure the sustainability of the project, especially the submission of PSR, if sustainability is determined.

**The beneficiaries must ensure no later than upon the submission of FPCR:**

- correct use of personal data if it is the subject of retained documents according to the act on the protection of personal data;
- verification of the fulfilment of the notification obligation towards the Office for the Protection of Personal Data, if it is relevant for the project;
- originals of documents designated to be retained; the list of basic materials designated for the retention is in Chapter 7.4.2;
- conduct an audit of the project if this obligation is imposed;
- settlement of advances to the supplier;
- calculation of the level of indirect costs of the project in relation to the total eligible expenditure of the project (according to the requirement from the last list of documents) and their inclusion in the final Request for payment;
- settlement of funds transferred into cash so as to be able to make any return of funds;
- keeping the user name and the password for entrance into the IS KP14+ (for the option to submit report on project sustainability through IS KP14+), if sustainability is stated.

### 7.3.3 Termination of the project implementation from the viewpoint of monitoring and financing

After the termination of the physical implementation of the project, the beneficiary is to submit to the granting authority:

#### 1) FPCR including project outputs

The beneficiary submits the project outputs during the implementation of the project and submits them to the Report on project implementation; the submission is no later than with Final report on project implementation unless the call or related documentation does not specify otherwise. Products created during implementation of the project according to the grant application are submitted in electronic form and ensures unlimited licence rights (through the licence agreement) for the granting authority to use these products and to distribute further. This commitment does not apply to project outputs in the area of research and development (R&D) and outputs, which due to reasons independent of the beneficiary, it is not possible to transfer unrestricted licence rights to the granting authority (e.g. articles in scientific magazines where an exclusive contract must be concluded with the publisher, i.e. outputs which are the subject to “transfer of copyright agreement”<sup>68</sup>, products created in the compatible support or support de minimis regimes and other outputs where free distribution is restricted by the protection of intellectual property, security rules or justified business interests).

The procedure for the administration of FPCR is in Chapter 7.1.3.

#### 2) Final Request for payment

The Final Request for payment may include:

- all expenditure proven in the last monitoring period;
- currently undocumented expenditures for the previous monitoring period;
- any further eligible expenditures that can be applied in accordance with the terms and rules of eligibility.

Eligible project expenditures that are not included until the final PA cannot be paid by the OP RDE MA.

MA recommendations: Before the submission of the final Request for payment it is recommended that the beneficiary check all paid Request for payment and the accordance with paid expenditures and provided advances. Before the submission of the final Request for payment, all advances between the supplier and the beneficiary must be settled.

**In the case of ex-ante financing** within the inspection of the financial correctness of the final Request for payment OP RDE MA, the beneficiary states the difference between the received funds and the approved eligible expenditures of the project from all Request for payment, including the final costs, i.e. the beneficiary states the possible level of additional payment for

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<sup>68</sup> The Copyright Transfer Agreement is a contract concluded between the author/authors of the specialist article and the publisher of a scientific magazine, where the article is going to be published, whereas the subject of the agreement is the assignment of copyrights to the publisher, which means that the author waives e.g. the possibility to reproduce or disseminate his/her work, otherwise the magazine will not publish the article, therefore the beneficiary is not able to pass the rights to the article to the granting authority.

support on the part of the granting authority or the level of return. In the case of calculation of the return, the OP RDE MA shall send to the beneficiary through IS KP14+ a call for return of unused funds from the grant. The beneficiary is to return the funds within 30 business days from the approval of the final project Report on project implementation / Final report on project implementation or within the deadline according to Regulation No. 367/2015 Coll., according to whichever happens earlier. **The beneficiary is to inform the granting authority of the return by sending information in the form of an internal dispatch (advice).**

**The content of the advice on the return is the:**

- registration number of the project (the last nine digits of the registration number of the project serves as a variable symbol),
- name of the project,
- identification of the beneficiary,
- amount returned and its classification into investments and non-investments, the bank account to which the return amount will be sent if it is not mentioned in the legal act on grant award / transfer.

If the beneficiary does not fulfil the deadline for returning unused funds to the account of the granting authority, the OP RDE MA will request return of the unused funds from the grant. If after re-calling, the beneficiary does not keep to the deadline for return of used funds, this may concern unauthorized holding of financial funds and breach of discipline according to the Budgetary Rules. The OP RDE MA similarly proceeds in the case that the amount of the returned unused funds is lower than the amount which was requested from the beneficiary.

**In the case of ex-post financing** then after the submission of the final report, the OP RDE MA conducts the Request for payment inspection of the financial correctness of the submitted expenditures and states the level of additional payments owed by the granting authority.

**In the case of combined payments**, then after the submission of the final PA, the OP RDE MA conducts the inspection of all accounting documents and states the level of additional payment owed by the granting authority.

**During the termination of the project, the beneficiary will chronologically:**

- a) calculate the actual level of indirect expenditure;**
- b) refund all eligible project expenditures** made from all funds up to the level of provided advances;
- c) retain the bank account after the termination of the project** – the beneficiary must not close the bank account before making the financial settlement (i.e. all payments made related to the project are made, including payment of the last PA, or transferring refunds).

Rules for retaining the bank account also apply after the termination of the project within the same scope to the partner of the project with a financial contribution.

If the beneficiary must submit according to Regulation No. 367/2015 Coll., the financial settlement of the aid, the beneficiary will make the settlement by the 31st of December of the year in which the project was terminated. The deadline for the submission of documents by the beneficiary and return of funds to the other funds account (financial settlement) is usually determined by a decree on **15 February of the year following the year in which the project was terminated as**

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defined below.

**For the purpose** of financial settlement with the national budget, termination of the project means:

- either the time of the expiration of the deadline for the submission of the application for investigation after the receipt of the approved final Report on project implementation of the project/Request for payment;
- the time of the receipt of the standpoint to the submitted application for investigation;
- or the time of the receipt of the additional payment.

During the financial settlement, the beneficiary:

- is to submit the printed financial settlement form (the printed form is used according to the type of the beneficiary), which is the appendix to Regulation No. 367/2015 Coll. This form is submitted to the granting authority in summary for all grants received from MEYS for projects, which in the stated year, are the subject of the financial settlement;
- returns the financial funds back to the granting authority.

Projects co-financed from EU budget funds to which funds were provided at the level of the already paid expenditures (i.e. ex-post financing), are considered as financially settled.

#### **7.3.4 Non achievement of the purpose of the grant at the termination of the project implementation**

Beneficiaries whose project, by the end of the termination of the implementation, does not achieve the minimum values of the indicators stated in the legal act on grant award / transfer and/or do not fulfil the purpose for whose achievement the grant was awarded, then No. legal title for any part of the grant will originate.<sup>69</sup>

The granting authority reduces all expenditures presented in the final PA on the basis of project FPCR and invites the beneficiary on the basis of the provision of Section 14f, Par. 3 of the Budgetary Rules to return the previously provided funds to the bank account of the granting authority within the specified time limit. It is valid that for such funds returned by the beneficiary that there was No. breach of discipline and the granting authority, on the basis of Section 14f par. 7 of the Budgetary Rules, only informs the respective body of the financial administration of the issue of the call to return the grant and how the call was responded to.

#### **7.3.5 Early/non-standard termination of the project implementation**

##### **1) Cancellation of the implementation of the project on the part of the applicant before the issue of the legal act on grant award / transfer**

The applicant applies for a withdrawal from the project, e.g. due to the failure to accept the conditions of the legal act on grant award/transfer, via IS KP14+ functionality Download an application and then, he/she sends a request to withdraw from the project, as an attachment to the internal

<sup>69</sup> The granting authority assesses the fulfilment of indicators and the achievement of the purpose of the grant also with regard to **the quality of the submitted project outputs**. The granting authority reserves the right to mark individual outputs/results as unsatisfactory on the basis of an expert assessment.

dispatch in IS KP14+, which must be approved by the applicant's statutory representative, i.e. contains the electronic signature of the statutory representative.

The granting authority does not issue the legal act on grant award / transfer and consequently notifies the applicant of the acceptance of the application for the cancellation from the implementation of the project.

## **2) Early termination of the implementation of the project with the issued legal act grant award / transfer on the basis of application of the beneficiary**

Change of data for termination of (physical) implementation of the project is always a significant change. The beneficiary will submit the application for the significant change of the project for early termination of the project implementation with the indication of the reason(s). If the granting authority accepts the application, it shall issue a Decision on the amendment to the legal act on grant award/transfer stating the new deadline (date) for the termination of the (physical) implementation of the project.

As a principle, early termination is enabled in cases where the beneficiary, even for the early termination of the physical implementation of the project, achieves the planned outputs and results.

**Early termination of the physical implementation of the project** in cases where the project does not achieve the planned outputs and results is only enabled in extraordinary cases due to serious reasons.

If the granting authority does not accept the application for early termination of the implementation of the project and the beneficiary does not want / cannot implement the project, then after the fulfilment of the terms mentioned in the provision of Section 15 of the Act on Budgetary Rules, then the proceedings on the withdrawal of the grant are initiated. At the same time, the granting authority calls on the beneficiary in writing to stop the financing of the project.

The initiation of the proceedings on the withdrawal of the grant can occur in cases where the beneficiary notifies that they no longer wish to implement the project after the issue of the support through the legal act on grant award / transfer if they did not receive any funds for implementation of the project or received the funds but did not use them.

### **Proceedings for withdrawal of the grant**

In cases where the grant is based on budgetary rules and conditions specified in the provisions of Section 15 of the Act on Budgetary Rules, the proceedings to revoke the grant may be initiated. The granting authority initiates the proceedings on the withdrawal of grant ex officio or at the request of the beneficiary. Its result will be the issue of the administrative decision by which the grant will be withdrawn. The decision will contain the date by which the beneficiary must return the funds received by that day and identity of accounts to which such funds are to be transferred. These proceedings are the subject of General Regulations on administrative proceedings; therefore, it is possible to submit an appeal against the decision of the granting authority upon the withdrawal of grant<sup>70</sup>. A grant may be withdrawn if the budgetary discipline was not breached

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<sup>70</sup> See Act No. 500/2004 Coll., the Code of Administrative Procedure.

due to the non-fulfilment of the purpose of the grant.<sup>71</sup>

### **Acceptance of the application for early termination of the project implementation**

On the basis of the application, the granting authority states in the amendment to the legal act on grant award/transfer, states the new date of termination of the (physical) implementation of the project. Depending on the circumstances of the termination of the project implementation, the financing of the project can be stopped or the amount of the grant reduced.

In the case where at least formally, the physical implementation of the project was initiated, the beneficiary is bound to submit the Report on project implementation for the period in which the beneficiary uses the funds of the granting authority (the new date of the end of the physical implementation will be stated change/amendment to the legal act on grant award /transfer), if the beneficiary is not released from this obligation in the legal act on grant award / transfer or its amendment. At the same time as with the Report on project implementation, the beneficiary must submit the account statement from which it is evident that they used the grant (also applies to fees for account maintenance). The beneficiary makes the financial settlement according to Regulation No. 367/2015 Coll., see Chapter 7.3.3.

### **3) The cancellation of the legal act on grant award / transfer on the part of the granting authority**

If the grant was issued in the form of a Grant Award Decision, there is only the possibility of the granting authority to withdraw this grant according to the provision of Section 15, Par 1 of Budgetary Rules. It is not possible for the granting authority to terminate the project.

### **4) Early termination of projects implemented on the basis of the Deputy Minister Measure (technical assistance of the Managing Authority)**

If the beneficiary ascertains that it is not possible to achieve the purpose of the grant defined in the DM Measure and, at the same time, there was No. settlement of expenditures in the payment application, the beneficiary will submit the proposal for early termination of the physical implementation of the project in the application form for a significant change in the project.

In the case of the approval of the application, the granting authority makes an change to the Deputy Minister Measure in which they state the date of termination of the project activities and specify the new obligations of the beneficiary related to the termination of project activities and the return of the financial funds to the granting authority. The beneficiary does not have the right for payment of the project costs.

For funds that the beneficiary used but did not include in the Request for payment, the granting authority resolves as a suspicion of breach of discipline with the submission of the initiation to the financial administration body.

If there was the payment of costs and settlement in the Request for payment, the granting authority marks the funds settled in the Request for payment as suspected of breaching budgetary discipline and sends the submitted case to the financial administration body.

The granting authority accepts the application by the beneficiary for early termination of the physical implementation of the project and states in the amendment to the Deputy Minister Measure

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<sup>71</sup> Breach of budgetary discipline, which occurred for other reasons than failure to fulfil the purpose of the grant, does not constitute an obstacle to the withdrawal of the grant and is addressed by the financial administration authority.

the obligations of the beneficiary during the use of funds which that were not indicated as a breach of budgetary discipline, in particular, the deadline for returning financial funds.

If SOU is the project implementer, on the basis of the provision of Section 26, Par. 3 of Budgetary Rules, the OP RDE MA will proceed similarly pursuant to the provision of Section 14f of the Act on Budgetary Rules. This means that the granting authority calls on the beneficiary to return the currently provided or transferred funds. The provided funds are returned by the budgetary measure if they are to be returned into national budget; in other cases, the organisation unit of the state whose budget was decreased, receives them into the other funds account. In the case of funds returned by the beneficiary in this way it applies that there was no breach of budgetary discipline and the OP RDE MA on the basis of the provision of Section 14f of the Budgetary Rules only notifies the relevant Financial Administration on issue of the request for returning the grant and on the response to such a request.

### 7.3.6 Project Sustainability

Fulfilment of conditions during the project sustainability come from the Art. 71 of the General Regulation.

For projects that are the subject of the obligation to retain investment into the infrastructure or productive investment<sup>72</sup>, the beneficiary must prevent the termination of the project implementation in the stated period (last payments to the beneficiary) or relocation of the manufacturing activity outside the programme area, a change in the ownership of the infrastructure item and any significant change that negatively influences the nature and objectives of the project. In the case of non-fulfilment of sustainability, the beneficiary will be called on by the granting authority to return the whole or part of the grant.

The transfer of assets to another subject in the sustainability time is possible; however, the original purpose during the acquisition must be retained and all terms during the provision of grant must be kept. The subject to which the assets are transferred may not obtain undue benefit from their ownership. In this case, the beneficiary must return part of the grant at the level of the acquisition price of the assets (in accordance with Article 71 of EC Directive No. 1303/2013, par. 1).

**In the case of support, which includes investment into the infrastructure or productive investment**, the beneficiary must return the contribution from OP RDE if within 10 years from the last payment to the beneficiary, the manufacturing activity is relocated outside the territory of the EU with the exception of cases where the beneficiary is a small or medium sized enterprise (SME). If the contribution from European Structural and Investment Fund (ESIF) has the form of state aid, the period of 10 years is replaced by a period valid according to the rules for the provision of state aid (for example, if the support is provided according to the Directive on Block exemptions No. 651/2014, the sustainability period is stated in a different manner in accordance with the terms of relevant block exemption).

OP RDE MA reserves the right to state according to the specification of calls and their orientation, the condition of sustainability for projects for which this obligation does not result from the above-mentioned directive but are key by their focus and desire for sustainability. In the case of the use of this option, the condition of sustainability will be stated in the call (or documentation related to the

<sup>72</sup> See Art. 3 of the ERDF Regulation.

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call). The specific terms of sustainability can be found in the respective legal act on grant award / transfer.

Indicators and further obligations that the beneficiary must fulfil during the sustainability period of the project are defined in the terms of the legal act on grant award / transfer.

Detailed information about the types of reports submitted in the period of sustainability is in Chapters 7.1.5 and 7.1.6.

The beneficiary submits regular and final reports during the period defined in the legal act on grant award / transfer.

In the case of a project generating income according to Article 61 of the general directive with the last report on sustainability (or with the closing of the programme – whichever occurs earlier), the beneficiary documents the recalculation of the financial gap and the Managing Authority administers any return of income.

As part of the inspection / verification in the sustainability period, the OP RDE MA conducts inspections of the durability of operations.

## **7.4 Retention of documents**

### **7.4.1 General rules for retention of documents and amendments related to the project**

Retention of documents and files related to OP RDE is governed by the action archiving and file service, the provisions of the General Regulation, in particular Article 140 of the Commission Regulation in the transferred authority (EU) No. 480/2014, stating the detailed minimum requirements for the audit trail concerning the accounting records that are to be stored and the source materials to be stored at the level of the certification body, the Managing Authority, mediating subjects and beneficiaries of the support and the Implementing Regulation of the Commission (EU) No. 821/2014 of 28 July 2014, laying down the rules for the application of Regulation (EU) No. 1303/2013 of the European Parliament and the council concerning detailed negotiations for the transfer and administration of contributions from the programme and submission of reports on financial tools, technical properties of information and communication measures for operations and the system for recording and retention of data.

### **7.4.2 List of documents and project outputs that are the subject of retention**

List of documents that must be stored<sup>73</sup>:

- documents submitted to the grant application (a detailed summary is mentioned in the call, see Chapter 5.1);
- documents submitted to the legal act on grant award / transfer (for a detailed summary, see Chapter 6.4);

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<sup>73</sup> At individual levels of the implementation structure, it is impossible to determine a list of documents for storage, both because of the different terminology for the individual implementation levels and the inability to establish an exhaustive list.

- documents proving the promise and approval of the support (including annexes and any amendments) - registration sheet, legal act on grant award / transfer;
- documents for the procurement procedure proceedings – documentation on orders and records on electronic actions related to the implementation of orders;
- documents proving the purpose for the use of the provided financial funds - e.g. Request for payment, accounting records, invoices, bank statements;
- documents for monitoring reports of the project (detailed summary, see Chapter 7.1);
- documents related to conducting inspections by the Managing Authority and further bodies;
- complete correspondence, which the beneficiary received on the part of the Managing Authority and the implementation body and sent to those bodies;
- further source materials related to the project and its implementation that document the course of the administration of the project for the final fulfilment of the indicators of the outputs of the operation, achieved values of indicators and the minimum required sustainability time of the project – e.g. photos, records of work, hand over protocols for constructions and delivered assets, etc.

### 7.4.3 Rules for the retention of documents

**The beneficiary must store the documents related to the implementation of the project.**

For documents that exist as the original in the IS KP14+ (or MS2014+), the beneficiary (or the partner) is not obliged to ensure retention of the originals in a different place from IS KP14+ (or MS2014+). If there is only scan of the document in this information system, the retention of the original (or verified copy) must be ensured by the beneficiary or the partner.

In relation to the demand to ensure proper function of the system for recording and keeping accounting records, the deadline is stated for each activity during which the original documents must be available to the control bodies by **31. 12. 2032<sup>74</sup>**, **unless stated by legislation for some types of documents otherwise.**

<sup>74</sup> The time limit was set with regard to Art. 140 of the General Regulation, which determines that the period during which the original documents must be available to the Commission and the European Court of Auditors in accordance with Art. 140 of the General Regulation is two years after the submission of financial statement by the OP RDE, in which the final expenditures of the terminated operation are included and with regard to the provision of Section 44a, Par. 11 of Budgetary Rules.

## 8. CHAPTER – PROCESSES AND RULES FOR FINANCIAL MANAGEMENT

### 8.1 Project financing

The financing of the project is performed in ex-ante or ex-post method and in specific cases in combined method. The method of the financing will be stated according to the legal form of the beneficiary and will be defined in the concrete call.

#### 8.1.1 Ex-post financing

In the case of ex-post financing, eligible expenditures are paid retroactively to beneficiaries spent for the implementation of the project. For these projects the beneficiary pays expenditure for the implementation of the project from own sources and during the implementation of the project the beneficiary submits with the legal act on grant award / transfer to OP RDE MA the payment application in which he asks for their payment retroactively. OP RDE is financed ex-ante, the use of ex-post financing is in the base of payments of contributory organisations of the state and of territorial self-governing units, state organisations, see Chapter 8.1.4.

#### 8.1.2 Ex-ante financing

For ex-ante financing, during the implementation of the project, the beneficiary is provided with payment for pre-financing on the basis of a payment application. The purpose of the spent funds is retroactively documented by the beneficiary in the form of source materials for settlement, which are part of each following payment application.

The maximum amount of the first advance payment is defined by the call, whereas the specific amount of the first advance payment is provided in the amount calculated as sum of expenditures planned usually for the first two monitoring periods mentioned in the proposed financial plan, unless the call states otherwise. The legal act on grant award / transfer states the absolute amount and the deadline by which the granting authority pays the first advance payment.

Further advance payments are provided for the beneficiary on the basis of submitted requests for payment. The level depends on the expected demand of the beneficiary resulting from the financial plan of the project. The total sum of advances provided beyond the framework of the approved settlement must not exceed 50 % of the total eligible expenditure of the project.

#### 8.1.3 Combined payment financing

The beneficiary submits a payment application<sup>75</sup>, which may include documents both paid and unpaid by the beneficiary (e.g. contractor invoices), including all the supporting materials. Bank statements, finding protocols, lists of work carried out and other required documents are submitted as paid documents. A payment application is submitted within the deadlines stated in the respective legal act on grant award/transfer.

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<sup>75</sup> In case of combined payment, the payment applications are recorded on forms for ex-post funding.

The following terms are valid for the implementation of combined payments and the submission of requests for payment:

1. in cases where the beneficiary submits the documents unpaid for continuous payment by the OP RDE MA prior to the due date for the submission of payment application, an automatic data transfer between EIS JASU CS and MS2014+ does not apply;
2. in case of the procedure according to Clause 1, the OP RDE MA performs double inspection of expenditures if unpaid documents for continuous payment by the MA/IB are submitted prior to the due date for submission of payment application and also if the expenditures are included in the payment application;
3. the payment application must include all documents submitted and unpaid by the beneficiary according to Clause 1, whose reimbursement by the OP RDE MA and the proof of the payment by the beneficiary were carried out no later than at the date of processing the payment application.

The OP RDE MA carries out the inspection of the factual and financial correctness of the payment application and billing verification of eligibility or other inspections, where appropriate, according to its existing internal procedures. After performed inspections and approval of payment application, the OP RDE MA pass the payment application to the financial service. Within 10 working days from receiving the payment application, the financial service transfers the financial funds for pre-financing to the beneficiary's account if documents included in such payment application have not been paid yet (see Clause 1 above).

The OP RDE MA in the relevant legal act on grant award/transfer ensures that the beneficiary of the transferred funds would pay the approved eligible expenditures of required documents yet unsettled to the supplier within 10 working days from the date of the transfer of funds.

#### **8.1.4 Making payments of SOUs publicly co-funded organizations of SOUs (PCO SOU)**

Payments between OP RDE MA and the beneficiary, which is a state organization unit and a contributory organisation of state organisation unit, are considered ex-post payments and are recorded on the respective printed forms and in the IS KP14+<sup>76</sup>. The reason is the fact that state organization unit (contributory organisation of state organisation unit receives funds for financing of the project in the form of a grant from its founder, i.e. state organisation unit, or funds from its own activity) finance their projects from their budgetary funds approved in the stated budget for the stated year. Consequently, funds are released for these sources for financing projects. Applied expenditure is reported by the beneficiary to OP RDE MA, which consequently checks submitted documentation of the applied expenditure.

The indication of the ex-post cash flow is only used from the viewpoint of European reporting and is not relevant from the viewpoint of the diction of Budgetary Rules with the interpretation of the term of unauthorized use of financial funds or breaching of the budgetary discipline.

#### **The applicant/beneficiary is SOU**

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<sup>76</sup> This is an ex-post payment from the view of the reporting on the forms, however, needs not always be the typical ex-post payment in all related aspects.

State organization unit finances the project from its budgetary funds approved in the national budget (SR) for the stated year.

During the preparation of the national budget, state organisation unit must consider income and expenditure for the stated project in the respective chapter of the national budget. If income and expenditure for the stated project were not considered in the approved state organization unit budget in the role of the beneficiary, but are considered in the OP RDE MA budget, the budgetary measure is implemented and OP RDE MA increases the income and expenditure of the state organization unit in the role of the beneficiary while at the same time the income and expenditure of the OP RDE MA are decreased. In the case than income and expenditure for the stated project were not considered in the budget of the OP RDE MA, then state organization unit acting in the role of the beneficiary, may request in accordance with the respective provision, a correlative increase in income and expenditure. A correlative increase of income and expenditure can only be claimed after funds were ensured in the state organisation unit budget for national co-financing of the project. State organization unit consequently releases funds from these sources for financing the project.

### **Applicant / beneficiary is contributory organisation of state organisation unit**

State organisation unit finances the project from its budgetary funds approved in the national budget (SR) for the stated year.

In the following cases, payments between MA and the beneficiary, which is contributory organisation of state organisation unit need not be reported as ex-post:

1. if OP RDE MA (or MEYS) is the founder of contributory organisation of the state, state organisation and the contributory organisation receives funds for the financing of the project in the form of grant for the payment of expenditure, which are or are to be, covered by funds from the EU budget,
2. if OP RDE MA (or MEYES) is not, at the same time, the founder of state-funded institution, state organization unit and the stated state-funded institution state organization unit receives the funds for the financing of the project directly from the MA on the basis of the provisions of a special act.

In the case that the beneficiary is contributory organisation of state organisation unit its founder (i.e. state organization unit) during the preparation of the stated budget, must take into consideration the income and expenditure for the project's state-funded institution in the respective chapter of the national budget<sup>77</sup>. For this reason, it is important that state-funded institution, state organization unit informs he founder about the intention to submit a project co-financed from funds from the EU budget, about the approval of the project and the level of funds (in total in individual years) a sufficient time in advance so that the founder can ensure the necessary budgetary funds. The beneficiary who is SFO SOU submits with a grant application also the declaration of securing the assent of the founder with the project implementation and the further statement that will notify the founder about the approval of the project and the amount of funds (in total and in each year). Similarly MA, which is not the founder of the stated state-funded institution state organization unit and provides state-funded institution state organization unit with funds for the financing of the project on the basis of the provisions of a special act, during the

<sup>77</sup> With the exception of Clause 2 above.

preparation of the national budget, must take into consideration the income and expenditure for the project of the stated contributory organisations of the state and of territorial self-governing units, state organisations in the respective chapter of the national budget.

If the income and expenditure for the stated project were not considered in the approved budget of state organization unit in the role of beneficiary, but are considered in the budget of OP RDE MA, budgetary measures must be taken to increase the income and expenditure of the state organization unit in the role of the founder and, at the same time, the income and expenditures of the OP RDE MA must be reduced. In the case than income and expenditure for the stated project were not considered in the budget of the OP RDE MA, the state organization unit in the role of the beneficiary may request in accordance with the respective provision for a correlative increase in income and expenditure. It is possible to request a correlative increase in income and expenditure after ensuring funds in the state organization unit budget in the role of the founder or OP RDE MA for national co-financing of the project. Contributory organisation state organization unit consequently releases funds for financing the project from these sources.

The beneficiary submits requests for OP RDE MA payment within the deadlines stated in the legal act on grant award / transfer.

### 8.1.5 Co-financing in OP RDE projects

OP RDE is ranked among multi-category programmes covering two programme areas:.

- less developed regions;
- and more developed regions.

**The programme area means in the case of a programme related to more than one category in the region, the geographic area corresponding to the individual category of the region.**

The aid is provided in the form of non-returnable direct assistance (grant) up to the level of 100% of the total eligible expenditure of the project. The level of co-financing of OP RDE from ESIF (ERDF/ESF) achieves a maximum of 85 % and the remaining minimum 15 % will be paid from national sources, either directly from the sources of the national budget or from the beneficiary's own resources.

**The level of co-financing required for the implementation of the project will always be declared in terms during the announcement of the specific call.**

The specific co-financing rate for projects depends on the following factors:

1. categories of the region, where the project will be implemented and which will be affected by the project;
2. if the supported activity is subject to state aid within the meaning of Art. 107 of TFEU;
3. type of beneficiary and the specialisation of the project activities.

Ad 1) Category of the region in which the project will have an impact

The OP RDE covers programming areas of more or less developed regions. The permissible combinations of programming areas and places of execution are set within each individual call in Rules for applicants and beneficiaries – specific part. These allowed combinations are binding for applicants.

The ratio of the allocation of financial funds between OP RDE programme<sup>78</sup> areas is entered by the applicant into IS KP14+ in the grant application (within the category region, see Chapter Specification of the task in User Manual IS KP14+ – instructions for completing the grant application). From the stated ratio between less and more developed, the monitoring system calculates the allocation of sources between the EU, the national budget and the applicant's / beneficiary's resources. **This ratio does not represent co-financing within the project from resources of EU, SR and resources of the applicant/beneficiary.** The entering of incorrect ratios of funds between programming areas or the shares of actual financing (in case of the applicant is required to adjust this share) leads to incorrect calculation of shares of funds for the project.

Ad 2) Activities supported by a system of state aid within the meaning of Art. 107 TFEU. – in this case, the compulsory level of support is clarified by the Rules for applicants and beneficiaries – general section (Chapter 15) and the Rules for applicants and beneficiaries - specific part.

Ad 3) Type of beneficiary and the specialisation of its activities

<sup>78</sup> Cases where only one combination of the place of execution and the program area is allowed, may be the exception. Then, the ratios of categories of region could be entered by default on the call.

The compulsory co-financing rate according to the type of beneficiary and the specialisation of its activities are established by the *Rules of co-financing of the European Structural and Investment Funds in the programming period 2014-2020* issued by the Ministry of Finance (full text can be found at the link: <http://www.mfcr.cz/cs/zahranicni-sektor/podpora-ze-zahranici/strukturalni-fondy>).

This document shows the ratios of funds listed below in *Table No. 1 – Overview of rates of co-financing by beneficiary in the projects in the programming period 2014-2020*.

The compulsory co-financing rate of the applicant/beneficiary according to the legal form of the applicant/beneficiary in the monitoring system will be auto-completed but it can be adjusted by the applicant/beneficiary (in some cases it is a must). However, this value should never be lower than that one set out in the call.

Co-financing rate by the type of beneficiary:

**Table No. 1 – overview of rates of co-financing by beneficiaries in the projects within the programming period 2014-2020<sup>79</sup>**

Type of applicant/beneficiary	Less developed regions – co-financing rate – ERDF				Less developed regions – ESF;				The region of the capital city of Prague – co-financing rate for ERDF				The region of the capital city of Prague – co-financing rate for ESF			
	EU share %	National share %		Total %	EU share %	National share %		Total %	EU share %	National share %		Total %	EU share%	National share %		Total %
	ERDF	SB	Beneficiary		ESF	SB	Beneficiary		ERDF	SB	Beneficiary		ESF	SB	Beneficiary	
State organisational units and contributory organisations of the state (it also applies to schools and school facilities established by the ministries under Section 8, Par. 2 - 4 of Act No. 561/2004 Coll., and state universities)	85	15	0	100	85	15	0	100	50	50	0	100	50	50	0	100
Legal persons carrying out activities of schools and educational institutions (schools and school facilities that are	85	max. 5	at least 10	100	85	max. 10	at least 5	100	50	max. 40	at least 10	100	50	max. 45	at least 5	100

<sup>79</sup> The table is based on the Rules of Co-financing of the European Structural and Investment Funds in the programming period 2014–2020.

Type of applicant/beneficiary	Less developed regions – co-financing rate – ERDF				Less developed regions – ESF;				The region of the capital city of Prague – co-financing rate for ERDF				The region of the capital city of Prague – co-financing rate for ESF			
	EU share %	National share %		Total %	EU share %	National share %		Total %	EU share %	National share %		Total %	EU share%	National share %		Total %
	ERDF	SB	Beneficiary		ESF	SB	Beneficiary		ERDF	SB	Beneficiary		ESF	SB	Beneficiary	
registered in the school register) <sup>80</sup>																
Territorial self-governing units and their publicly co-funded organizations <sup>81</sup>	85	max. 5	at least 10	100	85	max. 10	at least 5	100	50	max. 40	at least 10	100	50	max. 45	at least 5	100
	ERDF	SB	Beneficiary		ESF	SB	Beneficiary		ERDF	SB	Beneficiary		ESF	SB	Beneficiary	
Public universities and research organizations <sup>82</sup>	85	max. 10	at least 5	100	85	max. 10	at least 5	100	50	max. 45	at least 5	100	50	max. 45	at least 5	100

<sup>80</sup> This category of applicants/beneficiaries also includes schools and school facilities which are funded organisations of territorial self-governing units and the voluntary associations of municipalities, registered in the school register. The MA may decide to reduce the rate of co-financing by applicant/beneficiary up to 0%. The reduction in the rate of co-financing is fully within the competence of the OP RDE MA, the applicant/beneficiary cannot ask for the reduction.

<sup>81</sup> Voluntary associations of municipalities are also included in this category of applicants/beneficiaries.

<sup>82</sup> Definition of research organisation is based on the definition mentioned in the Community Framework for State aid for research, development and innovation in the General Block Exemption Regulation (GBER) and in Act No. 130/2002 Coll., on Support of research, experimental development and innovation. According to Act No. 130/2002 Coll., the research organisation is obligated to reinvest its whole profit in scientific activities.

Type of applicant/beneficiary	Less developed regions – co-financing rate – ERDF				Less developed regions – ESF;				The region of the capital city of Prague – co-financing rate for ERDF				The region of the capital city of Prague – co-financing rate for ESF			
	EU share %	National share %		Total %	EU share %	National share %		Total %	EU share %	National share %		Total %	EU share%	National share %		Total %
	ERDF	SB	Beneficiary		ESF	SB	Beneficiary		ERDF	SB	Beneficiary		ESF	SB	Beneficiary	
Private entities performing activities in the public interest, whose main purpose is not a profit-making activity <sup>83</sup>	85	10	5	100	85	10	5	100	50	45	5	100	50	45	5	100
Other entities not included in the above categories <sup>84</sup>	85	0	at least 15	100	85	0	at least 15	100	50	0	at least 50	100	50	0	at least 50	100

<sup>83</sup> In case of 1) support or protection of persons with disabilities and disadvantaged people, 2) social services and social inclusion activities, 3) activities in the field of education, and 4) activities of economic and social partners in social dialogue, the beneficiary will pay 0% of the eligible expenditures. This category of applicants/beneficiaries also includes the private universities which are public service companies but the 0% co-financing does not apply to them.

<sup>84</sup> This category of applicants/beneficiaries also includes the private universities that are joint stock companies or limited liability companies.

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The resulting ratios of funds are calculated in the monitoring system on the basis of specified inputs (ratios of category of regions for each specific objective and the rate of financing in less/more developed regions).

Based on the resulting ratios of funds according to the grant application, a fixed ratio is set, by which during the project implementation any payments will be distributed among the share of EU, state budget and the applicant/beneficiary. This implies that the applicant must provide sufficient funds in its budget to be able to cover the fixed share of financing from investment and non-investment funds.

**Example:**

The project, with total eligible expenditures of 100 MCZK, of which 30 MCZK are investments and 70 MCZK non-investments.

Ratios of funds: 85% EU, 10% NB, 5% its own funds.

The project is implemented in the less developed region.

Investments (in MCZK)		
EU	85 %	25.5
SB	10 %	3.0
Own share	5 %	1.5

Non-investments (MCZK)		
EU	85 %	59.5
SB	10 %	7.0
Own share	5 %	3.5

Conclusion: the beneficiary receives investments of 28.5 MCZK and non-investment funds of 66.5 MCZK from public resources from MA (combined share of the EU and NB). From its resources, it shall cover investments of 1.5 MCZK and non-investment 3.5 MCZK.

In the case of the use of the contribution for co-financing the project, the rules of eligibility, documentation and options of use are listed in Chapter 8.7.3.

If the applicant/beneficiary is a public university, the income of public universities is considered own funds of the applicant/beneficiary for co-financing of projects under the OP RDE according to Act No. 111/1998 Coll., on Universities, as amended in Section 18, Par. 2, Letter a), e), g), h) as well as funds mentioned in Section 18, Par. 6, Letter a), b), d) and g). For this purpose, own resources may be considered to also include grants for long-term strategic development of a research organization in accordance with Act no. 130/2002 Sb. However, own resources from the above list can be considered to exclude resources the use of which for the co-financing of projects in OP RDE would be contrary to the purpose provided in the decision based on which they were granted. Using these funds for co-financing projects in RDE may not be in conflict with school internal regulations.

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## 8.2 Accounting and reporting

Beneficiaries must maintain bookkeeping or tax records in accordance with the legal regulations of Czech Republic.

The project must be maintained separately from the other activities of the organisation (for example, through analytical accounts with the use of an accounting centre, etc.). This only applies to actually incurred direct costs or contributions and depreciations, not expenditure booked using a simplified form of reporting. If ineligible expenditures are incurred, the beneficiary books them separately from eligible expenditure.

Beneficiaries not maintaining accounting according to the accounting act, must, in the case of actually incurred costs reported using the full reporting cost method, must maintain tax records according to the income tax act expanded by the following requirements, which will be mentioned in the legal act on grant award / transfer.

### **These beneficiaries:**

- a) maintain separate records or the respective code for the income and expenditure related to the project;
- b) the respective document must fulfil the stated formal requirements of accounting document pursuant to the provisions of Section 11 of the accounting act (with the exception of letter f) for subjects that do not maintain accounting, but tax records;
- c) the mentioned documents must be correct, complete, conclusive, understandable and chronologically continuously maintained in a manner ensuring sustainability;
- d) during the inspection, the beneficiary provides the control body with the tax records in the full scope, upon request.

Separate book-keeping must be maintained no later than from the date of the issue of the first act on grant award / transfer, otherwise the beneficiary takes the risk that spent costs cannot be checked and will be considered ineligible. When purchasing assets, the beneficiary is obliged when keeping records to ensure the marking that they are assets acquired from the specific project or projects.

In case of expenditures subject to the mode determined by simplified expenditure reporting, the beneficiary keeps accounts or tax records, but in its accounts or tax records individual accounting items need not to be assigned to a specific project and need not to prove by accounting documents the actual expenditures in relation to the project. In case of the use of flat rates, direct costs clearly defined in the relevant legal act on grant award/transfer, which must be adequately documented through accounting documents by the beneficiary, are the basis for determining the flat rate. For expenditures reported in other modes of simplified expenditure reporting, documents necessary to verify that the activities or outputs that are listed in the legal act of grant award/ transfer were actually carried out, are submitted. In such cases, the beneficiary does not need to substantiate its expenditures by specific accounting documents in the payment application. For beneficiaries that keep their accounts according to the Accounting Act or tax records pursuant to Act No. 586/1992 Coll., on Income Taxes, no obligation to clearly assign all accounting items applies to expenditures reported in a simplified form unless such an obligation is stipulated by regulations of the Czech Republic.

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Accounting documents related to the project implementation, must be marked with the number of the project. The beneficiary/partner is obliged to bind the supplier to submit for payment only invoices that include the project number in the invoice text<sup>85</sup>.

### 8.3 Bank account

Before the issue of the legal act on grant award / transfer, the beneficiary is called to identify their bank account. The bank account may be opened at any bank authorized to act in the Czech Republic and must be maintained exclusively in CZK. Payment to the beneficiary may be only be made to the account specified in the legal act on grant award / transfer. Subjects listed in Section 3 letter h) of the Budgetary Rules having their account at the Czech National Bank (CNB) must only mention on grant award / transfer these accounts opened at the CNB. The beneficiary must retain their bank account after termination of the project up to the time of final settlement, see Chapter 7.3.3.

The condition for the grant from OP RDE is not an independent account / sub-account for the stated project.

Non-cash expenditures for the project may be paid from any bank account of the beneficiary. When proving direct expenditures, the payment must be proven by a scan of the bank statement from which the payment was actually made. The statement must show clearly that this is the beneficiary's bank account and individual expenditures must be properly marked (e.g. with number according to the list of documents).

### 8.4 Cash

The beneficiary and the partner are not obliged to maintain for the project any separate cash for cash expenditure and income (however, it is necessary to ensure analytical records in the accounting when using the cash).

### 8.5 Value added tax

The value added tax (VAT) is generally as all taxes ineligible with the exception of cases where it is non-deductible according to domestic regulations. VAT is only eligible for beneficiaries who cannot apply for a VAT deduction on the input (according to the VAT Act).

Eligible value added tax applies only to the fulfilments which must be considered eligible. In the case that the fulfilment is only eligible from the aliquot part, then the value added tax related to this fulfilment is eligible from the same aliquot part.

**Settlement of VAT during the payment application for subjects (beneficiary/partner), who may claim a deduction partially on the basis of the coefficient.**

Entities (beneficiary/partner), which can claim a deduction of VAT partially on the basis of the coefficient within the framework of the project, use when reporting in the payment application (i.e. sum of the eligible expenditures) the advance coefficient, the amount of which is

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<sup>85</sup> In justified cases, the beneficiaries/partners are allowed to mark the invoice with the number of the project by themselves before their application in the payment application.

documented<sup>86</sup> with the first payment application containing the settlement. The eligible part of VAT may be applied in the list of documents:

- a) Continuously - VAT is claimed in the list of accounting documents together with associated expenditure (i.e. the amount VAT excluded) within the respective monitoring period.

At the same time, within the first payment application following the correct level of the settlement coefficient for the previous year in accordance with the act on VAT, the beneficiaries will settle the eligible part of the VAT on this basis of this settlement coefficient.

If the settlement coefficient is lower than the advance, i.e. in the project the higher part of VAT can be applied, this fact is taken into consideration on the list of documents, where the settlement is increased by the difference.

If the settlement coefficient is higher than the advance, i.e. in the project the higher part of the VAT can be applied, then this fact is taken into consideration on the list of documents, where the settlement is reduced by the difference.

As the source material for the evaluation of the justification of the level of VAT applied during the year into eligible expenditure, the beneficiary submits the copy of the declaration of VAT stating the advance coefficient.

As the source material for the evaluation of the settlement of VAT for the stated year, the beneficiary submits at the beginning of the following year, the copy of the declaration of VAT where the settlement coefficient is calculated. At the same time, the beneficiary submits the report from accounting regarding whether the VAT was properly booked in the accounting and that within the eligible expenditure of the project, only the actual eligible VAT is booked.

- b) Cumulatively - VAT is applied to the project on the basis of a settlement coefficient at the beginning of next year.

As the source material for the evaluation of the settlement of VAT for the stated year, the beneficiary submits at the beginning of the following year, the copy of the declaration of VAT where the settlement coefficient is calculated. At the same time, the beneficiary submits the report from accounting regarding whether the VAT was properly booked in the accounting and that within the eligible expenditure of the project, only the actual eligible VAT is booked. The eligible VAT in relation to the calculated settlement coefficient is settled each calendar (accounting) year during the implementation of the project.

If the beneficiary uses the average coefficient for the calculation of the claim for a tax deduction, there is the settlement of the eligible part of the VAT according to the actual value of the coefficient,<sup>87</sup> i.e. if the relative coefficient is calculated according to the actual use at the end of the year deviates from the relative coefficient estimated in advance by more than 10 percentage points.

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<sup>86</sup> The advance coefficient can be stated by a tax consultant opinion, the opinion of the competent authority or simple copy of the declaration of VAT etc.

<sup>87</sup> The beneficiary submits e.g. tax consultant opinion / opinion of the competent authority / copy of the declaration of VAT at the beginning of next year.

If due to a time reason it is not possible to settle the eligible VAT for the last year of the implementation of the project within the final payment application, this settlement can be made within the financial settlement of the grant in accordance with Regulation No. 367/2015 Coll., laying down the principles and deadlines for the financial settlement of relations with the national budget, state financial assets or the National Fund, however only in the case that the settlement coefficient is higher than the advance, i.e. that a higher amount of VAT was applied - the beneficiary takes this fact into consideration within the financial settlement. However, if the settlement coefficient is lower than the advance, i.e. that the higher part of the VAT can be applied in the project, it is not possible to claim this difference within the financial settlement.

**Settlement of VAT within the request for the payment of subjects (beneficiary / partner) with the fulfilment within the regime of the transferred tax obligation – performing construction and assembly work.**

In cases when the beneficiary (VAT payer), according to the provision of Section 92 of the VAT act where the beneficiary must book the VAT in the transferred obligation regime, within one payment application, it is possible to pay the eligible expenditure, including costs corresponding to the eligible part of the VAT, only under the condition that the fulfilment of tax obligation will be proven, i.e. the proper submission of the declaration of taxes and the payment of the beneficiary's own tax obligation<sup>88</sup>.

As the source material for proving the fulfilment of the tax obligation or the excessive deduction, the beneficiary will submit to the Managing Authority the specific annex to the declaration of taxes (extract from recording for tax purposes maintained according to the provisions of Section 92 and par. 5 of the VAT act) containing data on the tax paid in the regime of the transferred tax obligation and the documentation the payment of the beneficiary's own tax obligation to the Financial Administration.

The beneficiary must prove the fulfilment of the tax obligation no later than within the deadline for the termination of the inspection of the correctness of the settlement within which the eligible part of the VAT in the regime of the transferred tax obligation was claimed. No later than within the same deadline, the beneficiary must refund/pay this eligible part of VAT from the funds of the granting authority.

## **8.6 Reporting of expenditure**

### **8.6.1 Full reporting of expenditure**

Within the full reporting of expenditure, there is the determination of the level of eligible expenditure on the basis of reporting that actual incurred and paid expenditure through its documentation by accounting, tax or other documents.

**In the case of full reporting of expenditures, the budget includes only the direct expenditures.** The particulars of the accounting document are determined by the provisions

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<sup>88</sup> It is not relevant in case of excessive deduction, when the beneficiary proves only the submission of a copy of the tax return (at the same time it shall also clearly demonstrate as of which date the tax return was submitted), and this way the obligation with respect to the OP RDE MA is met.

of Section 11 of the Accounting Act. The tax documents must fulfil the formal requirements stated by the VAT act.

Using accounting, tax or other documents, the beneficiary proves the eligibility from a contextual viewpoint, as well as from a time viewpoint and from the viewpoint of the adequacy related to the achieved outputs and results<sup>89</sup>.

### **Documentation of expenditure**

The beneficiary settles implemented expenditure through the payment application. The time schedule is stated in the legal act on grant award / transfer. Within the payment application, the beneficiary includes all their expenditures on the list of documents.

#### **Expenditures:**

- for which the total amount reported as eligible is higher than CZK 10,000<sup>90</sup>, or in the case that the submission of the expenditure is expressly required by OP RDE MA, submission through scans of:
  - accounting documents;
  - documents on payment;
  - and other supporting documentation specified within the description of the documentation for individual categories of eligible expenditure in the part 8.7.2;
- those that do not fulfil the above-mentioned terms, the beneficiary includes into the list of documents, but does not document them by the above-mentioned scans.

General terms for the inclusion of expenditures into the list of documents are:

- origination of the cost in the monitoring period or earlier;
- documentation that this expenditure was paid by the beneficiary (expenditure was incurred by them); the payment of expenditure need not be classified into the monitoring period (see general terms for time eligibility of expenditures)<sup>91</sup>, see Chapter 8.7.1.

Expenditures that are not documented in the above-mentioned method are always considered as ineligible expenditures.

The exception is expenditures that are classified under the regime of some simplified reporting of expenditure. The procedure during the simplified reporting is described in Part 8.6.2.

### **Rules for specific types of accounting documents**

#### **Advance invoices**

Advance invoices for suppliers of goods or services in the project can be paid and applied in the payment application only in the case that these expenditures meet the rules for eligibility,

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<sup>89</sup> See Chapter 8.7 Eligible expenditures.

<sup>90</sup> The limit applies to payroll expenditures, included the super-gross wage, which is claimed for the project (i.e. gross wage, including personal allowances and mandatory health and social insurance). If a person has more part-time jobs within one project, the value of accounting documents is aggregated. In other documents, the total amount claimed to eligible expenditures is decisive.

<sup>91</sup> For example: wage for June, by which the monitoring period ends, is paid in July.

are issued in accordance with a valid contract (with the supplier of goods or services) and common business practice and will be settled no later than by the end of the project. The settlement of advances between the supplier and the beneficiary will be made no later than before the submission of the final payment application.

The exception is advance payments concerning advances for water, fuel and energy. In such cases, the beneficiary is recommended to negotiate with the supplier regarding the meter readings and settle by the end of the termination of the (physical) implementation of the project. If so, the settlement by the supplier will be provided after the date of termination of the (physical) implementation of the project (after the date mentioned in the legal act on grant award / transfer) at the time of submission of the final payment application, then the final payment application can only include actual settled expenditures.

### **Internal documents**

Eligible project expenditures can be also proved by internal accounting documents, the condition is that the beneficiary/partner keeps internal accounting. The beneficiary/partner shall document with an internal regulation the method of allocation of costs to individual centres while the internal document shall fulfil the general formal requirements for an accounting document.

### **8.6.2 Simplified reporting of expenditure**

Unlike the full reporting of expenditure, in the case of the use of simplified methods for reporting expenditure, there is a deviation from the principle of “actual expenditure” to the reporting (and consequent payment) of flat rate amounts as estimates of actual expenditure spent by the beneficiary for the purpose of the implementation of the project. This estimate is for selected calls / supported activities on the part of OP RDE MA.

**In case of simplified expenditure reporting, the budget includes both direct expenditures and an amount which corresponds to the flat rate of one of the simplified forms of reporting.**

The expenditure reported in some of the simplified methods are considered documented, similarly as the expenditure proved by the accounting, tax or other document. The objective of the following audits and inspections is to exclusively verify that the terms of individual simplified forms of reporting were fulfilled.

Eligibility of expenditures declared by one of the simplified forms is assessed in relation to the approved eligible direct expenditures.

Types of simplified forms of reporting expenditures are as follows:

- a) **Standard scale of unit costs** (hereinafter referred to as “unit costs”) – is used in projects in which it is possible to determine exactly the measurable output or result and it is possible to assign unit costs. The total level of eligible expenditure for the project consisting of unit costs is equal to the product of the number of achieved units of the output and the unit cost to achieve the output. Outputs of unit costs and unit costs per individual outputs are stated by the OP RDE MA ex ante.

The beneficiary only submits the results and outputs in the implementation report. The inspection is based on the evaluation; the level of the approved amount of the payment

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application is stated on the basis of the actual achieved outputs and the results of the project defined in the legal act of grant award / transfer documented by supporting documentation supplied by the beneficiary (e.g. by the report on project implementation, photo documentation or verification of the project in the place or in another suitable manner). A decrease in the number of achieved outputs means a decrease in the level of eligible expenditure. Accounting documents or other documentation, equivalent evidence values are not the subject of the inspection. OP RDE MA may request the source materials for the implemented task and procurement procedure proceedings.

- b) **Lump sums of contributions from public resources up to EUR 100,000** – the level of eligible expenditure for the project reported as a lump sum is always nominally expressed as a flat rate amount which serves to cover the costs related to the achievement of the previously stated output or result. The maximum level of the lump sum for one project is EUR 100,000 contributed from public sources. The level of this amount is not binding for payments to beneficiaries within common action plans (see Article 109, par 1 of the General Directive).

Unlike standard scales of unit costs for lump sums, the proportional connection between the achieved partial outputs and payments to the beneficiary is not valid (i.e. the correction in the amount paid in the case of a decrease of the volume of achieved outputs) because the payment of the lump sum is the condition to achieve the previously stated objective for the project. In the case that the objective is not achieved, it is not possible to pay anything from the lump sum despite the fact that actual costs incurred for the beneficiary.

The maximum amount of the lump sum for the project within one call for the submission of the grant application is stated by the OP RDE MA and cannot be changed within the call. The lump sum may consist of several partial lump sums related to the various activities of the project; however, the total volume of expenditure for the project reported by the lump sum must not exceed the maximum level of the lump amount stated in the general directive (EUR 100,000).

The maximum level of eligible expenditure that may be reported by the applicant / beneficiary as a lump sum and conditions for payment will be stated by the Managing Authority in the legal act on grant award / transfer.

The project outputs are declared by the beneficiary through the supporting documentation (e.g. the report on project implementation, photo documentation) or verified by the inspection of the project on site or in another suitable manner. **Accounting documents or other documentation, equivalent evidence values are not the subject of the inspection.**

- c) **Financing by flat rate** – the flat rate represents the percentage rate calculated from the previously determined eligible expenditure or inspections of the project budget.

The results of the flat rate are:

**flat rate** – for the support from ESF it is valid that the flat rate up to the level of 40% of eligible direct costs per employee for the purpose to cover remaining costs for the project can be used. In the case of the use of this flat rate, direct wage costs are managed by the rules in Chapter 8.7.2., or

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**indirect costs** – may be determined through one of the following flat rates (valid for ESF and ERDF):

- a) flat rate up to the level of 25 % of the eligible direct costs and this rate is calculated on the basis of an adequate, fair and verifiable method of calculation or a method which within the regime for grants financed exclusively by the member state is applied to a similar kind of project and beneficiary;
- b) flat rate up to the level of 15% of eligible direct costs per employee;
- c) flat rate of eligible direct expenditure on the basis of existing methods and the respective rates valid within EU policies for the similar type of project of the beneficiary.

The options mentioned in the simplified reporting can be combined with full reporting (if the rules of the call / Rules for Applicants and Beneficiaries – Specific Part allows it), however only:

- if each of these relates to another category of expenditure;
- if they are used for various projects, which represent a part of the operation or;
- if they are used for individual consequent phases of one operation.

The option to use the specific simplified reporting forms (in the case of financing by the flat rate, also its percentage level) will be stated in the text of the call / Rules for Applicants and Beneficiaries - Specific Part and, at the same time, will be mentioned in the legal act on grant award/transfer.

## 8.7 Eligible Expenditure

### 8.7.1 General conditions of expenditure eligibility

To be able to consider the expenditure eligible, the following conditions must be fulfilled cumulatively:

- 1) they must comply with legal regulations of the EU and the Czech Republic;
- 2) must be in accordance with the OP rules and conditions of support (issued legal act on grant award / transfer);
- 3) must be proportionate i.e. must be spent in accordance with the principles of economy, efficiency and effectiveness<sup>92</sup> (and correspond to prices usual in the place and time);
- 4) must have incurred and have been paid by the beneficiary of the support / partner with the financial contribution in the period from 1. 1. 2014 to 31. 12. 2023;
- 5) must have a relation to the programme area;
- 6) must be fully identifiable, demonstrable and verifiable.

Together, these terms represent five viewpoints of the eligibility of the expenditure:

- substantive (points 1,2);
- adequacy of the expenditure (point 3);
- time eligibility (point 4);

<sup>92</sup> Section 2 of the Act on Financial Supervision.

- local eligibility (point 5);
- proof of expenditure (point 6).

The eligible expenditure must fulfil all viewpoints of eligibility. If any of the mentioned viewpoints is not fulfilled, the expenditure cannot be evaluated as eligible.

Outside the scope of the mentioned facts, OP RDE MA reserves the right for individual calls to restrict the eligibility of expenditures (time and/or substantial), or to state the limits of eligibility for a certain type of expenditure.

### **Objective eligibility**

The expenditure must be in accordance with:

- general rules for eligibility stated in the Rules for Applicants and Beneficiaries – General section;
- specific rules for eligibility stated by Rules for Applicants and Beneficiaries – Specific Part (if these are issued in the stated call), if the objective eligibility is stated differently compared with Rules for Applicants and Beneficiaries – General section;
- conditions stated by the legal act on grant award / transfer concluded between the granting authority and the beneficiary. Due to the specific character of individual priority axes / investment priorities / specific objectives, the specific conditions may differ within OP RDE for individual calls.

If the purchased assets, material or service in the project were used only partially, the eligible expenditure is only this part. The beneficiary is to document the partial use in the project through device logs or the qualification estimate attached to the electronic list of invoices.

### **Adequacy of expenditure**

The adequacy of the expenditure means the achievement of the optimal relation between its economy, purposefulness and efficiency.

- Economy means ensuring stated tasks with the lowest possible outlay of funds while maintaining the corresponding quality of the tasks performed.
- Efficiency means the use of such funds, which achieves the maximum possible scope, quality and benefits of tasks performed in comparison with the volume of funds spent on their performance.
- The purposefulness is the use of funds that ensure the optimal rate of the achievement of objectives during the fulfilment of stated tasks.

### **Time eligibility of expenditure**

In terms of time the expenditures are eligible if they incurred and were actually paid during project implementation. If accounting documents are issued by a person who is not a VAT payer, the moment of incurring of eligible expenditures is the date of the transaction<sup>93</sup>. In most cases, the moment of the transaction is identical to the time of preparation of the document. For tax documents issued by VAT payer, the date of incurring of eligible expenditures is the date of a chargeable event. Also apply here, that the date of a chargeable event is a necessary

<sup>93</sup> The date of the transaction is one of the requisites of accounting documents.

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requirement of a tax document in accordance with the VAT Act, as amended. The date of origination is consequently decisive for the determination of which monitoring period the accounting document shall be included in.

The expenditures spent after the termination of the project, in terms of time, are eligible under the condition that their material implementation relates to the period in which the project was carried out and they are presented (and accounted for) no later than in the final payment application. It arises from the foregoing that the expenditure is time eligible if it relates to the cost incurred in the period between the date of the start of the project and the date of termination of the (physical) implementation of the project<sup>94</sup>. The time framework of the implementation of the project is exactly defined in the legal act on grant award / transfer.

The OP RDE MA may state the eligibility of expenditures paid within the stated deadline before the date of the announcement of the call; this date is mentioned in the text of the announced call or the Rules for Applicants and Beneficiaries – Specific Section.

The time eligibility may be modified in the announced call. If the time eligibility is not defined in the call or the Rules for Applicants and Beneficiaries - Specific Part, it is valid that expenditures are eligible not earlier than on the date of signing the legal act on grant award / transfer.

### **Territorial eligibility of expenditure**

From the viewpoint of the location of the project, the general principle is valid that the project expenditures are eligible if the project is implemented in the territory to which the programme relates within the framework that it is supported. The implementation of the project outside the programme area is possible under the fulfilment of the following terms<sup>95</sup>.

In the case of the implementation of the project:

#### **1. in the territory of the EU:**

- a) the project must be in favour of the programme areas, and, at the same time,
- b) the obligations in the area of the management, control and audit must also be specified in the union legislation,
- c) in the case of the project supported from ERDF, the intensity of the aid must not exceed the limit of 15% of the aid on the priority axis; the monitoring committee must issue express consent for such a project or type of projects,

#### **2. outside the territory of the EU:**

- a) the project must be in favour of the programme area of OP RDE, and, at the same time
- b) the obligations in the area of the management, inspection and audit must also be specified in the union legislation,

<sup>94</sup> The expenditure paid after the date of (physical) project completion may therefore be eligible on condition that the expenditure incurred during its implementation. As an example, we can provide the wage of a member of the professional team, paid in the month following the completion of the project, belonging to this employee for the last month of implementation.

<sup>95</sup> For more details see Art. 70 of the General Regulation (1303/2013) and Art. 13 of Regulation (1304/2013) on the ESF.

- c) in the case of a project supported from ESF, the level of the support must not exceed the limit of 3 % of the allocation on the priority axis; the monitoring committee must issue the express consent about such a project or the type of the project,
- d) in the case of the project supported from ERDF, this may only concern activities of a technical assistance or promotional activities.

The time eligibility may be modified in the call.

### **Proof of expenditure**

The beneficiary is required to submit eligible direct expenditures claimed for the project by relevant accounting document or other supporting documentation. The beneficiary proves the time eligibility of incurring of expenditure, direct relation of expenditure spent to the project and its necessity for the project through accounting, tax or other documents. The expenditures, even eligible from a contextual viewpoint, which are not properly documented are always considered ineligible expenditures. Further information about the documentation of expenditures are listed in Chapter 8.2 and 8.7.2.

### **8.7.2 Eligible expenditure by type**

In the following sub-chapters is a description of the category of eligible expenditure in the widest possible scope. **For individual calls, the rules of eligibility may be specified, restricted only for certain categories of expenditure, mainly with respect to the character of supported activities in the stated call.** Expenditure as such, can be distinguished on the expenditures to which the project applies full reporting (see Chapter 8.6.1) and the expenditures within the mode of simplified expenditure reporting (see Chapter 8.6.2).

Categories of eligible expenditures Expenditures are further divided into investment and non-investment:

- Investment costs mean costs for the acquisition or technical evaluation of tangible and intangible assets with the time of use longer than one year and the amount of the acquisition price of fixed tangible assets or technical improvement higher than CZK 40,000 and intangible assets or their technical improvement higher than CZK 60,000;
- non-investment expenditure mean all expenditure not mentioned above.

#### **A. Expenditures on direct activities – investments**

##### **• Land**

It is possible to acquire land only in the case of projects financed from ERDF (European Regional Development Fund). Expenditures related to the purchase of land are eligible in the case that, at the same time, the following conditions are fulfilled:

- a) the acquisition price of the land is fully included into the level of 10% of the total eligible expenditure for project;

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- b) the land is evaluated by an expert opinion, which must not be older than 6 months before the acquisition of real estate<sup>96</sup>, and must be produced according to the act on the evaluation of assets;
- c) the eligible expenditure is the acquisition price up to the maximum level of the price determined by expert opinion.

Documentation for eligibility:

- a) purchase contract or a contract to conclude a future purchase contract;
- b) the expert opinion of the market price;
- c) documents regarding payment;

and then in the versions:

- a) extract from the Cadaster of Real Estates;
- b) or a proposal for the registration into the Cadaster of Real Estates<sup>97</sup>.

From the viewpoint of time eligibility, the date of registration of the right into the Cadaster of Real Estates (date by which the registration has legal effects) is decisive. If the date of registration of the ownership right into the register fulfils the time test for eligibility, it is not decisive whether the contract for the purchase of land was drawn up outside the scope of the time eligibility.

#### • **Buildings and constructions**

Buildings can be acquired and constructions carried out only in the case of projects financed from the ERDF (European Regional Development Fund). Expenditure related to the acquisition of buildings or their construction are only eligible under the fulfilment of the following conditions:

##### 1) **New construction**

- a) mainly the expenditures for the acquisition of relevant project documentation, its public consultation, ensuring territorial decision, building permits, if necessary, construction notification, documentation for contractor selection and its own selection procedure, expenditures of construction according to the evaluated bill of quantities, expenditures for author's supervision (AD), technical supervision of beneficiary (TDI) and a position of inspector of occupational safety and health (OHS) are eligible expenditures. The construction expenditures may also include, for example these expenditures: expenditures for improvements to land (rough improvements of area, landscaping around the building), expenditures on removal of construction necessary for the implementation of a new construction, removal of an environmental burden (decontamination and reclamation of land for the project implementation), expenditures on the network (including relocation of gas, water and electricity networks if they are necessary for the implementation of the project), construction of connections to the telecommunication networks, building of

<sup>96</sup> The moment when the new owner is registered in the Land Registry is considered the acquisition of real estate.

<sup>97</sup> In the case that the ownership rights are not registered in the Cadaster of Real Estates, it is possible to document the ownership through the proposal for registration into the Cadaster of Real Estates confirmed by the cadastral office and the contract for the acquisition of the ownership right. However, the extract from the Cadaster of Real Estates must be submitted with the final payment application at the latest.

- backbone networks, parking places and roads to buildings (eligibility of construction of parking places and roads is subject to the requirements of the building authority, which emerged from the building permit proceedings);
- b) and, at the same time, once completed the construction, the consent to using is issued by a competent building authority according to Section 120 of the Building Code, or occupancy permit according to Section 122. In case of the construction which does not need a construction permit from the building authority pursuant to Section 103 and other of the Building Code, the applicant shall submit a confirmation of the consent issued tacitly or its own affidavit. The construction is completed on time according to the contract and the expenditures spent in accordance with the approved budget and the documents listed below are submitted.
- 2) Construction work for existing buildings (modifications of existing constructions, extension or superstructure):
- a) expenditures pursuant to Clause 1) a) are eligible;
- b) and, at the same time, the construction works are completed in accordance with the terms of Clause 1) b).
- 3) Acquisition of a real estate (building)
- a) a building will be evaluated by an expert opinion, which must not be older than six months before the acquisition of the construction, and must be produced according to the act on the evaluation of assets, as amended;
- b) the eligible expenditure is the acquisition price up to the maximum level of the price determined by expert opinion.
- c) the construction condition of building and operating conditions comply with all the provisions of the Building Code for the use of buildings, its implementing regulations and other laws, especially fire, hygiene and safety;
- d) if the condition of the building does not meet the conditions determined in Clause 3 c), or the additional construction work is needed for the completion of the project of the OP RDE, the expenditures on the acquisition of project documentation and the execution of construction works in accordance with Clause 1a) are additional eligible expenditures;
- e) construction works are completed with the requirements pursuant to Clause 1b).

In the case that the construction is registered in the Cadaster of Real Estates according to the cadastral act, the decisive time for the evaluation of the time eligibility of the acquisition of the construction is the date of registration of the right into the Cadaster of Real Estate (date by which the registration takes legal effect).

In other cases when the construction is not recorded in the Cadaster of Real Estates, the time of the evaluation of the time eligibility of the acquisition of the construction as the date of passing or the transfer of ownership rights is decisive.

Proof of eligibility alternatively according to Clauses 1), 2) and 3)<sup>98</sup>:

<sup>98</sup> For variant 1) and 2) apply Clauses d, e, or Clauses f, g, h, i, j if relevant; for option 3) apply Clauses a - e, or Clause f - j if relevant.

- a) purchase contract;
- b) the expert opinion of the market price;
- c) extract from the Cadaster of Real Estates or the proposal for registration into the Cadaster of Real Estates;
- d) project documentation of the construction;
- e) documentation of the actual building construction;
- f) the submission of relevant documents defined by Act No. 183/2006 Coll., specifically in Volume 1 "Permission and notification" and in Volume 2, "Use of buildings" (e.g. territorial decision, building permit, occupancy permit, etc.) contract for work including attachments – itemised budget prepared according to published pricing (e.g. URS Prague), schedule of construction works, construction milestones (partial performance);
- g) documents of invoicing according to the itemised construction budget (invoice, including finding protocol with the list of works carried out);
- h) documents (protocols) on the implementation of the work schedule and milestones;
- i) contracts for the performance of activities and TDI and OHS and AD, including documents proving the performance of the activities.

#### Calculation of the eligible expenditures of common areas

In the case that the areas which are not only used for the project are part of the construction, the extension or reconstruction of the area, the amount of eligible expenditures for these common areas are determined by an applicant/beneficiary as follows:

- it defines the total floor area of the building and quantifies the financial performance of the building;
- it divides the total floor area of the building into the different types of areas:
  - a) for the purposes of the project,
  - b) outside the scope of the project,
  - c) common areas,
- it determines the absolute items/m<sup>2</sup>, which are directly linked to the construction of areas for the purposes of the project;
- it determines the absolute items/m<sup>2</sup>, which are directly linked to the construction of areas outside the scope of the project;
- it calculates the eligible index of common areas in %<sup>99</sup>:

$$\text{index způsob. spol. pr.} = \frac{\text{plochy absolutně způsobilé}}{(\text{plochy absolutně způsobilé} + \text{plochy absolutně nezpůsobilé})}$$

<sup>99</sup> When calculating the eligibility index of the common areas, round mathematically the calculated amount of share (i.e. areas absolutely eligible / areas absolutely eligible + areas absolutely ineligible) to 4 decimal places and then convert it to %.

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- it applies the eligibility index of common areas to common areas (it is also possible to apply the calculated eligibility index of common areas to the total amount of the invoice for the comprehensive building object, if the billing method does not allow to use it directly in the individual common areas),
- it applies the eligibility index of common areas to the expenditures related to the construction, e.g. TDI, AD, OHS.

- **Machinery and equipment**

Purchase of new and used machines and equipment to technically improve existing assets where the acquisition price of equipment and sets of assets in accounting exceeds the amount of CZK 40,000 and the time of usability is longer than one year. The eligible expenditure is the acquisition price (including assembly, transport, connection, etc.) and post-guarantee service for exceeding the implementation period for the project.

Documentation for eligibility:

- a) delivery note;
- b) order/contract;
- c) inventory card for assets;
- d) source materials for the implemented public procurement procedure;
- e) expert opinion of a conclusive market survey for the market price of the assets used;
- f) the beneficiary documents the expenditure with the supplier's invoice;
- g) documents regarding payment.

- **Hardware and personal facilities**

Acquisition of servers, stationary and portable personal computers, printers, communication and network equipment, specialized terminal equipment, local networks, equipping of scientific workplaces with furniture (mobile and built-in), microscopes, mobile telephones, etc. evaluation of equipment and sets of assets in the accounting exceeds the amount of CZK 40,000 and the period of usability is longer than one year. The eligible expenditure is the acquisition price (including assembly, transport, connection, etc.) and post-guarantee service for exceeding the implementation period for the project.

**If the project is implemented in the indirect costs regime, direct expenditure for hardware and personal equipment only includes expenditure related to factual activity of the project. Investment activities related to the purchase of hardware and personal equipment for the purpose of project administration are not an eligible direct expenditure in the indirect costs regime.**

Documentation for eligibility:

- a) delivery note;
- b) order/contract;

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- c) inventory card for assets;
- d) source materials for the implemented public procurement procedure;
- e) expert opinion of a conclusive market survey for the market price of the assets used;
- f) documents regarding payment;
- g) the beneficiary documents the expenditure by the supplier's invoice;

- **Intangible fixed assets**

Expenditure for software, purchase of databases (including updates), purchase of intellectual property rights (know-how, licences, patents, etc.) are all eligible. The acquisition price of the fixed intangible assets exceeds the amount of CZK 60,000 and the period of the usability is longer than one year.

**If the project is implemented in the indirect costs regime, direct expenditure for intangible investment assets only include expenditure related to the substantive activity of the project. Investment activities related to the purchase of fixed intangible assets for administration of the project not in the indirect costs regime are eligible for direct expenditure.**

Eligible expenditures are the acquisition price<sup>100</sup> (including installation, etc.), unless stated by the call otherwise, for know-how for the evaluation by expert opinion from the respective legal expert. For licences, an eligible expenditure is the licence provided for the period during which the project is implemented or the period provided by the supplier, depending on which period is longer.

Documentation for eligibility:

- a) order/contract;
- b) source materials for the implemented public procurement procedure;
- c) documents regarding payment;
- d) the beneficiary documents the expenditure with the invoice of the supplier or the expert opinion.

## **B. Expenditures on direct activities – non-investments**

- **Personnel costs**

In the whole document, the administrative team means employees who ensure the running of the project, monitor, prepare settlement and ensure publicity. The aim of their activities is not the work with the target group. In most cases, this concerns the project and financial manager, assistant, PR manager, etc.

Professional positions mean employees who ensure the activities of the project and work with the target group for the project.

<sup>100</sup> Purchase price can be verified by an expert opinion in case of doubt. Eligible expense is then the purchase price up to the amount fixed by the expert opinion.

Eligible expenditure in the area of personnel expenditures are:

- wage costs: gross wages, salary or remuneration from agreements with employees working on the project<sup>101</sup>, including legal compensation or bonuses (e.g. for overtime work<sup>102</sup>, work during holidays if the employee worked in this time period on the project, remuneration and extra payments, etc.);
- payments for social and health insurance;
- sickness paid by the employer;
- legal insurance of liability of the employer;
- other binding expenditure: e.g. vacation during maternity leave, contributions to the cultural and social needs fund or social fund (in the case that the legal regulation requires it), personal obstacles in work or service (doctors' appointments, wedding, birth of child, graduation, participation in the funeral of a family member, etc.) or indisposition days off, scope of obstacles on the part of the employer and specific terms for the provision of compensation of salary are determined either by legal regulation, the internal regulation of the employer or in the collective agreement.

An eligible expenditure within the project and, at the same time, within the execution of further activities for the subject of the beneficiary / partner can be for 1 employee a workload higher than 1.2 of the total workload at the summary level of the concluded work for subjects involved in the project (i.e. the beneficiary or their partners). The evaluated workload does not include any period of maternity leave/parent vacation. The exception beyond the scope of 1.2 of the workload of the employee within the subjects involved in the project can be issued for the best members of the professional project team. The definition of the best members of the team will be defined in the announced call / Rules for Applicants and Beneficiaries – Specific Part in the case that this exception will be used. In the case of an increase in the workload beyond the scope 1.2, the beneficiary will request through the change proceedings, see Chapter 7.2.

**If the project is implemented in the indirect costs regime, the direct personnel costs include only professional positions. The positions of the administrative team are classified into indirect costs.**

Compensation for vacation is eligible within the scope:

- 5 weeks in a year: for the employers defined in the Labour Code, Section 109, Par. 3 of the Labour Code No. 262/2006 Coll.;
- a maximum of 5 weeks a year, if it is allowed by the collective agreement or internal regulations of the organisation: for all other employers;
- 8 weeks per year: for pedagogical employees and academic employees of universities in accordance with the provisions of Section 213, Par. 3 of the Labour Code.

<sup>101</sup> Only payroll expenditures for activities directly related to the project, i.e. the activities that are described in the grant application and activities directly related to the implementation of key project activities, can be included in the eligible expenditures of the project.

<sup>102</sup> If the overtime was ordered by the supervisor and was necessary for the timely solution of time-bound tasks.

During the determination of eligibility of the vacation during the implementation of the project, there must be the parallel character of the following criteria:

- a) compensation for vacation is the part of the gross wage of the employee in the period for eligibility of expenditures;
- b) compensation for vacation applies to the period of the project implementation, i.e. if the implementation of the project takes 3 months, then the stated time section is a maximum of 1/3 of the vacation (in accordance with the valid legislation);
- c) compensation for vacation is reduced according to the level of the employee's workload in the stated project;
- d) compensation for vacation is a binding expenditure of the beneficiary according to the Labour Code;
- e) the repayment of unused vacation in the case of termination of the relation is not an eligible expenditure.

Compensation for vacation, which meets all existing above-mentioned criteria, is an eligible expenditure. Compensation for vacation, which does not meet the criteria, is not eligible expenditure.

If the employee participates in the project only with a part workload, the eligible expenditure is the aliquot parts corresponding to the ratio of the number of hours worked in the project and the number of hours worked in the organisation in total. . This aliquot ratio is used for recalculation of all expenditure related to the stated employee.

**List of recommended wages and procedures for the calculation of wages for employees participating in the implementation of OP RDE projects can be found at:**  
<http://www.msmt.cz/strukturalni-fondy-1/zpusobilost-mezd-platu-op-vvv>.

In the case of the overlap of the work relations of two employees participating in the implementation of the project for the purpose of the replacement of one of the employees, the personnel expenditure for both these employees can be considered eligible for a maximum of two months.

Documentation for eligibility:

- a) labour contracts or agreements - documented only with the first application of the expenditure (labour contracts or agreements, including work duties, wage rates and the level of the workload for the project). If the employment contract or agreement is changed, it is necessary to submit the amendment to the employment contract or agreement no later than with the first application of the expenditure after making the change;
- b) wage recapitulations or other suitable forms of documentation for the total eligible wage expenditure of employees (e.g. payroll sheets, payroll cards, printouts of the payroll system) for the monitoring period. Submitted documents must contain information enabling the proper inspection of the amount of personal expenditures related to the project (this is e.g. information on the number of hours worked, the number of holiday hours, sick leave and other obstacles at work, the amount of gross wage, the amount of social security and health insurance, the super-gross wage and others);
- c) documents regarding payment.

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In the documentation for personal data during the settlement of the grant, the right of the employee for the protection of personal data is not breached.

The following is valid for proving personal data:

Labour contracts and agreements on work executed outside the labour relation or its annexes must contain:

- identification of the project in which the employee is involved;
- description of the work activity (i.e. work duties) relevant to the project, including distinguishing whether it concerns economic or non-economic activity;
- scope of activity, i.e. workload or number of hours per time unit (month, year, etc.) with the indication of the adequate ratio for the project;
- value of the wage or salary (as a rule payment evaluation) with the indication of the adequate wage/salary ratio for the project.

Actual hours worked are reported by the beneficiary through the work reports. **The work report** must be produced for all employees if it is not possible to exclude the fact (e.g., by the submission of work duties in the labour contract) that the stated employee could execute within their work duties economic activity / contractual research or another activity outside the project.

Work reports are presented in a summary for each period (monitoring period) or they are submitted as work reports for each calendar month. The beneficiary / partner must keep one original of the working report for the purpose of inspection.

Working reports for the project employee are required in the case of the occurrence of one of the following circumstances:

- a) this is a worker who within the labour contract carries out activities for the project and outside the project;
- b) it concerns a project reported in one of the simplified forms of accounting, in which indirect costs are used, and a risk cannot be excluded with respect to the given job position that it would perform also the agenda included into the category of the simplified accounting<sup>103</sup> (i.e. there is a risk of double-financing). Whether there is risk of double financing is decided by the beneficiary (partner) / granting authority according to the description of the work activity of the stated employee<sup>104</sup>, in the case of any queries, it is possible to contact the MA employee responsible for the stated project through IS KP14+;
- c) in the case of projects in the area of RDI, where the grant is awarded in the regime of not establishing of state aid, if the employee's scope of activity also includes the execution of

<sup>103</sup> In case of the combination of professional and administrative activities in one job, the applicant distributes a presumed workload related to these activities between direct and administrative expenditures already in the budget included in the grant application. Part of professional activities is included in the budget as a direct expenditure, meanwhile, the administrative activities are included in administrative expenditures. Distribution is only necessary for the project for which the applicant proposes the use of indirect costs.

<sup>104</sup> However, it is not necessary that all activities that occur in the work report, would be included in this description (i.e. eligible expenditures of the project also includes the personnel costs associated with the work that the job description explicitly does not cover, but the activity is the part of a more generally worded description of the activities and the activity was required for the project).

economic activity;

- d) this concerns an employee employed on the basis of agreement to perform work or employment agreement.

**The work report must contain the minimum following data:**

- identification of the project;
- identification data: name and surname of employee, name of the position, type of employment relationship, workload of the employee in the regime of direct expenditure, total work load for the employer and the overall workload for all employers involved in the implementation of the project.
- number of vacation hours, including the number of vacation hours for the project concerning only remuneration in the direct expenditure regime (in detail to two decimal places);
- number of hours of sickness, including the number of hours of sickness for the project concerning only remuneration in the direct expenditure regime;
- number of actual hours worked, including hours worked for the project concerning only remuneration in the direct expenditure regime;
- time allocation in hours from which it will be uniquely stated the time during which the employee executed economic and non-economic activities, including the indication of the identification sign of the order / economic activity, name and brief description of the stated order (concerns the project in the area of RDI supported in the regime not establishing aid);
- description of activities / groups of activities relating to remuneration only in the mode of direct expenditures that the employee performed for each project and including the number of hours. (the employee does not fill in the details of which date the stated activity was executed<sup>105</sup>, with the exception of the participation in a business trip, meeting or conference, then they must also indicate the date); however, the employer must be able, in the case of inspection, to provide a record of the number of hours worked per stated month in the total for the project). Hours spent on activities outside the project or activities that establish indirect expenditure, are included in the total numeric data for the stated monitoring period at the employer but the type of work the employee executed is not mentioned;
- declaration of true data;
- description and date of the signature of the employee, name and surname, signature and the date of signing by the person authorized to confirm the veracity of the report.

For the documentation for expenditure related to personnel costs, a Report on project implementation – Implementation team binding annex must be submitted which includes the affidavit from the beneficiary on adhering to the rules for the maximum level of the workload of all employees participating in the implementation of the project.

The beneficiary must ensure that all transactions, in particular income and expenditure related to the project, are clearly identified within the accounting. Therefore, it is necessary that the beneficiary maintains records of personal expenditure in the manner that enables them to separate the expenditure that are exclusively related to the project and to book these

<sup>105</sup> It does not apply for RDI projects supported in the mode not establishing state aid.

expenditure on the basis of the respective documents. The total level of eligible personnel expenditure must uniquely result from the submitted documents that are exclusively related to the stated project.

- **Travel allowances**

Travel allowances must be:

- in accordance with the objectives of the project;
- implemented by the personnel involved in the project.

Travel allowances for the representatives of the target group are classified into the direct support chapter or are reported and financed within the purchase of services chapter.

**If the project is implemented in the indirect costs regime, only foreign business trips are classified into direct costs. Domestic business trips are classified into indirect costs.**

Expenditure related to travel allowances must correspond to the usual prices in the place and time of the implementation of the project. With travel allowances, it is possible in relation to the implementation of the project to rank among eligible expenditure:

- 1) **travel expenditure** – expenditure related to business trip transport (expenditure for public transport tickets in 2nd class<sup>106</sup>, seat reservations, couches or beds, air tickets in economy class<sup>107</sup>, tickets for public city transport<sup>108</sup>, expenditure related to the use of a motor vehicle in justified cases (i.e. non-existent connection, large volume of material is transported, and the use of taxi);
- 2) **accommodation / dormitory** – expenditure for accommodation / dormitory must correspond to the usual prices and the time;
- 3) **meals** – respective employees depending on the time of duration of the working / business trip. The level of amount for meals, on the basis of the Labour Code and according to respective MLSA regulations, is stated by the employer for the employee after termination of the business trip within the settlement. The Labour Code (or the internal directive of the organisation) also states the rate of the decreased amount for freely provided meals;
- 4) **necessary side expenditure** – expenditure related to the subject of the business trip, for example, parking fees, fees related to business trips, conference fees, fees for the use of telephone, highway fees, etc. These expenditure can only be paid on the basis of proven payments of accounting documents.

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<sup>106</sup> The 1st class ticket is eligible only to the price of the 2nd class ticket.

<sup>107</sup> In case of travelling by plane, the ticket in economy class and charges related directly (e.g. airport fee) are the eligible expenditure while flying at a distance greater than 500 km. If the distance is shorter, the consent of a granting authority is necessary for the ticket purchase. If the granting authority does not give the consent, only the expenditure corresponding to the price of the ticket for 2nd class of the train of higher quality (SuperCity, EuroCity, InterCity, Express, etc.) can be paid from the project.

<sup>108</sup> When buying time coupons, it must be demonstrated that the purchase of the coupon is within the project cheaper than the payment of individual tickets.

This item in the budget also includes expenditure related to the participation of professional employees in the project on foreign training or conferences.

### **Specific rules for foreign business trips**

Expenditure related to business trips of professional employees of the beneficiary and employees of partners during foreign business trips are eligible and the employer also means the subject who concluded with the beneficiary or the partner the agreement to perform work or work activity if it is stated in this agreement that this subject will conduct business trips. The purpose of the business trip must be in accordance with the specific activity and objectives of the project.

Outside of the EU, it is only possible to consider eligible trips by experts and professional employees participating in the implementation of the substantive activities of the project with active participation in the organized event with a direct relation to the activities implemented within the project.

During the settlement of foreign business trips, the procedure according to the Regulation of the Ministry of Finances on the rates for the amounts for meals in a foreign currency valid for the stated year is applied.

Accommodation in a hotel abroad is ensured at the prices usual for the time and place, as a rule in the\*\*\* category. The expenditures up to 100 EUR /person/night (in case of another currency, the amount corresponding to the equivalent of 100 EUR) may be usually considered the eligible amount. When exceeding this amount, the documentation for these services is required; this survey is mainly requested for higher category hotels (more than \*\*\*) as the source material for evaluation of eligibility. At least three different offers must be included in the market research.

In the case of foreign trips, the employer may provide the employee with an allowance in accordance with the rules for the provision of travel benefits during foreign trips on the basis of the Labour Code, as amended.

Documentation for eligibility:

- a) settlement of business trip;
- b) report on the course of the foreign business trip;
- c) documents regarding payment;
- d) a copy of the large technical certificate for the car and the document on accident insurance (with the documentation for expenditure related to the use of car in the case of foreign business trips or domestic trips for projects that are not implemented in the indirect cost regime).

In the case of the documentation for a trip by private car, then also the consent the supervisor for the use of this car.

- **Per diems**

In the case of payment of travel expenditure for foreign experts, it is necessary to use valid EU rates. These expenditure, known as “per diems”, cover expenditure for accommodation, meals and travel expenditure in the Czech Republic.

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Current rates of per diems:

[http://ec.europa.eu/europeaid/work/procedures/implementation/per\\_diems/index\\_en.htm\\_en](http://ec.europa.eu/europeaid/work/procedures/implementation/per_diems/index_en.htm_en).

This procedure is applied, for example, for experts invited to conferences, educational courses and short-term foreign experts. It does not concern payment of travel expenditure for foreign experts who concluded a labour relation with the beneficiary or the partner according to Czech legal regulations.

The beneficiary documents any other contract with a foreign expert or the signed affidavit of a foreign expert where the identification of an event is mentioned (conference, seminar), plus the date and the declaration that the expert was not paid by any other subject. The bank account is specified to which funds are to be paid (if they are not paid in cash against the expenditure cash slip).

If it is not possible to state the time of the stay of the expert, the time rounded to hours is accepted<sup>109</sup>.

For the conversion of a foreign currency to CZK, the beneficiary uses the exchange rates valid for the payment of travel expenditure analogically according to the Labour Code<sup>110</sup>. "Per diems" are paid to the expert in the full amount. Only with their consent may "per diems" be stated lower, they may also be paid only as an additional payment for the payment of accommodation directly by the beneficiary if after the payment of boarding during the activity for which the expert was invited.

Per diems do not include the travel expenditure of a foreign expert to the Czech Republic (e.g. to the airport) and back. The air ticket or travel ticket for this trip is an eligible expenditure outside of per diems.

Documentation for eligibility:

- a) contract with the foreign expert (or the affidavit from the expert);
- b) documentation related to the participation of the foreign expert in the conference (seminar and other events), e.g. call, programme, photo documentation, etc.

- **Tangible assets and material**

Suggested maximum prices of equipment are specified in the document **List of common equipment prices**, which is placed on the website of the Ministry of Education: <http://www.msmt.cz/strukturalni-fondy-1/seznam-obvyklych-cen-vybaveni>.

The document also sets out the procedure when it is expedient that the recommended usual prices will be exceeded.

The beneficiary proves the use of property for the project via the device log, which contains at least the following elements:

- Designation of the project (project name and registration number of the project);

<sup>109</sup> Example: Expert arrives on Wednesday at 10.00 pm and departs on Thursday at 19.00. The amount of eligible per diems is calculated  $14 + 19 = 33$  hours  $33/24 = 1.375$ . Daily rate per diems multiplied by 1.375 will be eligible.

<sup>110</sup> Starting day of the journey = day of crossing the border of the Czech Republic; day of granting of the advances = day of credit transfer, if it precedes the day of arrival in the country.

- The name of the beneficiary;
- Device (its name);
- Registration number of the device;
- The device location (room, office);
- Date and time of the use of the device (from-to);
- Description of the use of the device (for what purpose the device has been used – grant, project, contract);
- Implementer of the grant / project / contract; co-implementer of the grant / project / contract;
- Device user's signature.

### **Hardware and personal facilities**

Acquisition of servers, stationary and portable personal computers, printers, communication and network equipment, specialized terminal equipment, local networks, equipping of scientific workplaces with furniture (mobile and built-in), microscopes, mobile telephones, etc. The acquisition price of equipment and the set of assets in the accounting is equal or lower than CZK 40,000 and the time of usability is longer than one year. An eligible expenditure is the acquisition price (including assembly, transport, connection, etc.) and post-guarantee service not exceeding the period of project implementation, unless stated by the call otherwise.

**If the project is implemented in the indirect costs regime, direct expenditure for hardware and personal equipment only includes expenditure related to factual activities of the project. Hardware and other personal equipment related to the administration of the project and the work of the administrative team is part of the indirect costs.**

Documentation for eligibility:

- delivery note;
- order/contract;
- inventory card for assets;
- source materials for the implemented public procurement procedure;
- expert opinion of a conclusive market survey for the market price of the assets used;
- documents regarding payment;
- the beneficiary documents the expenditure by the supplier's invoice;

### **Machinery and equipment**

Purchase of new and used machines and equipment for the technical improvement of the existing assets where the acquisition price of the equipment and sets of assets in the accounting is equal or lower than the amount of CZK 40,000 and the time of usability is longer than one year.

**If the project is implemented in the indirect costs regime, direct expenditure for machine equipment only include expenditure related to the project activities.**

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**Machines and equipment related to the administration of the project and the work of the administrative team are part of the indirect costs.**

An eligible expenditure is the acquisition price (including assembly, transport, connection, etc.) and post-guarantee service not exceeding the period of project implementation, unless stated by the call otherwise.

Documentation for eligibility:

- a) delivery note;
- b) order/contract;
- c) inventory card for assets;
- d) source materials for the implemented public procurement procedure;
- e) expert opinion of a conclusive market survey for the market price of the assets used;
- f) the beneficiary documents the expenditure with the supplier's invoice;
- g) documents regarding payment.

### **Material**

The beneficiary includes into this category all equipment and research and teaching material (chemicals, components, text books, material for practical teaching, ...) which serve for professional key activities or direct work with the target group.

**If the project is implemented in the indirect costs regime, this category of direct expenditure only includes material that does not serve for administration of the project.**

Documentation for eligibility:

- a) invoice from the supplier;
- b) documents regarding payment.

### **• Low-value fixed assets**

Expenditure for software, purchase of databases (including update), purchase of rights of intellectual property (know-how, licences, patents, etc.) are all eligible. The acquisition price of intangible non-investment assets is equal or lower than CZK 60,000. An eligible expenditure is the acquisition price<sup>111</sup> (including installation, etc.), and for know-how, the evaluation by an expert opinion from the respective legal expert.

For licences, an eligible expenditure is the licence provided for the period during which the project is implemented or the period which is longer than the project implementation, however, the shortest as provided by the supplier.

Documentation for eligibility:

- a) order/contract;

<sup>111</sup> Purchase price can be verified by an expert opinion in case of doubt. Eligible expense is then the purchase price up to the amount fixed by the expert opinion.

- b) source materials for the implemented public procurement procedure;
- c) documents regarding payment;
- d) the beneficiary documents the expenditure with the invoice of the supplier or the expert opinion.

- **Depreciation**

Depreciations of tangible and intangible fixed assets (acquired before starting the physical implementation of the project or during implementation) are eligible expenditure of the project if the following conditions are fulfilled:

- public funds were not used for the purchase of concerned assets (i.e. the existing or previous owners of the equipment did not receive funds from public sources (during this project) for the purchase of the stated assets);
- the beneficiary selects the method of tax depreciation (in accordance with the Income Tax Act, as amended), which will be used during the whole period of the project implementation;
- an eligible expenditure is tax depreciation stated according to the Income Tax Act, as amended at the aliquot level with respect to the rate of use of the stated assets during the implementation of the project;
- depreciations are rounded upwards in crowns.

Depreciation of cars is not an eligible expenditure within the projects financed from ESF. The exceptions are projects where a car will be used for the implementation of activities for target groups with special educational needs (e.g. transport of handicapped pupils to school and places where activities are implemented, etc.).

Documentation for eligibility:

- a) inventory card for assets;
- b) depreciation plan;
- c) document on the time and the rate of the use of assets for the stated project (e.g. device logs).

- **Local office**

Within this budget chapter, it is possible to use financial funds for ensuring the operation of the office, which serves for the management of the project. Eligible expenditures are considered to be expenditure for materials and services and are mainly used by the administrative team and are necessary for ensuring the implementation of the project.

**If the project is implemented in the indirect cost regime, all expenditure classified into this chapter are paid from indirect costs.**

Expenditure for the local office may apply exclusively to the project and must apply to other activities or apply to the project partially and be related to other activities of the beneficiary - in such a case it is possible to include in the eligible expenditure only the ratio corresponding to the administration of the project. This concerns, for example, consumer goods and operating material, telephone, mail fees, fax, payment for connection to the Internet, consumption of water, fuel and energy, rent of offices for the implementation team, etc.

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Documentation for eligibility:

- a) invoice from suppliers;
- b) internal invoices from rebooking part of the costs from the operating centre, including documentation on the method of calculation;
- c) documents regarding payment.

- **Purchase of services**

Expenditure related to the purchase of services are only eligible in the case that:

- deliveries of all services are in accordance with the objectives of the project and they contribute to their planning;
- delivery of the services relate to the implementation of the project (time and locally).

The budget chapters of purchase of services include:

- **energy** – necessary for the implementation of activities of the project – operation of machines and equipment, research centres, etc.
- **repairs and maintenance** – maintenance of machines and buildings, always in relation to the activities of the project;
- **other expenditure** – expenditure for legal consultancy, expert opinions, administration of orders ensured by external suppliers and other non specified above mentioned services directly related to the activities of the project and if they are necessary for implementation (e.g., expenditure necessary for the education of the professional team members related to the project).

**If the project is implemented in the indirect costs regime, all expenditure for the purchase of services related to the administration of the project and the work of the administrative team are classified into the indirect costs chapter.**

Within this chapter the budget includes the item **Outsourced services**,, which includes for example:

- **purchase order for developed or created publications**, training materials (textbooks, publications, books, manuals) and multimedia aids;
- **professional services / studies and research** – includes, for example study, analyses, collection of data and ensuring interpreting and other partial research tasks necessary for the implementation of the project, and may include a foreign expert if A labour contract or agreement is not concluded (in such a case, it would be reported within the personnel expenditure item);
- **project audit** – if required by the call;
- **expenditure for conferences / courses** – includes expenditure for ensuring the implementation of conferences or courses organized by the beneficiary or the partner with a financial contribution within the project - training or conference into which the target groups, invited participants or the general public will be involved; as a rule, these costs

cover the leasing of premises, conference technicians, refreshments<sup>112</sup>, transport and accommodation for the target group, etc.;

Documentation for eligibility:

- a) invoice from suppliers;
- b) order/contract;
- c) list of present participants in the case of support for participants;
- d) internal invoices for re-booking of part of the costs from the operating centre, including documentation for the method of calculation;
- e) documents regarding payment.

- **Rent and leasing**

If for the purpose of the project, the purchase of the respective movable and immovable assets is not economic, then these can be short-term or long-term leased.

In general, it is valid that the eligible expenditure is only part of the rent / leasing which is time related to the activities of the project in which the stated assets are used. If the assets within this period are used for the purpose only partially, then only the respective part of the rent or leasing instalments are eligible.

**If the project is implemented in the indirect costs regime, direct expenditure only include the leasing of movable and immovable items serving for the implementation of the project activities. Assets used by the administrative team are the subject of a flat rate payment of indirect costs.**

## **Leasing**

- **Financial** – leasing of movable and immovable item where after termination the subject of leasing is **transferred** at the agreed purchase price **into the ownership** of the lessee<sup>113</sup>; can only be used if the subject of leasing is an eligible expenditure

For leasing contracts with a re-purchase clause (or for contracts stating a minimum leasing period of the length corresponding to the service life of the investment, which is the subject of the contract) the eligible amount must not exceed the market value of the investment, which is the subject of leasing. Taxes and financial activity of the lessor related to the leasing contract are not eligible expenditure. Eligible expenditures are only instalments related to the period of the implementation of the project.

- **Operative** – leasing of movable item or immovable item after whose termination the subject of leasing **is returned** to the lessor as a rule. It can also be used in the case that the subject of the leasing would not be an eligible expenditure. However, the beneficiary must prove that the stated assets are necessary for the implementation of the project

<sup>112</sup> Refreshments price limit is determined by Clause 10. Direct support of this chapter (boarding bullet).

<sup>113</sup> In terms of Section 21 of Act No. 586/1992 Coll., on Income Taxes, the term tenant is used in these rules consistently with the term user and the term lessor is consistent with the term owner.

OP RDE MA reserves the right to restrict the option of the eligibility of expenditures in the form of operative leasing for individual calls.

The contract for operative leasing is concluded with the company/open ended (i.e. a free or open end of the leasing relation is not possible), which does not enable to repurchase the equipment and buildings at a net book price (only eligible are instalments which relate to the period of the implementation of the project and, at the same time, to the period during which the subject of leasing is used for the stated project).

Documentation for eligibility:

- a) leasing contract, repayment schedule;
- b) received invoices issued for individual instalments;
- c) calculation of the relative eligible part of leasing – the period must be evident for which the subject of leasing was used for the stated project, the actual level of leasing instalments per year, the methodology of the calculation of the leasing during the period of the implementation of the project and the total level of eligible leasing;
- d) documents regarding payment.

- **Administrative and other fees**

The general condition for the eligibility of administrative expenditure and fees is their economy and direct relation to the project or the requirement of the granting authority for whom the spending is in relation to the project. This condition also applies to property insurance and administrative and local taxes, such as fees for land registration, an extract from the commercial register, issuance of building permit, an extract from the criminal record, payments for set-aside of agricultural land, notary fees, etc.

Eligible expenditure include fees in relevant organizations or other associations if membership of these is necessary to achieve the objectives of the project.

Actual fees that are considered eligible may be specified according to the setting made in individual calls.

Documentation for eligibility:

- a) documents for payment of fees;
- b) bank statements

- **Direct aid**

This chapter includes expenditure concerning a directly targeted project group and its involvement into the project activities. Expenditure mentioned in this chapter are not classified into the indirect costs of the project.

**Wage contributions** – are provided for the employer as compensation for part of the wage costs (at the level of gross wages, including legal payments) for an employee during their participation in further education. This compensation within the OP RDE programme may concern target groups specified in the call and may be provided up to the level of 100% of the actually paid wage costs; however, a maximum of the amount corresponding to triple the amount of the minimum wage valid at the time of execution of the project activity. This

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compensation is only paid to the employer for the period (in hours) where its employees actually participated in the project activities instead of the execution of the agreed work. The trip to the place of the implementation of activity and back is not included in this time. Wage funds are only provided for employees participating in the activities of the project, not for employees who during the absence of a designated employee executed their work as a substitute/representative.

**Travel expenditure, accommodation and amounts for meals** – in the OP RDE it is possible to use direct aid to cover expenditure related to the implementation of practice, fellowship, excursions and multi-day educational stays where the accommodation, travel expenditure and meals are paid in a single form.

Travel expenditure, accommodation and meals are paid in the form of a direct payment to the individual. If the travel expenditure, accommodation and meals are provided in the form of services, these are reported in the purchase of services budget chapter. The travel expenditure of the implementation team are classified into the travel expenditure chapter or into indirect costs (if used in the project).

**Direct aid for participants in projects can be paid:**

- **for travel expenditure** (e.g. on the basis of the submitted travel documents for mass public transport in 2nd class). In the case of the use of a car, eligible expenditures are restricted by the amount corresponding to the 2nd class of public transport multiplied by the number of people in the target group that were transported in the car. The exception is the use of the car in the case that it will be documented that it was not possible to use public transport, e.g. during the transport of handicapped people or when public transit schedules do not provide convenient connection for use. In this case, the travel expenditure can be paid similarly as for the implementation team;
- **accommodation** – the expenditure for representatives of target groups can be paid at the level of prices usual in the place, in the Czech Republic a maximum of CZK 1,500 per person per night (for the capital city of Prague the limit is increased to CZK 2,000 per person per night) or a lower price according to the internal regulations of the stated organisation. In the case of accommodation abroad, the for adults (including doctoral students, etc.) then accommodation in a hotel at prices usual in the place, as a rule in the category \*\*\* is considered adequate; for pupils and students, suitable accommodation is considered as accommodation in families, tourist accommodation facilities or university dormitories (other than those where the pupil/student is usually accommodated), etc.;
- **boarding** – the price limit for boarding / refreshments for participants is stated at CZK 300 per day per person in the case of a full day domestic business trip (i.e. an event taking place within one day and lasting a minimum of eight hours), at CZK 400 in the case of event related to the accommodation of participants (unless internal the beneficiary's regulations do not state a lower limit) abroad at the usual prices in the place.

Boarding can also be provided for further participants in the event if their relation to the implementation of the project will be justified /these are people who are not the target group but participate in the event, e.g. important guests or experts or members of the implementation team (does not concern boarding within the travel order).

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All participants to whom accommodation and boarding was provided, must be registered in the list of present participants, which is issued each day separately and which contains relevant data on the participants in the stated event.

**In the case that it is not a full day event the limit must be decreased within the respective ratio.**

Boarding for employees in the target group can be paid in accordance with the Labour Code. In justified cases (only if it is not possible to ensure boarding in another manner), boarding vouchers may be provided at the respective level or expenditure for boarding may be paid on the basis of individually submitted accounting documents from the shop / boarding facility. In extraordinary and justified cases, the boarding of a representative of the target group who is not an employee and it is not possible to ensure boarding for them in a mass manner or within the travel compensation on the basis of the Labour Code, within the participation in the foreign event (e.g. fellowship) then it is possible to pay the boarding on the basis of the so-called unnamed contract concluded between the beneficiary / partner and the participant. The agreed payment for boarding must correspond to the prices common in the place.

In the case of participants in courses who are sent for training on the basis of a travel order by the employer, the travel expenditure can be paid and proven according to the Labour Code. In the case that within the project for the target group, wage contributions and/or travel expenditure, accommodation or boarding on the basis of travel orders, the employer of the target group is obliged to conclude with the beneficiary / partner for the support a contract on education<sup>114</sup> and to consequently submit to the beneficiary / partner the list of travel compensation for its employees and to document them with copies of the respective documents (travel order, travel tickets, documents for accommodation, etc.).

During the settlement of foreign business trips, the same procedure is used as that for foreign business trips by the project employees (see Travel expenditure).

In the case of payment of direct support to target groups, it is necessary to document individual amounts by the appropriate spending document with the signatures of the supported persons. If the list of present participants serves as the document for the participation of the target group and the event lasts more days, the participation of the specific person must be documented by their signature for each day of the event.

**Accompanying activities** – this item is used for the payment of further expenditure related to the involvement of the target group in the project (e.g. tickets for events in which the target group participates within the project, etc.); in addition, it is possible to pay expenditure related to ensuring the assistant / assistant services provider directly to the representatives of target groups, e.g. pupils with special needs, handicapped, etc., and also for payment of necessary costs / at the locally common places) related to the care of children or other dependant persons so that such person can be involved in the project activities. These services will be provided on the basis of the contract concluded between the beneficiary and the assistant service provider. In addition, it is possible to pay from this item the expenditure for the pedagogical supervision of children, pupils and students that are involved in the project as a target group.

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<sup>114</sup> To a partner – if not part of the partnership agreement.

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Documentation for eligibility:

a) document regarding payment (generally to all the following categories);

b) wage allowances:

- payment and settlement documents that are produced for period of one month;
- wage recapitulation or other suitable forms for the documentation of wage expenditure of employees for the monitoring period;

c) travel expenditure, accommodation and boarding:

- settlement of business trip;
- report on the course of the foreign business trip;
- expenditure cash documents - in the case of direct payment for the direct aid to participants in activities;

d) accompanying activities:

- invoices or the contract<sup>115</sup> from the provider of the assistance service;
- expenditure cash documents;
- payment or settlement documents for employees ensuring accompanying activities.

### **Notes to the Budget**

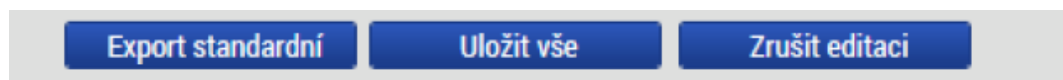
The annex Comment on the Budget is used for a substantive evaluation of the grant application. The evaluators use this Annex to evaluate the adequacy and consistency of the budget in relation to the content of the project. The comment allows objective evaluation of compliance with 3E (economy, efficiency and effectiveness) of project costs. The applicant is required to submit this annex if the annex is required as part of the grant application.

Planned expenditure on individual items / subsections of the budget missing a reasonably substantiated and demonstrable link to the project and its core activities while the amount of planned spending is not justified, such planned expenditures can be decreased / deleted from the budget of the project in the objective evaluation / by selection committee.

### **Creation of an Annex – Step 1**

Export – IS KP14+

According to the procedure in the User Manual IS KP14+ Instructions for completing the grant application in chapter 5.14. The *Budget* tab can export the unitary budget into .xlsx format through the Standard Export button.



<sup>115</sup> In the case where an entity is not a business entity.

## Table Comment on the Budget – Excel

In the exported file, after the budget, add a column entitled *Description and justification of item*.

Kód	Název	Cena jednotk y	Počet jednotek	Částka celkem	Potomek	Úroveň	Procento	Měrná jednotka (přednastavena řo)	Měrná jednotka (z číselníku)	Měrná jednotka (individuální)	Popis a zdůvodnění položky
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### Instructions for completion – STEP 2

Individual items of the budget must be duly justified and substantiated. They must be justified not only in terms of their need in the project, but also in terms of their pricing.

### Expenses for direct investment activities (exceeding CZK 40,000 of fixed tangible assets and CZK 60,000 of fixed intangible assets)

For each item, it is necessary to describe in detail the reason for the acquisition and the necessity for project implementation. If an item is acquired under a public contract, it is necessary to refer to the number of public contract from the project application.

#### Personnel costs

The applicant must justify the salaries and FTEs, as well as fill out the mandatory annex to the grant application, Implementation Team.

#### Travel allowances

Domestic trips – indicate the method of determining the number of units and unit prices, briefly state the context in which the domestic business trips are planned.<sup>116</sup>

**Foreign business trips** – indicate the method of determining the number of units and unit prices.

#### Tangible assets and material, and intangible assets

When purchasing tangible and intangible assets and material, it is necessary to plan the prices usual given the time and place, and respect the prices of equipment provided in the usual equipment prices list published on the website of the MEYS under OP RDE. For each item, it is necessary to describe in detail the reason for the acquisition, specification against the FTEs and the necessity for the project and link to the key project activity. If the price of the equipment listed in the document is exceeded, it is necessary to specify an explanation of the purchase in relation to the professional activity, and a proper justification of the actual pricing.

For purchased assets and material not included in the list of common prices, it is necessary to conduct e.g. market survey, which will also be part of the description and justification for the acquisition and which will clearly indicate that the price of the acquired assets is common at the time and place.

If an item is acquired under a public contract, it is necessary to refer to the number of public contract from the project application.

#### Depreciation

<sup>116</sup> If the project is implemented in the indirect costs regime, only foreign business trips are classified into direct costs. Domestic business trips are classified into indirect costs.

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When using depreciation of tangible and intangible assets, it is necessary to describe the reason for the acquisition and the necessity for the project. It is also necessary to state that the asset in question was not purchased using public funds (i.e. that the present or one of the previous owners of the equipment did not receive public funds (under another project) for the purchase of the asset), as well as the form of depreciation (in accordance with the Income Taxes Act, as amended), which will be used throughout the project implementation and which cannot be later changed.

### **Local office**

It is necessary to specify the costs given the size and composition of the implementation team.<sup>117</sup>

### **Purchase of services**

When purchasing services, for each item it is necessary to describe in detail the reason for the acquisition and the necessity for project implementation. Concerning the acquired services, it is necessary to perform market research, which will also be part of the description and justification for the acquisition of each service, and which will clearly show that the price of the acquired asset is usual given the place and time.

If an item is acquired under a public contract, it is necessary to refer to the number of public contract from the project application.

### **Direct aid**

For individual items, it is necessary to describe the direct connection to the target group. For travel expenses of the target group, it is necessary to include a method for determining the number of units and unit prices, briefly state the context in which the trips of the target group are planned.<sup>118</sup> Especially foreign trips of the target group should be duly justified and clearly specified.

Payroll contributions must be described so that it is clear that it is not a salary contribution for a worker acting as a substitute for another worker during his/her absence.

## **8.7.3 In-kind contributions in OP RDE**

In-kind contributions can only be used in the OP RDE project providing that they were not acquired from ESIF, they fulfil the following conditions and, at the same time, **serve as the method of ensuring co-financing of the project on the part of the applicant / beneficiary**. The contextual contribution for the purpose of eligibility within OP RDE can be considered to be the provision:

- construction work,
- goods,

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<sup>117</sup> If the project is implemented in the indirect cost regime, all expenditure classified into this chapter are paid from indirect costs.

<sup>118</sup> If the travel expenditure, accommodation and meals are provided in the form of services, these are reported in the purchase of services budget chapter.

- services,
- land,
- constructions,
- unpaid voluntary work,

only in the case of the fulfilment of the condition that expenditure related to purchase / acquisition were not paid from the project implemented within OP RDE, or the project which the applicant / beneficiary wants to co-finance with this contribution.

**In-kind contributions are eligible up to the level of co-financing the project by the applicant / beneficiary stated from the actually used total eligible expenditure of the project. Further information about the project co-financing is in Chapter 8.1.5.**

It is possible to provide contextual contribution in the stated call only under the precondition that the type of contribution - see above, is according to the type, an eligible expenditure of the stated call and fulfils / helps to fulfil the purpose of the project and, therefore, is necessary for its implementation.

**In general, the following is valid for in-kind contributions:**

- 1) State aid provided for the project, which includes in-kind contributions, must not exceed after the deduction of in-kind contributions, the total eligible expenditure at the end of the project, i.e. at the end of the year, financing from public resources may not exceed the actually incurred and paid expenditure, i.e. the amount without eligible expenditure in the form of in-kind contributions.
- 2) The value of in-kind contributions does not exceed the usual prices in the place and time and for the stated fulfilment.
- 3) The value and the provision of the contextual contribution can be independently evaluated and verified.
- 4) In the case that the applicant / beneficiary decides to use a contextual contribution for co-financing the project, they must state and describe the manner and the form of its provision in the grant application **(into the text field of the respective key activity of the project in the IS KP14+)** and, at the same time, create in the budget an independent item that concerns contextual contribution. **Such a contribution is at the same time included in the final payment application (in the documents roster as part of the final payment application) up to the max. amount of their own co-financing.** In case of the provision of an in-kind contribution and its inclusion in some of the interim payment requests (during project implementation), the expenditures associated with it are included by OP RDE MA in the final budget of the project, i.e. the amount of the in-kind contribution will be included only when calculating the final payment / return at the end of the project and the administration of the final payment request (the in-kind contribution made by the beneficiary will be removed from the documents roster as part of the interim payment application on the basis of the request of an administrator and the beneficiary will include it again in the documents roster as part of the final payment request). Expert opinion and other documents proving the value of in-kind contribution and/or other required documents will be submitted by the beneficiary at the closest PIR, which follows the inclusion (use) of the in-kind

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contribution to the project (excluding amounts attributable to the in-kind contribution to the documents roster as part of the ongoing PA), but no later than at FPCR. .

- 5) In-kind contributions are used exclusively for co-financing projects implemented within OP RDE by the applicant / beneficiary.
- 6) In the case of provision of land or real estate, the value is determined on the basis of an expert opinion, which will be drawn by a court expert on the basis of the Act on property valuation and related legislation in force, the value of in-kind contribution **can** not exceed the **10% limit** of the total eligible project costs. At the same time, it is valid that the purchase of land or real estate is enabled within the stated call and it is necessary for the implementation of the stated project. In the case that the applicant/beneficiary decides to provide for co-financing their own land or real estate, it must be valid that the key activities of the stated project must be conducted on the designated land or real estate.
- 7) In the case of in-kind contributions in the form of unpaid voluntary work, the value of this work is determined on the basis of the verified volume of spent working hours (e.g. according to the working report) and rates used during remuneration for the equal work. **In the case of this type of contextual contribution, the accounting records of the beneficiary are not required on the part of OP RDE MA.** The voluntary work may be included by the applicant / beneficiary into the binding co-financing of the project when fulfilling the following conditions:
  - it may only concern voluntary work organized through voluntary centres and accredited as sending organizations according to the act on voluntary service;
  - voluntary centres must conclude a contract with the volunteer, must guarantee the execution of their work in accordance with the valid legislation and also confirm for the organisation the records on the scope of the work performed.
- 8) In the case of in-kind contributions in the form of services and goods, the value is determined on the basis of a market survey or expert opinion.

**The range of in-kind contributions may be restricted in the announced call.**

In the case that within the stated call, the provision of the contextual contribution of the applicant / contribution is enabled, then for the purpose of documenting eligible expenditure, it is necessary to prove both ownership and the validity of the contextual contribution.

The ownership relation to the real estate is usually documented by the extract from the Cadaster of Real Estates. In the case that the ownership rights are not registered in the Cadaster of Real Estates, it is possible to document the ownership through the proposal for registration into the Cadaster of Real Estates confirmed by the cadastral office and the contract for the acquisition of the ownership rights (e.g. purchase contract, gift contract, etc.). Property valuation is documented through expert report which will be drawn by a court expert under the Property Valuation Act and related applicable legislation. **This report may not be older than 6 months before inclusion (use) of the in-kind contribution to the project in the context of a relevant key activity (i.e. period of 6 months is regarded from the date when the implementation of the activity within which the in-kind contribution was included to the project started).** The acquisition of real estate is the subject of the condition that there must not be double financing from ESIF.

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The ownership of movable assets is to be fully documented from the viewpoint of the required documents (e.g. by the submission of the warehouse / inventory card for assets). The value of the invested material should also be documented through expert report, which will be drawn by a court expert under the Property Valuation Act and related applicable legislation. The acquisition of movable assets is the subject of the condition that there must not be double financing from ESIF.

#### **8.7.4 Indirect costs**

For projects including indirect costs, the rules of the eligibility of expenditures defined in Section 8.7.1 and 8.7.2 shall apply, with the exception, however, that it is not possible to include those items among actually demonstrated eligible expenditure (i.e. among direct costs), which are according to the definition below classified as indirect costs. The eligible indirect costs of the project are expressed in percentage units in relation to the total eligible direct costs and these costs are incurred and are eligible in the amount derived from the share of indirect costs to direct eligible costs, which is determined in the Legal Act on Grant Award/Transfer.

Indirect cost mean costs incurred during the implementation of the project or as a consequence of, although the level is derived indirectly by the calculation using the flat rate. These are costs incurred by the organization in relation to ensuring service activities (e.g. processing of book-keeping, payment of rent and energies), which cannot be directly assigned to a specific project. These also concern costs with low amounts that occur in projects in a high quantity and the OP RDE MA did not classify these into indirect costs due to the administrative inspection (e.g. domestic travel expenditure). Finally, these are costs that are repeated in each project and are necessary for ensuring the project (e.g. for positions ensuring the administration of the project, see Chapter 5.2.1).

Due to the difficult character of assigning expenditure to a specific activity and the complicated documentation and checking of these expenditure, reporting in the form of indirect costs is preferred.

A beneficiary proves the indirect costs as the percentage ratio to the actual eligible direct costs incurred.

When a project applies NN, MA does not review accounting documents related to indirect costs or their actual use, it only checks the direct costs of the project. In the case that during the consequent inspection, the part of direct costs is classified as an ineligible, the respective part of indirect costs stated by the flat rate / indirect cost rate also becomes ineligible.

Indirect costs are deemed to be incurred without checking whether the beneficiary has actually expended the funds.

##### **8.7.4.1 Rates of indirect costs for projects financed from ESF**

If the rates of indirect costs for ESF are applied in the call, a flat rate for indirect costs is determined either:

1. up to 25% of eligible direct costs according to the table below,

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Lower limit (CZK) of direct expenditure	Upper limit (CZK) of direct expenditure	Indirect cost rate
0	13,000,000	25 %
13,000,001	21,000,000	21 %
21,000,001	30,000,000	18 %
30,000,001	40,000,000	16 %
40,000,001	50,000,000	14 %
50,000,001	80,000,000	12 %
80,000,001	120,000,000	10 %
120,000,001	200,000,000	8 %
200,000,001	and more	6 %

2. or an alternative of determining the rate of indirect costs of 15% of eligible direct costs per employee will be used,
3. or the flat rate up to the level of 40% of eligible direct costs per employee for the purpose of covering the remaining costs for the project.

#### **8.7.4.2 Rates of indirect costs for projects financed from ERDF**

If the rate for indirect costs for the ERDF is applied in the call, a flat rate for indirect costs is determined either:

1. individually for each project, or
2. it will be determined on the basis of an analysis at the level of the call, or
3. an alternative of determining the rate of indirect costs of 15% of the direct personnel costs will be used.

The flat rate of indirect costs, see 1) and 2), may never exceed 25%.

In the first alternative, this rate will be determined in the following manner:

- the applicant edits in the grant application edits budget in the classification into the administrative expenditure and other expenditure;
- the budget is evaluated in the process for of evaluation of the project by internal / external by external evaluators / evaluating / selection committee. If it contains ineligible expenditure or possibly overvalued amounts, it is cut in corresponding manner;
- MA states the flat rate for indirect costs after the recommendation of the project by the selection committee for the termination process of the approval as the ratio of the administrative costs deducted by costs classified by their character into the NN group to the total direct eligible expenditure of the project;;
- NN flat rate is fixed in the Legal Act on Grant Award/Transfer, and is valid until the end of the project implementation. Indirect costs are fixed by this rate in each payment application.

### 8.7.4.3 Definition of indirect costs

The definition of the categories of indirect costs is the same as projects financed from ESF and ERDF.

If the call and the related documentation in which indirect costs are applied does not state otherwise, **it is not possible to classify it among direct expenditure:**

**1) Expenditure for the remuneration of employees within the organisation of the beneficiary or the partner of the activity:**

- expenditures associated with the administrative project team (see definition of the administrative team according to Chapter 5.2.1.: e.g. project manager, financial manager, their assistants, etc.); this item is not part of the indirect costs in the case of the use of the alternative of the flat rate of 40% for the ESF and the rate for indirect costs for ERDF in the amount 15%;
- book-keeping;
- personnel issues;
- administration of procurement procedure proceedings;
- ensuring training of occupational health and safety in the regime stated by the legal regulations of the Czech Republic;
- ensuring guarding;
- ensuring cleaning;
- ensuring repair and maintenance of equipment and equipment for use in real estate;
- ensuring the publicity of the project, including monitoring of press (advertisements, leasing of premises for press conferences, refreshments for press conferences, production of promotional items, leaflets, etc.) with the exception of cases where publicity measures are the main activity of the project (mainly for projects focused on the change of knowledge of the target group, etc.);
- administration of computer networks and internet pages, including updates;
- copying;
- printing for administration and publicity of the project;
- costs for creation of CSNF for employees who are paid within the project from indirect costs.

**2) Travel expenditure of the implementation team where the subject are:**

- all travel expenses related to the national business trips (it is irrelevant what means of transport was used to undertake the journey – e.g. the company or private vehicle, public transportation, taxi, etc.); expenses of the implementation team are not considered travel expenditure if they are related to a shared ride with the target group in a secured vehicle (e.g. bus), the vehicle was secured primarily for the target group and joint transportation of the implementation team does not create additional costs for the transport of the target group;

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- all costs of operation of vehicles during national trips.

### **3) Equipment and office appliances in the following items:**

- costs for hardware and software for the administrative project team;
- costs for the purchase of papers (including blocks), material for lamination, writing needs, files for documents, CD, DVD, USB flash disks and other data carriers, (i.e. if they are necessary for administration of the project or the target group);
- costs for consumer and office materials (other than in the previous bullet point) designated for the administration of the project), i.e. all material or minor items that do not have the character of the equipment or devices or are designated for single or gradual consumption and the service life does not exceed one year;
- the cost for the purchase of devices and equipment and consumables which are procured in order to ensure the publicity of ESIF;
- costs for the acquisition of inventories of material for ensuring refreshments for employees of the project or the target group (these are cups, biscuits, tea, etc., which are not consumed at one specific event but are designated for gradual consumption, e.g. during individual consultations, and it is not decisive whether these “inventories” are booked, i.e. does not apply to the “for stock” accounting);
- costs for cleaning detergents and tools or devices (with the exception of cases where the target group uses them for its inclusion);
- depreciation of buildings used for the implementation of the project;
- depreciation of equipment or devices which serve for the administration of the project (i.e. the target group does not use it during its inclusion into the project).

### **4) Expenditure for services where the subject is:**

- rent of offices and other premises used by the administrative team for the project (including publicity for the project), leasing of the premises for work with the target group of the project belong to direct costs (e.g. leasing of classroom, leasing of premises for the protected workshop, etc.);
- purchase of water (water and sewerage fees), fuel and energy (electricity, heating, etc.) in premises used for implementation of the project;
- internet and telephone connection, fax, mail fees, transport fees, packing fees;
- book-keeping, including the maintenance of employees' wages;
- maintenance of the budget, tax and legal advisory and consulting;
- costs related to processing the grant application and its annexes;
- costs related to the administration of grant;
- ensuring personnel issues (including costs related to the evaluation of fitness for work on the basis of an entrance inspection in accordance with the act on specific health services), ensuring OHS training in the regime stated by legal regulations of the Czech Republic;

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- rent or leasing of operating equipment or devices serving for the administration of the project (i.e. not used by the target group for inclusion in the project);
- ensuring repair and maintenance of equipment and equipment used in real estate;
- ensuring the project publicity, including monitoring the press (advertising, leasing of premises for press conferences, refreshments for press conferences, production of promotional items, leaflets, etc.) with the exception of cases where publicity measures are the main activity of the project (mainly for projects focused on changing the knowledge of the target group, etc.);
- administration of computer networks and internet pages, including updating, copying, printing for project and publicity administration;
- administration of procurement procedures / procurement procedure proceedings necessary for the project and other service related to the assignment of orders (advertising, consulting, etc.);
- process or financial audit of the project, if required by the call;
- notary and administrative fees necessary for the implementation of the project (e.g. verification of documents, etc.);
- cleaning services;
- ensuring guarding;
- insurance of assets used for the project implementation.

## 8.8 Ineligible Expenditure

Ineligible Expenditure are according to Art. 69 of the General Regulation:

- a) interest from due amounts, with the exception of grants awarded in the form of interest rate grants or guarantee fee grants;
- b) the purchase of land not built on and built-up land in the amount exceeding 10% of the total eligible expenditure for the operation concerned. In the case of derelict areas and areas formerly used for industrial purposes, which include buildings, this ceiling will be raised to 15%. In exceptional and duly justified cases, this ceiling may be raised beyond the above mentioned percentages for operations concerning environmental conservation;
- c) value added tax, with the exception of cases where it is non-deductible according to domestic regulations.

In addition, among the ineligible expenditure of the projects with the EU contribution funded by the ESF is by Art. 13(4) of Regulation No. 1304/2013 includes:

- purchase of infrastructure;
- purchase of land;
- purchase of real estates.

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Ineligible expenses are those that:

- 1) cannot be paid from grant funds;
- 2) are not contained in the valid budget of the project;
- 3) were supported in the past from public resources;
- 4) are not spent in accordance with the objectives of the project and, at the same time, are not necessary to achieve the objective;
- 5) are not adequate and are not spent in accordance with the principle of economy, efficiency and purposefulness;
- 6) are not in accordance with Czech and European legislation;
- 7) are related to financing of the sustainability of projects supported from the previous programming period (development of projects supported from the previous programming period is not considered to be a promotion of sustainability).

**If such expenditure originate, the beneficiary will pay them from their own funds.**

Non-economic or non-effective expenditure may also be indicated by OP RDE MA as ineligible in the case that this expenditure is part of the approved budget. In case of cases of unjustified purchases of equipment, material or services before the termination of the project or purchases for which the beneficiary did not submit requested documents. Unjustified expenditure will be considered in relation to the status of the implementation of key activities of the project.

Ineligible expenditures are considered to be, in particular:

- wage costs of employees who did not participate in the project (in the case of managers, it is necessary to evaluate their actual involvement into the implementation of the project, personnel expenditure of the representatives of the statutory body who are not directly involved into the project or only formally, cannot be considered eligible);
- wage expenditure of the members of the implementation team which do not relate via their involvement to the off-project activities;
- payment of unused vacation in the case of termination of labour relation;
- other costs for employees, for which the employer are binding according to special regulations, e.g.
  - payments for health insurance in the case that the employee uses unpaid days off;
  - payments related to the vacation beyond the number of weeks specified in the provisions of Section 213 of the Labour Code;
  - costs related to the vacation agreed in the employment agreement;
  - severance;
  - contribution to pension insurance, gifts;
- value added tax or part thereof, if there is a legal claim for deduction;
- interest on credits and loans;

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- sanction fees, fines and penalties or other sanction expenditure resulting from contracts or other reasons, cancellation fees;
- bank fees, including bank fees for international financial transactions (foreign payments, cash withdrawals abroad, conversion fees, etc.);
- administrative and local fees not having a direct relation to the project and are not expressly stated by MA;
- direct taxes (road tax, real estate tax, gift tax, inheritance tax, customs duties, etc.);
- expenditure that are part of the liquidation of the company, bad receivables, etc.;
- expenditure for legal disputes incurred in relation to a certain project, e.g. expenditure for payment of legal fees, for the acquisition of evidence, for legal representation in the case of a dispute, expenditure for legal defence against the OP RDE MA procedure, penalties, fines, other sanction expenditure and legal expenditure related to the legal dispute;
- reserves for possible future losses and debts;
- exchange losses, exchange losses are not considered losses incurred only in terms of accounting due to the difference in the exchange rate used according to the internal regulation of the organization and the exchange rate used in the case of actual payment;
- alcoholic beverages, tobacco products and psychotropic substances.

## 8.9 Income from the project

Income is divided into:

- 1) income according to Article 61 of the general directive (see Chapter 8.9.1);
- 2) income outside Article 61 of the general directive (see Chapter 8.9.2);

Project income is never:

- payments which the beneficiary / partner receives from contractual penalties due to breaching of the contract between the beneficiary / partner and third party or parties;
- payments that arise due to the fact that a third person chosen by the procurement rules decides to withdraw its tender (cash security);
- bank interest yielded from the funds of the beneficiary's account, which is funded through the ex-ante financing.

### 8.9.1 General rules for projects generating income according to Article 61

The project creating income according to Article 61 of the general directive means any operation that includes investment into the infrastructure for whose use the fees charged are paid directly to the user or any operation which includes the sale or leasing of land or buildings or any other provision of services against payment with total eligible expenditure above 1 million EUR before the application of Article 61.

Provisions of Article 61 of the Directive are applied for projects which create net income **after implementation**.

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The income represents cash flow in the form of fees paid directly by final beneficiary of the project output.

**The project creating income for the application of Article 61 means any project:**

- which includes investment into the infrastructure for the use of which fees are charged paid directly by the user;
- which includes the sale or leasing of land or buildings, constructions;
- which includes other provision of services against payment /e.g., entrance fees to museums for visitors, fee for training paid by trainees).

**Article 61 does not apply to the following cases:**

- projects not creating income;
- projects not creating net income (the income is insufficient to fully cover operating costs);
- projects which are the subject of the rules of the state aid, i.e.
  - a) aid de minimis;
  - b) compatible state aid for small and medium sized enterprises for which in relation to the state aid, the intensity or the level of aid is restricted;
  - c) compatible state aid in whose case individual cases of support were verified in accordance with the valid rules for state aid;
- projects where total eligible expenditure exceed 1 million EUR or are co-financed from ESF;
- returnable assistance, which must be returned in the full amount;
- projects for technical assistance;
- projects for which grant is awarded from public sources provided in the form of lump sums on the basis of unit costs.

The limit of 1 mil. EUR of eligible expenditure applies to the total eligible expenditure of the project before modification according to Article 61. For conversion to EUR, the exchange rate of the European Commission (hereinafter referred to as EC) CZK/EUR is used that is valid in the month of the grant application by the Managing Authority. Such an exchange rate used to determine the total eligible expenditure of the project in EUR cannot be changed.

**8.9.1.1 Procedure for the calculation of potential net income**

Possible net income from the project is determined **in advance** by means of discounted net income from the operation (method of financial gap) while taking into consideration the reference period, the usual expected profitability of the stated category, application of the “polluter pays” principle, and possibly, the relative prosperity of the stated member state or region. A detailed description is provided in the methodological recommendation for projects creating income in the programming period 2014–2020.

Net income is deducted from eligible expenditure of the operation no later than at the final payment application, created during the execution of the operation from sources which were not taken into consideration during the determination of potential net income.

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**If it is not possible to objectively determine the income** in advance with the use of the above-mentioned method, net income is deducted from expenditure reported to the Commission created within three years from the termination of the operation or up to the deadline for the submission of documents for closing the programme, whichever occurs earlier.

#### **8.9.1.2 Monitoring of income**

The beneficiary must notify the granting authority of all income created in relation to the project, which includes investment into the infrastructure for the use of which fees are charged, paid directly to the user or any operation which includes the sale or leasing of land or buildings or any other provision of paid services. This obligation applies to net income (as well as formerly not considered income or those significantly exceeding the original estimated values) incurred from the date of the physical implementation of the project.

Net income, which in the end will be implemented, will be monitored in the project during the implementation of the project and for sustainability. In the case of the discovery of significant discrepancies between the previously estimated net income and the implemented net income, the financial gap will be recalculated and the level of the deviation signalling the incorrectly stated level of the financial gap at the beginning of the project is considered by the European Commission to be a deviation in the financial gap exceeding 10 %.

If when determining the income in advance, the calculation gap method was used, the beneficiary must, together with the submission of the FPCR and the FPSR, recalculate the level of the financial gap according to the actual achieved values of income and expenditure. OP RDE MA consequently modifies the aid intensity in these cases where there was the exceeding of the above-mentioned 10% limit and the beneficiary must return the respective part of the grant, i.e. deduct in the period of the implementation the additional income from eligible expenditure of the operation not later than in the final Request for payment submitted by the beneficiary and to return due income in the sustainability period. It is possible to return this up to the end of the sustainability period or within the deadline for the submission of documents for closing the programme stated by the special rules for individual funds according to whatever occurs earlier.

### **8.9.2 General rules for projects with income outside of Article 61**

Any income not classified under Article 61, with the exception of cases stated at the beginning of Chapter 8.9 are considered other financial income. This income decreases the total eligible expenditure of the project, which decreases the basis of the calculation of aid and the aid intensity.

In accordance with Article 65, par. 8 of the general directive, it is necessary that projects where the total eligible expenditure **exceed the limit of EUR 50,000**, deduct net any other financial income created in the period of the implementation of the project from the eligible expenditure of the project not later than during the submission of the final Request for payment if this income was not taken into consideration during approval of the project and the grant was not decreased at the beginning of the project. If the expected level of new other financial income mentioned in the legal act on grant award differs from the actual achieved value, then the following applies:

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- if real net other financial income is lower, the beneficiary does not have the right for an increase in the grant;
- if the real other net financial income is higher, the eligible expenditures are decreased by this increase, i.e. also the grant.

Net other financial income represents other financial income created by the project after the deduction of the operating expenditure of the project. If for the co-financing, the total investment expenditures are not eligible, it is necessary to divide net income in the ratio of eligible and ineligible expenditure.

The beneficiary must monitor the other financial income created during the implementation of the project and report them in the monitoring reports of the project (see Chapter 7.1).

### **8.10 Financial penalties (sanctions) for non-fulfilment of the obligations of the beneficiary / partner**

The amount of the penalties for breach of budgetary discipline, namely non-fulfilment of the obligations of the beneficiary/partner, will be determined in the Legal Act on Grant Award/Transfer.

## 9. CHAPTER – PROCESSES AND RULES OF INSPECTIONS AND AUDITS

### 9.1 General provisions on checks, verifications and audits

The applicant/beneficiary is obliged to be subject of inspections or audits, by following supervisory bodies: Ministry of Education, Youth and Sports – Managing Authority of RDE, Ministry of Finance (Auditing body and Payment and certification body, European Commission, European Court of Auditors, European Anti-Fraud Office (OLAF), Supreme Audit Office of CR, Financial Administration bodies within the meaning of the Act on CR Financial Administration authority, and eventually inspectors and other supervisory bodies in compliance with the CR and EU regulations.

The beneficiary is obliged to inform the granting authority, in writing or in electronic form (such as internal dispatch) on facts affecting implementation of the project specified by OP RDE MA, particularly to inform on any inspections and audits performed in relation to the project, within 15 business days. At request of the granting authority, OP RDE MA, payment and certification body or AA, the beneficiary is additionally obliged to provide all information on results of the inspections and audits, incl. the inspection / audit reports.

The beneficiary shall oblige also its partners and other subjects engaging in the project implementation to all obligations specified above.

Beneficiaries are encouraged to prepare a written opinion on the draft of the audit report in cooperation with the department of coordination of inspections and audits and risk management of OP RDE in advance in order to minimise the impact of audits.

Administrative verifications and inspection on site will be performed by the MEYS in accordance with Art. 125 of the General Regulation, Controlling Rules, Act on Financial Supervision in the public administration.

#### Types of inspections or administrative verifications

##### 1. Inspections on site/administrative verification before issuing/completion of the legal act on grant award / transfer

**Administrative verifications/inspection on site** are performed during approval of the project to find out readiness status of the beneficiary for overall implementation of the project and complying with conditions for grant award from OP RDE. Output of this type of verification is the project evaluation record.

##### 2. Inspections on site/administrative verification of the project implementation

**Administrative verification** is performed during period from issuing of the legal act on grant award / transfer to completion of the project physical implementation. In this case, the subject is particularly verification of information given in the monitoring reports, payment applications, and the input documents for such verifications are legal act on grant award / transfer and its

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eventual modifications, as well as other binding documentation, as it includes data and specific conditions for grant award affecting the eligibility of the expenditure within the project.

**Inspection on site** verifies, whether the project implementation complies with the issued legal act on grant award / transfer, OP RDE rules and ES / CR regulations, and whether the invoiced products were actually delivered and services provided, and whether the values stated by the beneficiary in the monitoring reports and payment applications comply with the actual state.

### **3. Inspections on site / administrative verification of sustainability**

Subject of the administrative verification/inspection on site is verification of complying with conditions of the legal act on grant award / transfer after completion of the project physical implementation (or within the sustainability period). Both types are performed after the project completion within the ex-post monitoring project.

The beneficiary must allow OP RDE MA to perform the verification or inspection. The beneficiary is obliged to bind by the obligation also other subject engaged in the project implementation (particularly partners and suppliers).

#### **Inspection on site**

Within the inspection on site, the MEYS supervisory body finds out, whether the inspected person fulfils its obligations resulting from the legal act on grant award / transfer, the CR / EU legislative regulations, and the OP RDE rules. All is verified on place of implementation of the project or inspected person headquarters. The supervisory body starts the inspection on site ex officio.

The inspected person means legal or physical person, who is obliged to be subject to the public administration inspection of use of the grant means by the supervisory body in compliance with relevant legal regulations. Thus it is beneficiary within the OP RDE, resp. other subject engaged in the supported project.

In most cases, applicants / beneficiaries will be notified on the inspection on site via IS KP14+ by means of the internal dispatch or in writing (data box, mail). Simultaneously, the inspection start notification will be available to applicants / beneficiaries.

The inspection on site is started by presenting the inspection authorisation to the inspected person or other person, who delivers or delivered goods, or takes / took the goods from the inspected person, who performs or performed works for it, and/or provides / provided services to it, or uses /used services from it, resp. is/was engaged in any such activity (hereinafter referred to as „authorized person“), who is present at the inspection site.

In case of e.g. intent avoiding of the inspection on site by the inspected person, non-collaboration of the inspected person with the inspectors etc. the inspection on site can be started also by other methods, such as:

- Delivery of the inspection start notification to the inspected person, and such notification must include the inspection authorization or list of inspectors, or
- By first of the inspection acts immediately preceding the submission of the inspection authorisation to the inspected or authorized person, who is present on the inspection site, if performing of such inspection steps is needed to perform the inspection.

According to Section 10 par. 1, letter b) of the Controlling Rules, the inspected person can object against the impartiality of the inspector or invited person (annex No. 7 to Rules for

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Applicants and Beneficiaries). Sample is available in IS KP14+. The inspected person will be notified on the except resolution via the IS KP14+, too.

Before starting the inspection on site, the inspected person is advised on rights and obligations regulated by Section 10 of the Controlling Rules.

1. The inspected person is entitled to:

- Require from the inspector presentation of the inspection authorisation and other document proving that it is the person specified in the inspection authorisation;
- Object to the prejudice of the inspector or invited person;
- Acquaint with the content of the inspection report;
- Object to the inspection findings specified in the inspection report.

2. The inspected person is obliged to create conditions for performance of the inspection, to enable to the inspector to perform the subject of authorisation specified by this act and provide needed collaboration to this, and to submit to the inspectors the written report on removal or prevention of the non-compliances detected during the inspection within the deadline specified by the inspector, if the inspector requests it.

3. The obliged person (see the inspection start) is obliged to provide to the inspector collaboration needed to the inspection performing, if the collaboration cannot be ensured by means of the inspected person.

During the inspection on site itself the inspection group verifies facts stated by the beneficiary in the project intent – grant application and its annexes, in submitted reports (report on implementation, incl. payment application), and in the project modifications.

On basis of the results of the inspection on site. the supervisory body compiles within **30 calendar days** from performing of last inspection act (within **60 calendar days** in especially complex cases) the Inspection Report (hereinafter referred to as „report“). The last inspection act means act preceding the compilation of the Inspection Report, such as termination of examination on site and leaving of the inspection group from the examination site, return of requested documents to the inspected person; sending of (requested) documents by the inspected person to perform the analysis required etc.

Copy of the Inspection Report is sent to the inspected person via IS MS2014+ (if the system will comply with all formal requirements), via data box or via personal delivery mail.

In cases when the Inspection Report is sent to the inspected person, the inspected person need not confirm the take-over of the Inspection Report. In this case, the confirmation is formed by the proof of delivery or take-over of the delivery (according to the sending method).

The Inspection Report can be submitted to the inspected person also in person in cases of complex or extended inspection findings, where the eventual verbal explanation is required to the finding. In case of personal delivery, the inspected person confirms take-over of one copy of the Inspection Report by its signature.

In compliance with Section 13 of the inspection rules, the inspected person can apply the written and justified objections against the inspection findings specified in the report (see

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sample in annex No. 8) within **15 calendar days** from the report delivery date (see paragraph above). With regard to the inspection finding extent and in advance, the head of the inspection group can in compliance with Section 13 of the inspection rules determine the longer deadline in the report.

The inspected person must apply the objections in writing<sup>119</sup> and they must show, to which inspection finding they apply, and they must also include the justification of the disagreement with this inspection finding. In case the inspected person applies the objections after determined or extended deadline, the objections shall be refused as the late applied objections. In case the objections are applied by the non-authorised person, they will be also refused. In case the objections do not clearly show, against which inspection findings they apply, or if there is No. justification, then the objections shall be refused as unjustified.

If the objections are not satisfied by the head of the inspection group or inspector within 7<sup>120</sup> calendar days from date of their delivery, they must be resolved by the higher authority within 30 calendar days from their delivery by their satisfaction, partial satisfaction or refusal. In especially complex case the deadline for resolving of the objections by the inspection higher authority is extended by 30 days. The inspection higher authority shall notify the inspected person on extension of the deadline. In the other cases, the objections are satisfied, partially satisfied or refused, eventually handed-over to re-examination.

Based on the results of the inspection on site and inspection findings, the inspected person may be required to perform specific correction measure. Implementation of such corrective measures by the inspected person in result of the performed inspection on site, they can be subsequently subject to administration verification or other inspection on site by the granting authority.

**The inspection on site is terminated by:**

- – Vain expiration of deadline for applying objections or resigning the right to apply the objections, or
- day of delivery of the resolution of the objections to the inspected person, or
- Day, on which the objections were handed-over for resolution to an administration body.

Outputs of the inspections on site will be logged in the information system. Faults, at which it is determined by legislative, will be handed over to relevant authorities (e.g. suspected cases of breaching of budget discipline will be submitted to financial administration authority).

If, on basis of the inspections on site or administrative verification, the OP RDE MA reveals suspected cases of breach of discipline according to Section 44 of the Budgetary Rules, suspected criminal act or violation of Public Procurement Act, the payment application actually administered can be decreased (see Chap. 9.2), or the suspected cases can be submitted to relevant authorities for further investigation. Simultaneously, the payment may be suspended

<sup>119</sup> The term “in writing” means in the paper or electronic form with a secured electronic signature.

<sup>120</sup> If the deadline falls on a weekend or holiday, the end of the period falls on the first following working day (in detail according to the provisions of Section 40 of the Code of Administrative Procedure). The same procedure is applied when calculating the deadline for objections submission.

(i.e. pre-financing), non-payment of part of the grant or submission of the case to starting of the grant withdrawal proceeding. All procedures are notified to the beneficiary.

### **Audit**

Subjects that can within the implementation of OP RDE perform audits at applicants, beneficiaries and partners drawing the aid from OP RDE, are as follows:

- Audit Authority of the Ministry of Finance,
- European Commission,
- European Court of Auditors.

Audits performed by the Audit Authority are controlled by Section 13a of the AoFS and the inspection rules. The other audit subjects proceed in compliance with the European Union legislative and rules.

Written draft of the audit report must be provided to the audited person. Subsequently, the audited person is entitled to put written position to the report draft, which is subsequently part of the audit report. Deadline for applying of the written position is determined by the inspection body staff. This deadline may not be shorter than 5 calendar days, if other deadline was not agreed upon.

After vain expiration of this deadline or after delivery of the written position of the audited person the audit report is finalized and submitted to the public administration supreme body performing the audit. The audit is terminated by the day of delivery of the audit report to the public administration supreme body. In addition, the final audit report is sent to audited person and OP RDE MA.

In case the final audit report includes suspected non-compliance, then the Managing Authority of OP RDE must consider the findings as confirmed (from the side of Managing Authority of the OP RDE such findings are irreversible) and submitted to relevant public administration body competent to further examination (such as Financial Administration, Office for the Protection of Competition).

## **9.2 Non-compliance and methods of its settlement**

The beneficiary is non-compliant if it does not meet the conditions under which its funds were provided by ESIF.

OP RDE MA is responsible for resolving of non-compliances within OP RDE<sup>121</sup>. A breach of conditions and the resulting ineligible expenditures are addressed by the following methods:

Non-compliance does not include instances where a proper financial adjustment was performed:

- by performing an illegible expenditure by the SOU assuming that this ineligible

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<sup>121</sup> The main principles and procedures for dealing with non-compliance are set out in Chapter 4 Methodological Guideline for cash flows of the programmes co-financed from the European Structural Funds, the Cohesion Fund and the European Maritime and Fisheries Fund for the programming period 2014–2020;

expenditure<sup>122</sup> was revealed before its approval in the PA or before its inclusion in this PA or the list of requests;

- the removal<sup>123</sup> of the current ineligible expenditure from the PA and the documents roster in the amount of the ineligible expense, including its transfer to ineligible expenses before approving the PA or before its inclusion into the list of requests, i.e. the ineligible expenditure has been removed from the documents roster in the amount of 100% before the approval of the PA or the list of requests (either by the beneficiary or by the MA) and the PA or the list of requests was approved at a reduced rate;
- in the execution of an erroneous payments<sup>124</sup>, provided that the beneficiary maintains a special account for the project (i.e. project account) and the erroneous payment was not included in the PA (i.e. if a similar payment was included in the PA, it is no longer an erroneous payment, but an ineligible expenditure).

## 1. Faults which can be corrected

If it is violation of condition, under which the grant was provided, for which the granting authority in legal act on grant award / transfer according to Section 14, Par. 6 of the Budgetary Rules determined that its non-adhering will be sanctioned by lower payment than the total amount of grant and its nature enables correction within additional deadline, then the OP RDE MA under the provisions of Section 14f(1) of the Budgetary Rules Act prompts the beneficiary to carry out remedial measures within the deadline specified.

A. **If the correction is corrected within specified deadline**, then such cases are not considered as suspicions of BoBD nor as non-compliance.

B. **If the rectification is not ensured**, if it is then possible to reduce the amount in question by any of the following payments, the OP RDE MA applies Section 14e of the Budgetary Rules in the procedure according to Clause 2A or request the beneficiary to return the whole grant according to Section 14f paragraph 3 of the Budgetary Rules according to Clause 2B. If it is not possible to reduce the amount in question by any of the following payments, the OP RDE MA submits the case as a suspected breach of discipline to relevant financial administration authority.

## 2. Faults, which cannot be corrected

A. **Application of Section 14e of the Budgetary Rules** – this measure will be applied only to cases of grants awarded according to the Act on Budgetary Rules, based on the Legal Act on Grant Award/Transfer on the basis of fulfilment of the following conditions:

- beneficiary in direct connection with the grant violated the obligations prescribed by law or failed to comply with the purpose of the grant or the conditions under which the grant

<sup>122</sup> Section 3(e) of the Budgetary Rules.

<sup>123</sup> In the case of the existence of a special account for the project, the so-called project account, also providing the payment receipts of ineligible expenses from the funds of the beneficiary (e.g. affidavit of the statutory representative / authorised person).

<sup>124</sup> An erroneous payment is the transfer of funds from the project account, which was done as a mistake with no relation to the project, and which is returned to the project account (e.g. double payment, transferring larger amount than what is eligible, transferring funds to a different account than the supplier's account, payment of expenses unrelated to the project, etc.).

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was awarded, with the exception of non-fulfilment of the obligations determined by Section 14(4)(k) of the Budgetary Rules,

- it is considered an ineligible expenditure, and if it has been claimed and approved in an earlier PA and it is not possible to make sufficient financial correction,
- the grant is not paid entirely by the MA, while there is payment, which can be used to reduce the amount in question, even at a classification into investments and non-investments,
- breach of obligations and conditions of the beneficiary has already been addressed through remedial measures according to Section 14f par. 1 of the Budgetary Rules, or return of the grant or part thereof in accordance with Section 14f par. 3 of the Budgetary Rules,
- furthermore, if the MA is informed that the financial administration authority already addressed the fault of the beneficiary and has issued administrative penalties for the breach of discipline (fault expenses), even on its own initiative, remedial measures may be carried out in the form of non-payment of grants or part thereof according to Section 14e of the Budgetary Rules no sooner than at the time of the termination of the BFA inspection. This measure may only be applied to the expenses that have not been identified as BoBD by the BFA.

The OP RDE MA then together with administration of the next PIR asks the beneficiary for a modification of the financial plan. The non-paid amount reduces the title to the grant.

In compliance with Section 14e of the Budgetary Rules, the beneficiary can apply the objections against the Information on non-payment of the part of the grant (sample letter to apply the objections see annex No. 9) within 25 calendar days from date of receiving the Information on non-payment of part of the grant.

In accordance with Section 14e par. 5, the OP RDE MA promptly notifies the local tax authority on non-payment of part of the grant to the beneficiary, including its scope and proper justification.

Section 14e of the Budgetary Rules can be applied only to expenditure, which have not been so-far identified as breach of budgetary discipline by the BFA decision.

B. Application of Section 14f of the Budgetary Rules – if the OP RDE MA reveals fault of violation of the obligation determined by the legal regulation (except obligation according to Section 14 par. 4 letter k) of the Budgetary Rules), or other violation condition, under which the grant was awarded and for which it is not possible to invite to correction measures according to Clause 1, then the OP RDE MA may invite the beneficiary to return the grant amount or its part, in which it determines the amount to return (it must be determined within so-called decreased payments, i.e. amounts calculated according to Section 14 par. 6 of the act on Budgetary Rules).

- a) If the beneficiary returns in compliance with the call the grant or part thereof to the granting authority within a specified period, it is not considered as a BoBD.
- b) If the beneficiary does not return the grant or part thereof to the granting authority within the specified period on the notice in accordance with Section 14(3) of the Budgetary Rules, the OP RDE MA shall refer the case as a suspected breach of discipline to the financial administration authority.

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### **Breach of budgetary discipline suspicion solution procedure**

If it is suspicion to breach of discipline according to the Budgetary Rules, the OP RDE MA submits the case without delay together with relevant documentation of findings resulting from the performed inspection or audits within the particular project to relevant financial administration authority to further proceedings for examination of suspicion of BoBD<sup>125</sup>.

OP RDE MA will inform the beneficiary via internal dispatch on result of the inspection and amount of financial impact, incl. information that the case will be submitted to recovery of the payment to financial administration authority in compliance with the Budgetary Rules.

In the financial administration authority concludes that there is breach of discipline, it assesses the payment for breach of discipline according to the act on Budgetary Rules.

The Budgetary Rules Act allows according to Section 44a par. 12 and 13 to ask the General Financial Directorate through the financial office for the partial or total remission of the payment for BoBD and the penalty<sup>126</sup>.

### **Procedure for solving the suspicion of administration offence**

In case of suspicion to the administration offence of the contractor or supplier within Public Procurement Act, the OP RDE MA submits the case to further examination to Office for the Protection of Competition by means of call to start the proceeding according to Section 42 of the administrative rules.

The obligation to submit a motion to the the Office for the Protection of Competition, however, does not affect legal rights to submit the motion to BFA to initiate proceedings in the administration of payments for BoBD <sup>127</sup>.

The MA can review the scope of the measures already undertaken, as well as adopt new measures on the basis of established facts in the administrative procedure terminated by the Office for the Protection of Competition.

The above-specified procedures for solving the non-compliances apply also for beneficiaries of TP MA, except application of Section 14e and 14f of the Budgetary Rules Act, which cannot be applied for this type of projects.

### **Procedure for solving the suspicion of criminal act**

Criminal acts committed in the context of implementation of programmes or projects co-financed from EU budget will always be considered a justified non-compliance.

In case it is suspicion to non-compliance covering suspicion to the criminal act related to operation co-financed from means of the EU budget, the OP RDE MA shall immediately submit the case, for the purposes of Section 8 of the Criminal Procedure Code to the public prosecutor or police authority.

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<sup>125</sup> This provision shall not apply if the suspected BoBD is settled by the procedure according to Section 14f of Act No. 218/2000 Coll., on Budgetary Rules.

<sup>126</sup> When deciding about the remission, the GFD follows Guideline No. GFD-D-17 published on the website of the Tax Administration.

<sup>127</sup> Sections 14e and 14f of the Budgetary Rules and submission of the motion to the BFA to initiate proceedings in the administration of payments for BoBD.

The MA can review the scope of the measures already undertaken, as well as adopt new measures based on the facts established in the criminal proceedings terminated by the institution of law enforcement.

## 10. CHAPTER – PROCESSES AND RULES ON COMMENTS TO THE DOCUMENTS OF MA

Comments on MA source materials (hereinafter only comments) mean the expression of a disagreement of applicant/beneficiary with the procedure of the OP RDE MA.

Deadline for resolving of comments by OP RDE MA is determined at 30 calendar days from date of delivery of the comments by the applicant/beneficiary. In more complex cases, the deadline can be extended by the OP RDE MA to 60 calendar days, and the applicant/beneficiary will be notified on this by sending the notification on extension of deadline.

All communication between the applicant/beneficiary and OP RDE MA, incl. informing on the method of handling comments takes place via IS KP14+.

Comments are divided into:

- comments on the documents in the approval process of projects;
- comments on the source materials of the MA in the project implementation.

### 10.1 Comments on the MA source materials in the process of project approval

Each applicant is entitled to submit a comment more than once in relation to each stage of the approval process which was not successful, **within 15 calendar days** from the date of delivery of this internal dispatch containing notification of the negative result of the phase of the approval process. The deadline to submit comments begins on the day following the delivery of the internal dispatch containing the negative result of the phase of the approval process by the applicant.

The applicant<sup>128</sup> submits comments via IS KP14+ (a form that is entitled Request for Decision Review). The day of delivery of comments to the OP RDE MA is the date when the applicant submits the comments. Comments submitted after vain expiration of the above-specified deadlines will not be taken into account by the OP RDE MA, the comments will not be submitted for consideration to the review committee and the result of the phase of the approval process will be considered final.

The applicant is entitled to submit comments only in a situation where there has been a violation of the OP RDE rules by the OP RDE MA, i.e. only in the following cases:

- objective contradiction in comments/objections in the evaluation with applicable legal and methodical regulations, i.e. the call, the follow-up call documentation, the guidelines for evaluators;
- objective contradiction in comments/objections in the evaluation of the actual content of the grant application and its annexes;
- the evaluator criticises the missing description of a part of the grant application and the applicant proves that the description is included in the grant application; failure to

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<sup>128</sup> A person authorised to act on behalf of the applicant.

comply with all procedural steps in the approval process;

- bias / conflict of interest / breach of confidentiality and impartiality of the evaluator.

The applicant is required to prove the subject of comments by unequivocal and objective evidence contained in the grant application. Additional information which is not mentioned in the application or its annexes will not be taken into account by the OP RDE MA.

The applicant is required to submit complete comments, i.e. the additional documents submitted after the deadline will not be taken into account by the OP RDE MA, i.e. they are not presented for consideration of the review commission.

Such comments will not be granted by the OP RDE MA:

- which fail to fulfil any of the above mentioned conditions;
- which are confusing (it is not clear what the applicant claims);
- on the content / justification of the comment of the evaluator or evaluation and selection committee, if this corresponds with the methodology for material evaluation and is consistent with the competences of the selection committee;
- appealing against professional evaluator's opinion without submitting evidence of a breach of a OP RDE rule (e.g. the evaluator criticises the missing (but not insufficient) description of a specific description and the applicant demonstrates in the review request that the description is included in the grant application); appealing against the rejection of funding because of inadequate financial allocation of the call;
- appealing against rejection of funding due to granting the previously submitted grant applications (relevant in the case of continuous calls);
- appealing against rejection of funding due to granting the grant applications, which were rated higher number of points in the objective evaluation (relevant in the case of round calls).

Comments meeting the above mentioned conditions will be reviewed by the review commission. The review commission decides by consensus or voting by majority of all present members with the voting right. The negotiations result in the assessment of the comments, including a justification. The comments are resolved by one of the following ways:

- granting the objections as justified;
- granting the objections as partially justified;
- not granting the objections on procedural grounds;
- not granting the objections on the grounds of it being unfounded.

If the review commission finds the objections as justified or partially justified, the OP RDE MA will perform necessary corrective measures, e.g. insertion of the project back to the approval process<sup>129</sup> (in case of fault evaluation), exclusion of the evaluator from the evaluator database (in case of proven prejudice/conflict of interests of the evaluator).

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<sup>129</sup> Re-evaluation of the grant application is ensured by a corrective evaluator / evaluation committee (in the evaluation phase of the project) or corrective selection committee (at the selection phase).

The applicant cannot submit any further comments against the settlement of the objections.

## **10.2 Comments on the MA source materials in projects under implementation**

Each beneficiary may submit comments against notification of the OP RDE MA, which was issued within the process of the project implementation<sup>130</sup>, **within 15 calendar days** from date of delivery of the notification of the OP RDE MA to the applicant via IS KP14+. Specified deadline starts by date following receiving of the notification by the beneficiary.

The beneficiary<sup>131</sup> submits comments via IS KP14 + (internal dispatch with the form Application for the decision review – see the sample in Annex No. 1). The day of delivery of comments to the OP RDE MA is the date when the applicant submits the comments. After vain expiration of the above-specified deadline, the MA shall disregard it.

The beneficiary is entitled to submit comments only in relation to the act that the OP RDE MA grant has already done and only once in the respective case. Comments must be properly justified by the beneficiary and must be directed towards a specific point / points of the OP RDE MA notice.

Comments which fail to fulfil any of the above mentioned conditions will not be granted by the OP RDE MA.

Comments meeting the above mentioned conditions will be reviewed by the OP RDE MA. The MA will issue an opinion on the comments based on the assessment, i.e. mark comments as justified / partially justified / unjustified, and include a clear justification. In the event that the OP RDE MA finds the comments justified or partially justified, the necessary corrective measures will be undertaken.

The applicant cannot submit any further comments against the settlement of the objections.

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<sup>130</sup> This is e.g. comments on the conclusions of the administrative verification, comments on the suspension of payments or comments on the disapproval of substantial changes.

<sup>131</sup> A person authorised to act on behalf of the beneficiary.

## 11. CHAPTER – OP RDE INDICATORS

The indicators serve for monitoring of course and result of the project implementation, specific objectives and priority axes of the programme regarding the determined objectives. **Adherence of the project main objectives is proved by fulfilling of target values of individual indicators.**

The monitoring is performed at the level of project, as well as in sum for the operation program. The result and output indicators are monitored within individual priority axes of the OP RDE. Their scope is specified in the Operation Programme and their complete overview is given on the web pages of MEYS: <http://www.msmt.cz/strukturalni-fondy-1/op-vvv>.

In the grant application, each applicant is obliged to state target, resp. also input values of prescribed output and result indicators of the project and to describe the method of determination of output and target values, incl. the achieving data. The project indicators have key importance in evaluation of the project and subsequently they are defined as part of the legal act on grant award / transfer (see chapter 6.1). The result and output indicators are fulfilled from the project implementation start to date of termination (physical) of the project implementation, if the call does not specify otherwise.

### 11.1 Glossary of terms

#### Classification of indicators according to their type

- a) Output indicators – indicators intended to monitor and evaluate the performed measures and activities characterizing particular activity. They provide information of actual outputs of the implementation of individual operations/actions/projects within OP RDE. They are usually expressed in physical units or the number of items, people (such as.: 6 00 00 *Total number of participants*, 5 21 00 *Number of supported products*, 2 04 00 *Number of new researcher staff in supported subjects*).

**Each project must feature at least one output indicator.**

- b) Results indicators – indicators with direct link to determined objectives. They serve to prove whether the project/programme objective has been achieved and cover actual effects of the aid. E.g. they contain information on usually middle-term changes due to created outputs, such as increase of the education quality, improving of conditions for research at beneficiaries. The indicators measuring result are important basis for the project control within whole period of its implementation. **Each project must feature at least one result indicator**, if the call or related documentation does not specify otherwise. Eventual links between the output and result indicators are stated in the call.

#### Classification of indicators according to EC terminology

- a) **Common indicators** are the output and result indicators determined at the European Commission level to aggregation of information in the member state and throughout all EU member states.
- b) **Program-specific indicators** are output and result indicators above the frame of common indicators determined by EK, which form part of the indicator system of the operation programme are anchored in the National numeric code of indicators.

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c) **Milestones** are continuous objectives for priority axes/priorities of the Union, which expresses intended progress planned to specific deadline. For each operation program, the milestones are specified in the text of the program.

#### Milestones of the OP RDE priority axes

Priority Axis	Fund	Code	Indicator name
PO1	ERDF	2 40 00	Number of newly built, expanded or modernised research infrastructures and centres of excellence
PO2	ESF	6 00 00	Total number of participants
PO2	ERDF	3 06 00	Acquired information sources
PO3	ESF	6 00 00	Total number of participants

#### Values of indicators

a) **Indicator initial value** – the initial value of the result indicator is last available actual value measured before date of physical implementation of the project. At the ESF result indicators, the initial value is generally zero at the project level. For indicators 5 1610 *Number of children and pupils with needed support measures in the supported organisations*, 5 17 10 *Number of Roma children, pupils and students in supported organisations* and 5 15 10 *Total number of children, pupils and students in the supported organisations*, there is however an obligation to determine the initial value of all projects featuring these indicators. The initial value does not change during the project implementation.

Initial value of the output indicators is always zero.

b) **Target value** of the indicator – at the project level, the target value is defined as plan of the indicator, to which fulfilment the applicant is obliged, incl. date, to which the value should be achieved. **The grant application must always state the method of determination of the target value.** Within the call and the Rules for Applicants and Beneficiaries – the specific part stated by the OP RDE MA is the specification of the indicator, the method of documenting and monitoring.

c) **Indicator achieved value** – the indicator fulfilment value (during or after completion of (physical) implementation of the project). The achieved value is cumulative data from start of the project implementation, or incremental data according to nature of the indicator and its definition. Each value of the indicator is simultaneously related to the achieving date, which must be entered by the applicant/beneficiary/partner according to the actual state, i.e. date of the achieved value may not be confused with the date of its entering to IS KP14+.

#### Breakup / breakup rule

The breakup is division of primary indicator (from project application) to partial indicators, whose fulfilment is notified by the beneficiary within the project monitoring reports. The partial indicators serve to more detailed monitoring of the project implementation. The breakup rule is applied at indicators at the project/programme level. Example is obligation to monitor and exhibit the participants of the project to men and women or monitor and exhibit the implementation

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territory according to region category (distinguishing between the less and more developed regions<sup>132</sup>).

### Count/counting rule

The count is reading of the value from inferior indicators to the superior indicator. The count can be performed from one or more inferior indicators. During count, the values of the inferior indicators are primarily detected and they form basis for automatic counting of the superior indicator, .e. it is sum of indicators with different code. The count is performed at the project level on bass of counting rules for individual indicators (not all indicators must be part of the counting rule, i.e. it may not be superior nor inferior indicator). Example is output indicator 5 21 00 *Number of supported products*, to which, within the OP RDE projects, majority of the ESF output indicators not related with the support of persons, are counted (such as 5 31 01 *Number of new study branches focused on practice*, 5 43 03 *Number of new support tools RDI at regional level*, 5 43 05 *Number of supported partnerships*, 5 49 01 *Number of regional systems*, 5 05 01 *Number of support personal measures in schools* etc.).

### Indicator attributes

- Indicators **obligatory for selection** – indicator, which the applicant/beneficiary within the project must obligatorily monitor and present.
- **Mandatory** indicators – indicators for which the applicant/beneficiary sets the target value, which will be binding and the failure to achieve the value is penalised. Obligatory objective is fulfilment of the values to the date of completion (physical) of the project implementation stated in the legal act on grant award / transfer between the granting authority and grant beneficiary.
- Indicators **restrictive elective** – from the set of indicators, which are included in the stated group. the applicant/beneficiary will select just one or at least one indicator as specified in the call, resp. in the call documentation.
- Indicators **non-obligatory** – these are indicators, which the applicant/beneficiary voluntarily includes to the grant application. In the indicator it is stated, whether the applicant/beneficiary is obliged to determined its target value.
- Indicators **obligatory bound** – in the project, some of the indicators are monitored „bound“, i.e. in case the applicant selects to monitor the indicator A, it must select also the indicator B, and vice versa. Usually the result and output indicators are bound by this manner.

The set obligation to selection (obligatory for selection, restrictive elective - group and non-obligatory) can be combined with setting of obligation for fulfilment.

Obligation of the applicant/beneficiary to only present the indicators, or obligation to the target value, is determined at individual indicators by the OP RDE MA in the call, resp. in documentation for the call.

**Trivial support** – limit determining scope of engagement of the participant to get the required effect from the intervention. It is determined by OP RDE MA at the call/call documentation

<sup>132</sup> Less developed regions, whose GDP per capita is less than 75% of the average GDP in the EU; More developed regions, whose GDP per capita is higher than 90% of the average GDP in the EU (only the capital city of Prague in the Czech Republic).

level. The time allocations of individual passed education events of particular person are summed (it is possible to sum up e.g. seminars, workshops, FTT, praxis, fellowships). At the moment of achieving the trivial support limit, the person is included into indicator 6 00 00 *Total number of participants*. Persons, whose support so-far has not exceed the trivial support limit, are not included so-far into the achieved values of the indicator 6 00 00 *Total number of participants*, but must be logged within the IS ESF2014+.

**The project must be designed so that educational activities of the supported person reach a minimum threshold of trivial support in total** unless the call or related documentation stipulates otherwise.

## 11.2 Instructions for applicants

Complete characteristic (type, code, name, definition, measurement unit, output and target value, periodicity) is stated in all indicators for individual levels of the OP RDE in the National codebook of indicators (NCI) and actual precise definition is available to the applicant on the website of MEYS. **List of indicators of actual call is stated in the call**, resp. in related documentation to the call. OP RDE MA is entitle to limit their number in the call compared to list of indicators stated in NCI in relation to supported activities, however it is not entitled to modify them in any way.

During development of the grant application, the applicant selects **all** relevant indicators, for which it states planned value, i.e. value, which it is obliged to achieve by the project implementation. The latest possible date for fulfilment of the indicator is date of (physical) project implementation completion (if the call does not specify otherwise), which is stated in the legal act on grant award/transfer. Target values of indicators, which are stated by the applicant in the grant application, must correspond with the text of the grant application (e.g. to values stated in description of individual activities etc.).

The indicators include also set of indicators, at which the beneficiary is not obliged to the target value (without obligation to fulfil), but which must be presented during the implementation (within the OP RDE, these are e.g. indicators 5 16 10 *Number of children and pupils with need of support measures in supported organisations*, 2 05 02 *Number of researches working in modernized research infrastructures – women*). Exact specification is always stated in the call, resp. in related documentation to the call.

Within the call, the OP RDE MA may specify the indicator with obligation of minimum fulfilment rate from the indicator target value to specific date. E.g. Minimum 30% of target value of the indicator 6 00 00 must be presented in Report on project implementation submitted to 31. 12 .2018.

On basis of recommendations of Evaluators, evaluating/selection committee, the OP RDE MA is entitled to determine to the project also other indicators, to whose fulfilment is the beneficiary subsequently obliged in the legal act on grant award / transfer. It can be e.g. case, when the applicant neglected some of the indicators, but it is able to present it. The legal act on grant award / transfer may be supplemented beyond the grant application only by indicators stated in the call. In addition, on basis of recommendations of Evaluators, evaluating/selection committee, the OP RDE MA is entitled to modify the target value of the indicator stated by the applicant in the grant application.

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## 11.3 Instructions for beneficiaries

By issuing of the legal act on grant award / transfer with the granting authority, the indicators stated in the grant application **become obligatory**, their non-adherence can be sanctioned and can result in partial or complete withdrawal of the awarded grant. These sanctions can be applied in case of obligatory values even during the sustainability period, if it is determined. The legal act on grant award / transfer includes tolerances for fulfilment of the target values, incl. quantification of financial sanctions for eventual non-adherence of the target values. If the legal act on grant award / transfer specified the allowed tolerance of the indicator values and such tolerance is kept, the grant amount is not decreased.

The beneficiary is obliged to continually monitor fulfilment of all indicators stated in the legal act on grant award / transfer (for ESF also indicators according to Annex I to EC Regulation No. 1304/2013). The achieved values of all these indicators must be presented by the beneficiary in the monitoring report (see chapter 7.1) via IS KP14+. Directly in the form of report on project implementation, the beneficiary indicates achieved values of such indicators, which are not related to the participants. The values are entered in compliance with its logs kept outside the IS KP14+ and supported by needed documentation (below specified requirements to provability of presented indicator values).

Achieved values of indicators related to the participants are transferred to the Report on project implementation entered in IS KP14+ from the IS ESF2014+, to which the beneficiary records the partial data on participants. In each monitoring report the beneficiary fills **for each indicator separately the relevant achieved value, date of achieving of the value and description of method of its achievement**.

The beneficiary at all times complies with actual version of the National codebook of indicators and actual summary of indicators of OP RDE published on web of MEYS.

**Value of indicators** – achieved value of the monitored indicator. i.e. cumulative value of particular indicator for actual course of the project. It is recorded cumulatively, i.e. from date of starting of implementation to date of termination of the monitoring period.

In case the beneficiary finds out during the project implementation, that fulfilment of the project indicators is endangered, it is necessary to implement the corrective measures as soon as possible and to solve such situation with the granting authority.

The OP RDE MA may, on basis of properly justified **application of beneficiary for substantial change**, decide on decrease, resp. increase the target value of the obligatory indicator stated in the legal act on grant award / transfer of air, or on adding of new indicator.

Exceeding of the indicator value is not considered for the substantial change provided that this change is not related to the substantial change of the budget or does not exceed 25% of original target value of the indicator. Material and non-substantial changes are described in detail in chapter 7.2.

**Description of indicators** – relevant comments to individual indicator, particularly how its was achieved, what are the sources to verify the indicators.

**Presenting of indicators** – presented indicators **must be based on proven records** kept by the project beneficiary (partner). For presenting of indicators, the beneficiary shall choose a form

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such that they are always capable of a clear demonstration of presenting the indicator to the OP RDE MA. Recording means e.g. profession portfolio of the pedagogue, documents on passing the FTT, reflective reports, product outputs, contracts, issuing the occupancy permit, approval of test/pilot operation, list of publications, etc., i.e. the presented values must be proven and verifiable for inspection. For individual indicators, required documentation methods are specified in the Rules for Applicants and Beneficiaries – specific part.

On collecting of data needed for documenting of the indicators it is necessary to comply the applicable legal regulations regulating the personal data protection.

Indicators, which must be fulfilled by the beneficiary during the process sustainability, are defined in conditions of the legal act on grant award/transfer (see chapter 6.1).

Retention of documents to prove the indicator values, incl. the participant cards, is governed by Chapter 7.4.

### 11.3.1 Personal data protection

On collecting of data needed for documenting of the indicators 6 00 00 Total number of participants it is necessary to proceed in accordance with Act No. 101/2000 Coll., on personal data protection, as amended (hereinafter the "Personal Data Protection Act"). The beneficiary is entitled to process personal or sensitive data of the supported person within the scope defined in these rules. Monitoring such data is public personal data processing. The beneficiary shall take all measures to prevent unauthorised or accidental access to these data, their alteration, destruction or loss, unauthorised transfers, other unauthorised processing.

The beneficiary is entitled to process personal data solely in relation with implementation of the project, particularly during the preparation of the Project Implementation Reports. The beneficiary is entitled to process personal data in accordance with Section 5(1)(e) of Personal Data Protection Act, No. 101/2000 Coll., until 31. 12. 2033, i.e. a period during which the European Commission is entitled to conduct the inspection of the Research, Development and Education Operation Programme. The beneficiary is obliged to dispose of this personal information without undue delay after this period.

The beneficiary does not notify the Office for Personal Data Protection of the personal data processing. In this case, the processing occurs under the ESIF regulation, therefore Section 18(1)(b) of Personal Data Protection Act is applied.

### 11.3.2 Common indicators

- a) For the programmes co-finance by **ERDF**, the common output indicator are based on annex I to the Regulation No. 1301/2013. Relevant indicators for the OP RDE: 2 04 00 *Number of new research staff in supported subjects*, 2 05 00 *Number of research worker working in modernised research infrastructures* and 2 00 00 *Number of enterprises cooperating with the research institutions*.
- b) For the programme co-financed from **ESF**, the annex I to the Regulation No. 1304/2013 defines common indicator of output and result, by means of which is monitored *the Total number of participants* in interventions classified to the gender, age, position at the job market, education etc. In compliance with the Regulation on ESF „*the participants means the persons, which have direct benefit from the ESF intervention, who may be identified and*

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*requested for characteristics, and to which the particular expenditures are assigned. Other persons are not considered for participants“.*

## **Monitored data on participants**

### **Partial data before finishing of participation of person in the project:**

- Name, surname, birth date and domicile;
- Categorizing of participants according to gender (male/female);
- Position of the participant at job market (unemployed, long-term unemployed, inactive persons, who are not in the process of education or vocational training, employed, self-employed, inactive persons – other);
- Category of age group (to 25 years, above 25 years, above 54 years, which are unemployed, even long-term, or inactive, and are not in the educational or vocational training process);
- highest achieved education<sup>133</sup>:
  - With completed primary (ISCED 1) or lower secondary (ISCED 2) education;
  - With completed higher secondary (ISCED 3) or post-secondary (ISCED 4) education;
  - With completed tertiary education (ISCED 5 to 8);
- family background (participants living in households, whose No. member is employed, participants living in households, whose No. member is employed and whose members are also dependant children, participants living in households, between whose members is only one adult person and dependent child, others);
- Type of disadvantage (migrants, participants originating abroad, minorities – incl. marginalised groups, such as Roma<sup>134</sup>, participants with health disability<sup>135</sup>, other disabled persons<sup>136</sup>;

<sup>133</sup> According to the International Standard Classification of Education – ISCED.

(<http://www.naep.cz/image/content-management/ISCED%20klasifikace%20vzdelavani.pdf>)

<sup>134</sup> Persons who have not been granted permanent residence in the Czech Republic, come from outside of the Czech Republic, belong to a minority or need special aid at the job market because of language or other cultural problems. National minorities in the Czech Republic are listed exhaustively in Article 3 of the statute of the Government Council for National Minorities.

<sup>135</sup> According to Section 67 of Act No. 435/2004 Coll., persons with disabilities are physical persons who are recognized by the social security body a) invalid in the third degree, b) invalid in the first or second degree, c) physically disadvantaged. This category also includes physical persons who have been recognized physically disadvantaged by the Labour Office of the Czech Republic and the decision remained in effect. In case of projects involving schools and school facilities, in addition to the foregoing, the physically disabled participants are also children, pupils and students with disabilities in accordance with Section 16 of Act No. 561/2004 and Decree No. 73/2005, who need special help in learning because of their handicap. Persons may have several disadvantages.

<sup>136</sup> Persons who are neither migrants and minorities nor physically disabled, but they still need special help at the job market because of their handicap, which is defined and adopted on the national level.

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- homeless or persons excluded from access to boarding;
- people from rural areas<sup>137</sup>.

**Partial data after finishing of participation of person in the project:**

- Inactive participants, which start to search job after finishing of their participation<sup>138</sup>;
- Participants in the educational/vocational training process after finishing of their participation;
- Participants that obtained the qualification after finishing of their participation<sup>139</sup>;
- Participants employed after finishing of their participation, incl. self-employed;
- handicapped participants, which after finishing of their participation start to search job, are in the educational/vocational training process, improve their qualification or are employed, also self-employed;
- Place of work/study.

Accurate text of the partial indicators to the indicator 6 00 00 *Total number of participants*, incl. code and definitions, is available to the applicant in the overview of indicators at web of MEYS.

**The subject of inspections** (from the OP RDE MA level and other inspection authorities) will not be verification, whether the participant really exhibits the characteristic presented in the participant card (or other declaration / document), on basis of which the beneficiary determined the indicator achieved value. Inspection on site shall check whether the participant card is completed and signed.

The beneficiary keeps continuous records in IS ESF 2014+ of all persons engaged in the project and maintain relevant documents from individual events **to prove the length of event**. Records must be registered at the latest in relation to the completion of the project, i.e. at the time of the final report on project implementation.

Based on the data available to the participants in the IS ESF 2014+ within a specific project, IS ESF 2014+ can calculate the values of indicators related to the project participants and pass these to IS KP14+ as part of the Project Implementation Report. For these reasons, the beneficiary cannot directly modify the data in KP14 IS+ on the indicators related to the project participants.

Once a specific person is supported within a project, the beneficiary is obliged to ensure completing and signing the participant card for that person. The participant usually completes the card electronically, then it is electronically sent to the IS ESF 2014+ and also printed, signed by the participant and filed with the beneficiary for inspection on site. At the end of the support, each participant will complement and sign partial data required by Regulation No.

<sup>137</sup> In the Czech context, the countryside is usually identified as rural municipalities with the statistical threshold of 3,000 inhabitants.

<sup>138</sup> The person who started looking for a job is considered the project participant who has registered at the Labour Office.

<sup>139</sup> These include those who have received a certificate of qualification awarded on the basis of a formal verification of knowledge, which showed that the participant has acquired the qualification according to predefined standards.

1304/2013 in the participant card, i.e. if the participant is in the educational/vocational training process after the termination of support.

If the beneficiary, regarding the supported participant, **does not exhibit the partial indicators to the indicator 6 00 00 *Total number of participants***, such person will not be included to achieved value of the indicator 6 00 00 *Total number of participants*. In spite of this the beneficiary exhibits such a person in the other indicators of supported persons (such as 5 40 01 *Number of supported employees with university decree*, or 5 40 00 *Number of supported persons – employees in educational area*) and documents successful engagement of the supported person in the project, e.g. by document on passing the course, report from thematic meetings, report from passed fellowship. The supported person shall be recognized in the indicator 6 00 00 once they have crossed the threshold of trivial support, even if it is not presented in the other indicators of supported persons. They will for example not complete the course, but they will spend more time in it than the limit for trivial support. If the person did not gain a certificate / other proof on the grounds of not completing the course, it is then recommended to indicate it the in brief description.

### Other common indicators

In addition to indicators related to the participants, in compliance with the Annex 1 to the EC Regulation No. EC 1304/2013, the applicants/beneficiaries are obliged, where relevant, to present the indicators 6 20 00 *Number of projects performing completely or partly by the social partners or non-government organisations*, 6 22 00 *Number of project focused to the public administration authorities and public services at the national, regional and local level*, 1 01 06 *Number of supported micro-enterprises, small and medium-size enterprises* and 6 21 00 *Number of project focused to sustainable employability of women and sustainable progress of women in job*.

### 11.3.3 Programme-specific indicators

If the call requires from some of the ESF or ERDF indicator filling of annex to the grant application „**Overview of key outputs to fulfil the project indicators**“, particular output is included only after fulfilment (creation) or all key outputs specified in the annex. Eventual change of the plan is controlled by the procedures stated in Chapter 7.2.2 Rules for Applicants and Beneficiaries – General section, as substantial change of the project, which does not result in change of the legal act on grant award / transfer.

Within the implementation, the annex „Overview of key output to fulfil the project indicators“ is attached to the Report on project implementation (see Chapter 7.1) with list of created key outputs in the audited (monitored) period. In addition, the beneficiary proves by the affidavit that the original document proving the outputs are saved in the project documentation for the inspection on site. The OP RDE MA may ask for the submission of key outputs during inspection of the PIR, or as stipulated in specific rules for a particular call.

### ESF output indicators

The ESF output indicators of OP RDE are of two types: supported **persons and supported products**.

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**The indicators of persons** include for example the indicator 2 08 06 *Number of supported persons involved in the management and implementation of VaVI policy*, 2 40 01 *Number of supported employees with a university degree* 5 43 11 *Number of students studying abroad*, 5 40 00 *Number of supported persons – employees in the educational area* and more, and the indicator 6 00 00 *Total number of participants*.

All of these indicators, except indicator 6 00 00, exhibits the supported persons.

- a) **Supported person** is any person who enters the project and receives aid related to the education financed from the project budget.

Each person is presented in such amount, how many times he/she was supported in various types of education.

However, the supported person is **never**:

- a person who received only financial grant, i.e. wages, reward for work during project implementation, i.e. both administrative and specialist staff, incl. the „service provider“; such persons can be presented only if they were also the target group, i.e. were educated;
- a person, who visits or register at certain internet portal, without longer, systematic and direct collaboration (this person only visits the internet pages);
- a person, who only receives the leaflet;
- a visitor of Open Door event;
- a person who participated in a conference on the implemented project;
- a person who participated in informational or educational events (e.g. events presented under the indicator 5 10 16, 5 10 17);
- other specified call-related documentation.

Method of person including:

- If, within one project, the person educates in "x" modules/courses of the other type and/or individual educational module/courses are not linked together, such person is included to the supported persons just "x-times". Typical example covers passing of ICT courses and foreign language course.
- If, within one project, the person educates in "x" modules/courses of the same focus and/or individual educational module/courses are linked together, such person is included to the supported persons just "one times". Typical examples of this situation are various levels of the English language courses, where there is always obligation to pass the previous or lower grade of the English language course.

The supported person is presented, as soon as he/she successfully finishes the support. Conditions of successful finishing of the support of given type must be clearly determined in the project application (e.g. receiving of certificate, completion of fellowship, passing of specific number of educational hours, passing of test, written test, report from thematic meetings, accepting of paper thesis as the course output etc.). **For e-learning courses**, the same value is recorded to all persons who completed the course, that is the time allocation of the course, which is presented in the materials for this course or in its introduction. It is not necessary to register how long the person actually worked in the e-

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learning program. It is, however, necessary to provide information about the length of time for which a person actually participated in the course in case of persons who did not complete the e-learning course.

Persons reported in the output indicator are also reported in the result indicators.

Indicator 6 00 00 **Total number of participants** is the number of persons presented in the indicators of supported persons decreased by repeated support, i.e. each particular person supported within the project is presented only once. To each of the presented person, the indicators are also presented according to annex No. 1 of the Regulation No. 1304/2013 in the participant card. The participant is included at moment, when it fulfils minimum limit of trivial support determined in the call, resp. in the call documentation.

b) The **product** indicators include e.g. 5 29 01 *Number of newly created accredited study programmes in the Czech language*, 5 21 04 *Number of products of the advisory and assistance support*, 5 43 03 *Number of new support tools RDI at the regional level*, 5 49 02 *Number of national systems and their components*, 5 43 01 *Number of new project proposals prepared under support of Smart Accelerator* etc.

All product indicators are inferior and are automatically counted to the superior indicator 5 21 00 *Number of supported products*. This is not project indicator; thus it is not available for the beneficiary. Nevertheless, this counting rule shows that one particular created product cannot be presented in more indicators to prevent repeated counting into the superior indicator.

Supported products OP RDE can be of material or non-material nature. The non-material products cover particularly the provided services and created systems, as well as implemented events.

Quality of created products is evaluated by the granting authority, mainly regarding the view, whether the paid financial means correspond with the product quality.

In case that within the project a product is created, which represents subsequent stages of one process or one output, then it is counted only highest stage of the process and/or output.

### Result indicators

All result indicators must be firstly presented at least in the last but one Report on project implementation, if the call or related documentation does not specify otherwise. Their final achieved value is presented and documented in the last PIR.

Specific person, specific organisation, publication, patent application, graduate etc. is included in the outcomes within the project only once, unless a definition, call or related documentation stipulates otherwise.

All results of the research and development projects presented within the ERDF indicators must be in database Thomson Reuters Web of Science or Scopus (and also in RIV) recorded in a way showing their link to the projects from OP RDE.

## 11.4 Penalties due to beneficiary irregularity

The legal act on grant award/transfer obligates the beneficiary to fulfil the obligatory indicators, incl. specific sanctions for their non-fulfilment. Sanctions can be specified also for the sustainability period. Particular amounts of sanctions are specified in relevant legal act on grant award / transfer.

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Penalties are set individually for each indicator, or determined by the average, especially for output, outcome indicators and milestones.

#### Example of set sanctions by average:

If, on the basis of the legal act on grant award / transfer, the beneficiary has set the obligatory target value for more output and/or result indicators, the non-fulfilment rate of the obligation will be calculated as average of percent achieved values separately for the output and result indicators. But exceeding above 100 % is always counted only as 100 %.

Milestone (one of the output indicators – 6 00 00, 2 40 00, 3 06 00) is evaluated separately and thus is not included in the calculation of the output average.

#### Variant A (for project including milestone)

The rate of fulfilling of the value of <b>output</b> indicators in relation to the data determined in the legal act	Deduction amount
when the output average reaches below 35%	deduction amount which was determined according to the breach of budgetary discipline, regardless of the results and milestones
when it is in the interval from 35 % and less than 85 %	deduction amount from the grant total according to the formula: $x = (85 - n) \times 0.7$
when it reaches 85% and more	it is not considered a suspected breach of budgetary discipline

x = deduction amount (%)

n average fulfilment percent of outputs

The rate of fulfilling of the value of <b>output</b> indicators in relation to the data determined in the legal act	Deduction amount
when the output average reaches below 40%	deduction amount which was determined according to the breach of budgetary discipline, regardless of the fulfilment of output indicators and milestones
when it is in the interval from 40 % and less than 90 %	reduced deduction from the grant total according to the formula: $x = (90 - n) \times 0.7$
when it reaches 90 % and more	it is not considered a suspected breach of budgetary discipline

x = deduction amount (%)

n average fulfilment percent of results

The rate of fulfilling of the value of <b>milestone</b> indicators in relation to the data determined in the legal act	Deduction amount
when the milestone fulfilment reaches below 65%	deduction amount which was determined according to the breach of budgetary discipline, regardless of the fulfilment of output and result indicators
when it is in the interval from 65% and less than 95%	deduction amount from the grant total according to the formula $x = (95 - n)$
when it reaches 95 % and more	it is not considered a suspected breach of budgetary discipline

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x = deduction amount (%)  
n is the average percentage of the milestone fulfilment

#### Variant B (for projects without milestone)

The rate of fulfilling of the value of <b>output</b> indicators in relation to the data determined in the legal act	Deduction amount
when the output average reaches below 35%	deduction amount which was determined according to the breach of budgetary discipline regardless of the fulfilment of output indicators
when it is in the interval from 35% and less than 85%	deduction amount from the grant total according to the formula $x = (85 - n)$
when it reaches 85% and more	it is not considered a suspected breach of budgetary discipline

x = deduction amount (%)  
n average fulfilment percent of outputs

The rate of fulfilling of the value of <b>output</b> indicators in relation to the data determined in the legal act	Deduction amount
when the output average reaches below 40%	deduction amount which was determined according to the breach of budgetary discipline regardless of the fulfilment of output indicators
when it is in the interval from 40 % and less than 90 %	deduction amount from the grant total according to the formula $x = (90 - n)$
when it reaches 90 % and more	it is not considered a suspected breach of budgetary discipline

x = deduction amount (%)  
n average fulfilment percent of results

## 12. CHAPTER – PROCUREMENT AND EXAMINATION PROCEDURES

### 12.1 Effect

- 1) This chapter sets out the rules for awarding further defined contracts co-financed from the OP RDE and rules for the inspection of all contracts co-financed from OP RDE.<sup>140</sup>
- 2) Contracting authorities, which are public or funded submitters according to Section 2 par. 2 and 3 Public Procurement Act, are obliged to place the contracts of the small value by procedures regulated by sections 12.2 and 12.3, unless specified expressly otherwise. The contracting authorities are not obliged to submit these procedures for contracts of small value adhering the conditions for use of exception specified in Section 18 par. 1 to 4 of

<sup>140</sup> References to the provisions of the Public Procurement Act and related regulations listed in this section are after the effective date the Public Procurement Act applied with regard to its relevant provisions and related legislation.

Public Procurement Act or condition for use of the routine proceedings without publication according to Section 23 of Public Procurement Act, however the principles specified in point 12.2.1 must be adhered to.

- 3) The contracting authorities, which are sector contracting authorities according to Section 2 par. 6 of the CoPP are obliged to place the contracts of small value and contracts of higher value, whose presumed value does not achieve the financial limit for sector contracting authorities according to the Government Decree No. 77/2008 Coll., on determination of financial limits for purposes of the CoPP, as subsequently amended, by the procedures specified in sections 12.2 and 12.3, unless specified expressly otherwise. The contracting authorities are not obliged to submit these procedures for contracts of small value and contracts of higher value not achieving the specified financial limit adhering the conditions for use of exception specified in Section 18 par. 1 to 19 of Public Procurement Act or condition for use of the routine proceedings without publication according to Section 23 of Public Procurement Act, however the principles specified in point 12.2.1 must be adhered to.
- 4) The contracting authorities, which are not contracting authorities according to the CoPP, are obliged to place the contracts of small value and the contracts of higher value by procedure specified in sections 12.2 and 12.3, unless specified expressly otherwise. The contracting authorities are not obliged to submit these procedures for contracts of small value and contracts of higher value adhering to conditions for use of exception specified in Section 18 par. 1 to 4 and Section 19 of the CoPP or condition for use of the routine proceedings without publication according to Section 23 of the CoPP, however the principles specified in Clause 12.2.1 must be adhered to.
- 5) Contracting authorities referred to in paragraphs 2 and 3 are not obliged to follow procedures for contracts of small value, that is those with the estimated value lower than the amount of CZK 400,000 without VAT, as stipulated in Sections 12.2 and 12.3. Contracting authorities referred to in paragraph 4 are not obliged to follow procedures for contracts of small value, that is those with the estimated value lower than the amount of CZK 500,000 without VAT, as stipulated in Sections 12.2 and 12.3. In these cases the contracting authority may decide on direct purchase or direct contract of the required performance. This provision does not exclude the obligation of the contracting authority to proceed in compliance with principles specified in the Clause 12.2.1 and the obligation to determine the presumed value in compliance with Clauses 12.2.5 and 12.2.6.
- 6) The contracting authorities are not obliged to use the procedures specified in sections 12.2 and 12.3 for contracts of small value for services and deliveries in cases, where such contracts were placed as long-term ones, not only for individual project, but for standard activities of the submitter, if the price of contracts complies to prices usual at the time and place, the contractual terms are not modified due to the project and in addition the contracts were placed at least 6 months before date of physical implementation of project financed from OP RDE, or before putting the grant application from OP RDE, and applies the earlier date.
- 7) The contracting authorities may place the contracts of small value or contracts of higher value according to stricter procedures than the conditions specified in sections 12.2 and 12.3, incl. placing of such contracts in the procurement procedure proceeding according to CoPP/PPA.

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- 8) Section 12.4 (Inspection of selection and contract proceedings) applies to all contracts co-financed from OP RDE regardless the type of contracting authority or presumed value of the contract, if not specified explicitly otherwise.

## **12.2 General provisions**

### **12.2.1 Procurement procedure principles**

- 1) When placing a contract, the contracting authority is obliged to adhere to the principles of transparency, equal treatment and non- discrimination.
- 2) The contracting authority may not limit the participation in the procurement procedure proceeding to suppliers, which are based or headquarters in other EU member state. The contracting authority is obliged to adhere to the rules and principles of the The Treaty on the Functioning of the European Union. These principles cover free movement of goods, free movement of services, non-discrimination, equal treatment, transparency, proportionality and mutual recognition.
- 3) according to the Act on Financial Supervision, in the public administration, the contracting authorities must handle the public means in compliance with rules of economy, efficiency and purposefulness.

### **12.2.2 Type of contract according to subject**

- 1) The contracts are divided according to subject to contracts for procurement of goods, construction contracts, or services contracts.
- 2) Contract for procurement of goods is a contract, whose subject is acquisition of an item („goods“), particularly by purchase, purchase with instalments, hiring or tenement of the goods, or hiring or tenement of goods with right of subsequent purchase (leasing). In addition, the contracts for procurement of goods can include contracts, whose subject is, aside from provision of goods according to previous sentence, also procurement of service or construction works covering location, assembly or commissioning of such goods, if it is not implementation of construction, unless the activities are not main purpose of the contract, but are necessary to fulfilment of the contract for procurement of goods.
- 3) Construction contract is a contract with following subjects
  - a) implementation of construction work related to some of the activities stated in the annex No. 3 to Public Procurement Act,
  - b) implementation of construction works according to letter a) and related design or engineering activity; or
  - c) implementation of construction, which is result of the construction or assembly works, or also related design or engineering activity, and which as a whole able to fulfil separate economical or technical function.

The construction contract is also the contract, whose subject is, in addition to fulfilment according to letter a) to c), also provision of deliveries or services necessary to implementation of the order by the supplier.

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The construction contract is also the contract of construction works acquired with use of mediating or similar services provided to the contracting authority by a third person.

- 4) Services contract is a contract, which is neither a contract for procurement of goods nor construction contract. The contract for services is also a the contract, whose subject is, in addition to provision of services, also
  - a) contract for procurement of goods according to par. 2, if the presumed value of the provided services exceeds presumed value of delivered goods; or
  - b) construction contract according to par. 3 letter a) to c), if the construction works are not main purpose of the contract, but their implementation is necessary for fulfilment of the contract for services.

### **12.2.3 Type of contract according to presumed value**

- 1) For purposes of this chapter, the contracts are classified according to presumed value to the contracts of
  - a) small value and
  - b) higher value.
- 2) The contract of small value is the contract, whose presumed value does not achieve 2 million CZK VAT excl. in case of the contract for procurement of goods and/or services, or 6 million CZK VAT excl. in case of a construction contract.
- 3) The order of higher value is contract for procurement of goods and/or services, whose presumed value is at least 2 million CZK VAT excl. The contract of higher value is construction contract, whose presumed value is at least 6 million CZK VAT excl.

### **12.2.4 Determination of contract subject**

- 1) The contracting authority determines the subject of one contract in such manner, that the subject of the one contract is (are):
  - a) all deliveries, whose subject form one functional unit, or
  - b) all similar and related deliveries, where the related deliveries are the ones related mutually regarding the place, subject or time.
- 2) On determination of the order subject, its is not possible to specify in the procurement procedure terms the requirements or references to the trade companies, names and surnames, specific identification of goods and services, which apply significantly for particular person, or its state organisation unit, patents for inventions, patterns, trademarks or identification of origin, if it could lead to preference or excluding of certain applicants or particular products.

Such reference may be exceptionally admitted, if

- a) its non-usage would prevent clear and precise determination of the order subject, but the contracting authority itself must explicitly enable in the procurement procedure terms usage of other, qualitatively and technically similar solutions for the order delivery, or

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- b) it is construction contract and its specification does not lead to unjustified limitation of the economic competition, and in such case the contracting authority itself explicitly enables in the procurement procedure terms usage of other, qualitatively and technically similar solutions for the delivery, or
  - c) the subject of delivery would be incompatible with the equipment or systems already used and their adoption would result in extreme difficulties for the operation of the contracting authority; in such case the contracting authority can in the procurement procedure terms specify the delivery subject in more details.
- 3) Facts stated in the previous paragraph must be proven by the contracting authority on request of the OP RDE MA.

### **12.2.5 Determination of presumed value of contract**

- 1) Presumed value of the contract means the presumed amount of financial obligation arising for the contracting authority resulting from the contract fulfilment. The contracting authority is obliged to determine the presumed value of the contract for purposes of the procedure in the procurement procedure proceeding before its start. In determination of the contract presumed value, the decisive is always price without VAT, i.e. price to the day of start of the procurement procedure proceeding.
- 2) In determination of the contract presumed value, the contracting authority is based on information data and information on contracts of the same or similar delivery subject or on data / information gained by the market research with requested performance subject, or information gained by other suitable method.
- 3) In case the contracting authority intends to conclude the contract for indefinite term or to term, whose duration cannot be precisely specified, it is obliged to determine the presumed contract value on the basis of presumed amount of the financial obligation for 48 months.
- 4) On request of OP RDE MA, the contracting authority is obliged to prove the method of determination of presumed value of the contract.

### **12.2.6 Splitting of the contract subject**

- 1) The contracting authority shall not split the contract subject to decrease the presumed value below the financial limits determined in CoPP/PPA/RfAB and to place the contract by other (less strict) procedure as compared to the total presumed value.
- 2) On determination of the presumed contract value the contracting authority is obliged to add up the presumed values of similar, related deliveries or services, which it intends to acquire during the accounting period. It does not apply to deliveries and services, whose unit price varies during the accounting period<sup>141</sup> and the contracting authority acquires the deliveries or services repeatedly according to actual needs.
- 3) The contracting authority is not obliged to sum up the presumed values of contracts, which will be acquired „at random“, according to completely current needs of the contracting authority, which cannot be objectively anticipated (such as contract placed in extreme

<sup>141</sup> The accounting period is defined by Section 3, Par. 2 of Act No. 563/1991 Coll., on Accounting, as amended.

emergency cases as result of unpredictable damages and loss of certain material values etc.).

- 4) In doubts whether the contracting authority adhered to the obligations specified in the previous paragraphs, the burden of proof lies with the contracting authority.

## **12.3 Procurement procedure for contracts of small value and higher**

### **12.3.1 Types of procurement procedures**

- 1) The contracting authority can place the order:
  - a) on basis of a closed call for bids, if it is a contract of small value,
  - b) on basis of open call, or
  - c) on electronic marketplace.
- 2) In placing of the order on basis of the closed call, the contracting authority invites in writing at least three applicants to place bids. The contracting authority invites only such applicants, about which it knows, that they are eligible to place the bid, to fulfil all requirements of the contracting authority and to fulfil requested delivery. The contracting authority shall not invite repeatedly the same set of applicants, unless it is justified by the contract subject or other special circumstances, resp. cancellation of previous procurement procedure.
- 3) In case of open call, the contracting authority announces, in open call to unlimited number of suppliers, its intent to place the order in this procurement procedure. The open call notification is an invitation to the suppliers to submit their bids. The open call announcement must be published by the contracting authority for the whole time period for submitting of bids on the contracting authority profile.
- 4) If enabled by the order subject, the contracting authority may place the order at the electronic marketplace. If the government resolution obliges the contracting authority to place the orders by means of the electronic marketplace, it is obliged to fulfil such a resolution. Placing of the order on the electronic marketplace is performed by the contracting authority in compliance with the rules for the electronic marketplace, and in such case the provisions of the RfAB regulating procurement procedure are not applied<sup>142</sup>. However, the principles specified in Clause 12.2.1 must be complied with.
- 5) Orders for additional construction works or services whose need has arisen due to circumstances which cannot be anticipated by the contracting authority with proper care and which are necessary for the implementation of the original order for the services or construction works may be placed by the contracting authority to the actual supplier provided that additional construction works or additional services cannot be technically or economically separated from the original order, if such separation would result in significant harm to the contracting authority, or in spite of the fact that such separation is technically or economically possible, the additional construction works or additional services are completely necessary for finishing of the subject of the original order, and in addition the

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<sup>142</sup> For more information on the electronic marketplace see <http://www.portal-vz.cz/cs/Informacni-systemy-a-elektronicke-vzdelavani/NIPEZ-El-trziste-verejne-spravy>.

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total scope of the additional construction works or additional services does not exceed 50% of original order price.

### 12.3.2 Contractual terms

- 1) The invitation to submit a bid or open call invitation needs to contain at least:
  - a) Identification data of the contracting authority<sup>143</sup>,
  - b) Name of the contract,
  - c) Information, whether its is procurement procedure according to CoPP/PPA,
  - d) Type of contract (delivery of goods, construction, services),
  - e) Description of the contract subject in details necessary to process the bid,
  - f) Time and location of contract fulfilment,
  - g) Basic evaluation criterion, which is lowest offered price or economic advantage of the bid and any partial evaluation criteria,
  - h) Method of evaluation of the bids according to specified evaluation criteria,
  - i) Conditions and requirements for elaboration of the bid (what data related to the contract subject and its implementation should be specified by the applicants to enable to the contracting authority to evaluate the compliance of the bid with the contract terms),
  - j) when it is the contract of higher value, requirement to submit the draft contract for implementation of the contract, if the draft contract is not part of the contract terms,
  - k) Requirement to processing method of the offered price,
  - l) Requirement to variants of bids, if allowed by the contracting authority,
  - m) Deadline and place for submission of the bid,
  - n) Information on provision of additional information in compliance with section 12.3.4.
- 2) The contractual terms may include particularly:
  - a) Requirements to prove the participant qualification fulfilment, if the contracting authority specifies the qualification prerequisites,
  - b) Business terms, including payment terms, or binding draft contract,
  - c) Requirement to specification of the part of the contract, which the supplier intends to assign to one or more subcontractors, incl. identification data of each subcontractor.
- 3) Basic evaluation criterion for placing the order is:
  - a) lowest offered price, or

<sup>143</sup> Identification data mean a business name or name, address, identification number, if assigned, if it is a legal person and a business name or name and surname, place of business or place of residence, identification number, if assigned, if is a natural person.

- b) economic advantage of the bid; in such case the contracting authority determines always the partial evaluation criteria to be related to the contract implementation and express the relation of the use value and price; the partial evaluation criteria may be particularly offered price, quality, technical level of offered delivery, aesthetic and functional characteristics, properties of the performance related to the influence to the environment, effect to employment rate of persons with health handicap and persons with limited access to the job market, operating expenses, cost return rate, warranty and post-warranty service, securing of deliveries, delivery deadlines or completion term, as well as organisation, qualification and experience of persons engaged in the implementation of the public order, if they significantly affect its performance; the partial evaluation criteria cannot be qualification prerequisites, contractual terms, whose purpose is ensuring of obligations of the supplier, or payment terms.
- 4) If the contracting authority determines in the contract terms the qualification prerequisites for implementation of the contract, it is obliged to limit the scope of required qualification only to information and document directly related to the contract subject, and is not entitled to determine such qualification prerequisites, which could lead to substantial limitation of the economic competition and which could be replaced, regarding the needs of the contracting authority, with specification of corresponding contract terms. The contracting authority is obliged to determine reasonable method for documenting of fulfilment of the qualification regarding other contract terms, mainly regarding the length of the deadline to submit the bids.

### **12.3.3 Deadline to submit the bids**

- 1) Length of deadline for bids submission must be determined with regard to the order subject.
- 2) Deadline to submit the bids starts:
  - a) in case of contract closed on basis of a closed call, on the day following after date of submission of the call for bids to the applicants; or
  - b) in case of contract closed on basis of an open call, by the day following the date of publishing of the announcement of open call on the contracting authority profile.
- 3) Deadline to submit the bids cannot be shorter than:
  - a) 10 calendar days for small value contracts,
  - b) 15 calendar days for contracts of higher value,
  - c) 35 calendar days for orders of higher value, whose presumed value achieves at least financial limit for sector contracting authorities according to the Government Decree No. 77/2008 Coll. determining the financial limits for purposes of Public Procurement Act as subsequently amended.

To comply with the time limit in accordance with Letter a) to c), only full calendar days are decisive (the time period from 00:00 to 24:00). If the last day of deadline to submit the bids falls to the Saturday, Sunday or bank holiday, the contracting authority is obliged to determine the last day of the deadline to following business day.

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#### **12.3.4 Additional information and modifications of contract terms**

- 1) The supplier is entitled to request additional information regarding the contract terms from the contracting authority in writing. The written request must be delivered to the contracting authority at least 6 business days, and in case of contract of the small value at least 4 business days, before expiration of the deadline for bids submission.
- 2) The contracting authority attaches the additional information to the contract terms, resp. related documents, at least 4 days, and in case of contract of the small value at least 2 business days, after delivery of the request according to the previous point.
- 3) Additional information, incl. precise text of the request according to the par. 1, must be sent by the contracting authority at the same time to all applicants, which were invited within the closed call, or it published them by the same method, as the open call notification.
- 4) The contracting authority may provide the additional information also without any request. The paragraphs 2 and 3 apply similarly.
- 5) If the contracting authority performs (by means of additional information) modification of the contract terms, it must reasonably extend the deadline for bids submission based on nature of the performed modification. In case the modification of the contract terms is such that it can extend the scope of potential suppliers, the contracting authority will extend the deadline in a way, that it must be whole original length of the deadline for bids submission from the moment of the modification.

#### **12.3.5 Bids negotiation**

- 1) The contracting authority can reserve in the contract term that it shall discuss the submitted bids with the applicants. In such a case, the contracting authority shall indicate in the invitation to submit a bid or in the open call notification the following information:
  - a) Method and principles of dealing with applicants regarding bids,
  - b) Method of selection of the applicants to further stage of the proceeding, if the contracting authority decides to gradually decrease the number of applicant according to par. 8, whose bids will be discussed in individual stages.
- 2) After opening of envelopes with bids and after evaluation and evaluation of the bids according to section 12.3.7, the contracting authority announces in writing to all applicants, whose bids have been evaluated and have not been excluded, the preliminary result of evaluation of the bids. At the same time with the notification on preliminary result of evaluation of bids, the contracting authority in writing invites the applicants to first bid negotiation and states the time, place and language of the negotiation.
- 3) The contracting authority is entitled to deal with the applicants on all terms of the performance included in the bids, particularly on conditions, which are subject of the evaluation. The contracting authority is not entitled to modify the contract terms during dealing on the bids.
- 4) The contracting authority may assign the dealing on the bids to the evaluation committee, some of its members or authorised person.

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- 5) During the bids negotiation, the contracting authority is not entitled to communicate to the applicants the data related to bids of other applicants without previous approval of such applicant, except the actual bid price and other figures decisive for the evaluation.
- 6) The contracting authority may negotiate the bids with all participants individually or simultaneously.
- 7) The contracting authority compiles record from each bids negotiation with specification of all provisions, which can result in change of the offer or draft contract (hereinafter referred to as "meeting record"). The meeting record is signed by the contracting authority and applicant(s) participating in the bids negotiation.
- 8) After each stage of the bids negotiation, the contracting authority determines on basis of the negotiation results the order of the applicants. The order of the applicants is determined by the contracting authority on basis of evaluation criteria, always in use of all evaluation criteria. The contracting authority is obliged to compile a report on determination of order of applicants with results of evaluation of the bids negotiation, order of applicants and information, with which applicants it will further deal in the next stage (hereinafter referred to as „report on final evaluation result“). Without improper delay, the contracting authority is obliged to send a report on final evaluation result to all participants, with which it negotiated at the particular stage.
- 9) Before any stage of bids negotiation, the contracting authority may notify the applicants that it is the last bids negotiation, and the contracting authority may also agree on this in writing on this fact with all applicants at any time.

### **12.3.6 Opening of envelopes, assessment and evaluation of bids**

#### **A. Common provisions**

- 1) Opening of envelopes, evaluation and evaluation of bids is performed by:
  - a) contracting authority,
  - b) evaluation committee nominated by the contracting authority, or
  - c) other person authorised by the contracting authority (hereinafter referred to as „authorised person“); this procedure is possible only for closing contracts of small value.
- 2) The evaluation committee shall have at least three members. Majority part of the evaluation committee members must be present at opening the envelopes and at each meeting of the evaluation committee. The evaluation committee decides by majority of votes of present members. The contracting authority may assign also substitutes for members of the evaluation committee.
- 3) The report is elaborated on opening of envelopes, evaluation and evaluation of the offers, and the report must include at least
  - a) List of recommended bids, incl. identification data of the participants,
  - b) list of applicants invited to amendment/explanation of the bids, if invited,
  - c) List of excluded bids and justification of the bids exclusion, if excluded,

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- d) Description of method and justification of evaluation of the bids, if the economic advantage of the offer is the evaluation criterion,
- e) Result of evaluation.

The protocol is signed by all present members of the evaluation committee, resp. contracting authority or person authorised by it.

#### **B. Opening of envelopes and bids submitted in electronic form**

- 1) The envelopes shall not be opened before expiration of deadline to bids submission. Only envelopes delivered within the deadline of bids submission are opened.
- 2) Opening of the bid submitted in electronic form means making its content available. The bids submitted in the electronic form shall not be available before expiration of deadline to submit the bids. Only bids submitted within the deadline to submit the offers and signed by secured electronic signature are made available.

#### **C. Assessment and evaluation of bids**

- 1) Persons assessing and evaluating the bids shall not be in prejudice in relation to the order and applicants and must keep confidentiality on the facts they will know during evaluation and evaluation of the offers. Before evaluation and evaluation of the offers, they must confirm their non-prejudice and obligation of confidentiality by means of the Affidavit.
- 2) Upon opening of the envelopes the contracting authority, evaluation committee or authorised person will evaluate the offers. The evaluation of offers is based on evaluation, whether the offers are elaborated in compliance with the order terms.
- 3) If the offer is found to be unclear or incomplete, the applicant can be invited to its adding or explanation. Adding or explanation may not result in modification of the offered price and/or information, which are subject to the evaluation. In case the applicant fails to add or explain the offer in reasonable deadline, resp. if the contracting authority does not waive the late adding or explanation, such offer must be excluded.
- 4) Bids, which do not comply with the order terms, must be excluded. The contracting authority informs the concerned applicant on the exclusion of the bid without undue delay. The contracting authority may proceed according to Clause 12.3.9, Par. 2.
- 5) Evaluation of the bids is performed by the contracting authority, evaluation committee or authorised person according to evaluation criteria specified in the order terms. The economically most advantageous bid or bid with the lowest offered price is assessed as the most suitable bid.
- 6) Evaluation of the bids may be performed before their evaluation, and in such case it is necessary to evaluate the bid, which was submitted by the applicant, which whom a contract should be concluded. This fact must be stated in the report on opening of envelopes, evaluation and evaluation of the offers.
- 7) The contracting authority will decide on new evaluation and evaluation of the offers, if it finds out, that the evaluation committee or authorised person failed to adhere to the procedure specified in the RfAB. For new evaluation and evaluation of the bids, the contracting authority may appoint other evaluation committee, or assign other authorised person, resp. may perform the new assessment and evaluation by itself.

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### **12.3.7 Completion of procurement procedure, conclusion of contract with the supplier**

- 1) The contracting authority is entitled to conclude the contract only with such applicant, whose bid was evaluated as the most suitable bid (hereinafter referred to as „selected applicant“). The contract must be concluded in compliance with contract terms and selected bid.
- 2) In case the selected applicant refuses to close the contract or does not provide necessary collaboration, the contracting authority may conclude the contract with participant, which is second in the order. Procedure according to previous sentence may be repeated for applicant, which is third in the order. The insufficient collaboration means fact that the selected applicant does not response in no way (i.e. in writing or electronically) to requests of the contracting authority. In case the applicant did not provide the contracting authority with sufficient collaboration, the contracting authority will prove this fact by means of an affidavit.
- 3) The contracting authority shall not conclude the contract with the applicant:
  - a) If the bid of the applicant was elaborated with engagement of the contracting authority's employee, member of the statutory body, statutory body, Managing Authority member, project implementation team member or person, who was on basis of a contractual relation engaged in the procurement procedure,
  - b) with an applicant in a consortium, who is employee of the contracting authority or member of the implementation team or person, who was on basis of the contractual relation engaged in the procurement procedure, or
  - c) whose subcontractor is employee of the contracting authority or member of the implementation team or person, who was on basis of the contractual relation engaged in the procurement procedure.
- 4) The contract must be in writing and must contain at least:
  - a) indication of the contracting parties, incl. ID No. and TIN if they are assigned,
  - b) Contract subject (detailed in quantities and qualities),
  - c) price without VAT, incl. VAT and stating VAT itself or state that the supplier is not a VAT payer, payment terms,
  - d) Delivery time and place,
  - e) Stipulation on obligation of the supplier to cooperate during inspection according to the Act on Financial Supervision,
  - f) other formal requirements of legal act according to the Civil Code.
- 5) The contracting authority shall not enable substantial change of rights and obligations resulting from the contract concluded to the order performance. Substantial change is such change, which would:
  - a) Extend the subject of the public procurement procedure, this does not affect the provision of Clause 12.3.1, Par. 5,

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- b) enable participation of other suppliers, if it was used in original procurement procedure,
- c) enable affecting of selection of the most suitable bid, if it was used in original procurement procedure, or
- d) Change the economic balance of the contract in favour of selected applicant.

### **12.3.8 Cancellation of procurement procedure**

- 1) The contracting authority is entitled to cancel the procurement procedure, however to the conclusion of the contract at the latest. The contracting authority is obliged to notify all applicants submitting the offer within deadline to submit the offers on cancellation of the procurement procedure.
- 2) Without improper delay, the contracting authority will notify the information on cancellation of the procurement procedure by the same method, as was used at the start of the procurement procedure.

### **12.3.9 Providing of information to applicants**

- 1) All applicants submitting the bids within the deadline for bids submission, and whose bid was not excluded from the procurement procedure, must be informed on result of the procurement procedure without improper delay. Notification on result of the procurement procedure must include identification data of applicants, whose offer was evaluated, and result of the offer evaluation, from which the order of the offers is clear. Notification on result of the procurement procedure must be sent in writing, either by letter, or electronically.
- 2) If the contracting authority reserved it in the notification on procurement procedure, it may publish the notification of result of the procurement procedure and eventual notification on exclusion of the offer by the same method, as was used at the start of the procurement procedure. In such case, the notification on result of the procurement procedure and eventual notification on the bid exclusion is considered delivered to all relevant applicants by time of the publishing.

## **12.4 Inspection of selection and procurement procedures**

### **12.4.1 Obligations of contracting authority to retain documentation**

- 1) The contracting authority is obliged to keep contract documentation and records on acts related to the procurement procedure. Contract documentation means the compilation of all documents in the paper or electronic form, whose acquisition during the procurement procedure, resp. after its completion, is required by the RfAB.
- 2) For purpose of verification of correct proceeding of the contracting authority in the procurement procedure by the methods regulated in the RfAB, particularly following documents will be required by the inspection acc. the Act on Financial Supervision:
  - a) Contract terms specifying the contract subject, incl. documents proving their submission or publication;

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- b) Additional information, if provided, incl. eventual requests for them and documents proving their submission or publication;
  - c) Bids submitted by the applicants, incl. eventual explanation or amendment;
  - d) report on opening of envelopes, evaluation and evaluation of the bids signed by relevant persons;
  - e) Contract concluded with selected supplier, incl. all eventual annexes;
  - f) Notification on result of the procurement procedure sent to all applicants, which submitted the bid within the deadline for bid submission, whose bid was not excluded, incl. documents proving their sending, if the notification was not published in compliance with 12.3.9, par.;
  - g) Notification of exclusion of the bid, if any offer was excluded, incl. documents proving their sending, if the notification was not published in compliance with Clause 12.3.9, Par. 2;
  - h) Assignment of authorised person or evaluation committee, if assigned, incl. Affidavit on their non-prejudice.
- 3) For the purpose of verification of correct procedure of the contracting authority in issuing of the order by the procedures regulated in the CoPP/PPA, following documents within Section 155 of the CoPP / Section 216 of the PPA will be required in the inspections according to the Act on Financial Supervision:
- 4) When reviewing the contract whose estimated value is
- a) lower than CZK 400,000 VAT excl., in the event that the contract is awarded by the contracting authority according to Clause 12.1, Par. 2 or 3 or
  - b) lower than CZK 500,000 VAT excl., in the event that the contract is awarded by the contracting authority according to Clause 12.1, Par. 4,
- the submitted financial documents shall be inspected. In addition to the accounting documents, the contracting authority may prove the implementation of direct purchase also by written order for performance or by contract, if it was concluded. In this case, the accounting document is the decisive one for the inspection. This does not affect the provision of Paragraph 3.
- 5) Time for which the contracting authorities must keep all original document related to closing and implementation of the contract, is specified in the legal act on grant award / transfer or in binding legal regulations regulating the area of procurement, for more details, see Chapter 7.4 Retention of Documents.

#### **12.4.2 Inspection before the commencement of the procurement procedure (ex-ante)**

- 1) In accordance with Section 12.1, Par. 2 or 3, the Contracting Authority that within the project implementation intends to award

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- a) an over-limit public contract in the public procurement procedure proceeding according to the CoPP/PPA (except the public procurement procedures specified in letter d)), or
- b) a below-limit public contract for construction work placed in the procurement procedure according to the CoPP/PPA,
- c) a below-limit public contract in procurement procedure without publication for reasons according to Section 23, Par. 7 letter a) of the CoPP,
- d) an over-limit public contract in the procurement procedure without publication according to Section 23 Par. 4 Letter a), Par. 5 Letter a) or Letter b) of the PPA / in accordance with Section 63 Par. 3 and Section 64 Letter a) or b) of the Public Procurement Act (PPA) or
- e) a below-limit public contract in the procurement procedure without publication according to Section 23 Par. 4 Letter a), Par. 5 Letter a) or Letter b) of the PPA / in accordance with Section 63 Par. 3 and Section 64 Letter a) or b) of the Public Procurement Act (PPA),

allows the OP RDE MA, before the commencement of the procurement procedure, the pre-inspection of the contractual conditions within the time limit specified in Par. 5 on the basis of the documentation to the extent specified in Par. 2 (hereinafter referred to as “the Ex-ante Inspection”).

- 2) The contracting authority shall submit the final draft of the notification or the invitation to commence the procurement procedure and contractual documentation. In case of public procurement procedures according to Par. 1 letter d) and e), the contracting authority submits also the reasoning of the intention to contract in the public procurement procedure without publication within the scope of Annex No. 12 to the RfAB.
- 3) The contracting authority shall submit documentation in the extent specified in Par. 2 via IS KP14+. The contracting authority informs the OP RDE MA about this fact through a structured internal message sent to the address “OPVVV\_Veřejné zakázky”.<sup>144</sup>
- 4) The OP RDE MA informs the contracting authority, whether the procurement procedure was selected for the ex-ante inspection through the internal message in IS KP14+ within 5 working days from the receipt of the internal message under Par. 3. If the OP RDE MA does not express its opinion within this time limit, it applies that the procurement procedure was not selected for ex ante inspection.
- 5) If the procurement procedure was selected for ex-ante inspection, the OP RDE MA shall carry out this inspection usually
  - a) within 10 working days from the receipt of the internal message in accordance with Par. 3 in the case of public contracts under Par. 1, Letters a) to c) and e) or

<sup>144</sup> The pattern of the structured internal message for the purposes of ex-ante inspection is given in the IS KP14+ User Guide. The contracting authority may also attach documentation to the internal message. In the event of technical difficulties with the submission of documentation through IS KP14+, the contracting authority shall be allowed to submit it in another suitable manner.

- b) within 20 working days from the receipt of the internal message in accordance with Par. 3 in the case of public contracts under Par. 1, Letter d).
- 6) The submission of all documentation to the extent necessary. is a prerequisite to conduct ex-ante inspection within the time limit specified in Par. 5. The OP RDE MA may ask the contracting authority in justified cases to complete or clarify the submitted documentation via the internal message in IS KP14+.
- 7) If in substantiated cases the ex-ante inspection cannot be carried out within the time limit specified in Par. 5, the OP RDE MA shall inform the contracting authority through the internal message in IS KP14+.
- 8) The OP RDE MA informs the contracting party of the result of the ex-ante inspection through the internal message in IS KP14+.

#### **12.4.3 The inspection of the procedure of the contracting authority before the conclusion of the contract (interim)**

- 1) In accordance with Section 12.1, Par. 2 or 3, the contracting authority that within the project implementation awards
  - a) an over-limit public contract in the procurement procedure according to the CoPP/PPA, or
  - b) a below-limit public contract for construction work placed in the procurement procedure according to the CoPP/PPA,
 allows the OP RDE MA, prior to the conclusion of the contract, a continuous inspection of the procedure of the contracting authority in the procurement procedure within the time limit under Par. 4 on the basis of the documentation to the extent under Par. 2 (hereinafter referred to as "the Interim Inspection").<sup>145</sup>
- 2) For the Interim inspection, the contracting authority shall submit documentation to the extent in accordance with Clause 12.4.1, Par. 2 or Par. 3 (with the exception of documents that have not been required to be prepared or stored for the time being with respect to the achieved state of the procurement procedure), unless stated otherwise. In the case of bids, the contracting authority shall submit for the Interim Inspection at least the bid that was or is to be selected as the most appropriate and the bids that were excluded. In the event that the contracting authority submits documentation for the Interim Inspection before deciding on the selection of the best bid, at the same time it shall also submit a proposal of such a decision.
- 3) The contracting authority shall submit documentation in the extent specified in Par. 2 via IS KP14+. The contracting authority informs the OP RDE MA about this fact through a structured internal message sent to the address "OPVVV\_Veřejné zakázky".<sup>146</sup>

<sup>145</sup> The contracting authority at its sole discretion decides whether to allow the OP RDE MA to carry out the Interim Inspection even before a decision on the selection of the best bid or after it.

<sup>146</sup> The pattern of a structured internal message for the Interim Inspection is stated in the IS KP14+ User Guide. The contracting authority may also attach documentation to the internal message. In the event of technical difficulties with the submission of documentation through IS KP14+, the contracting authority shall be allowed to submit it in another suitable manner.

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- 4) The OP RDE MA shall perform Interim Inspection usually within 10 working days from the receipt of the internal message according to Paragraph 3.
- 5) The submission of all documentation to the necessary extent within the time limit specified in Paragraph 4 is a prerequisite to conduct the Interim Inspection. The OP RDE MA may ask the contracting authority in justified cases to complete or clarify the submitted documentation via the internal message in IS KP14+.
- 6) If in justified cases the Interim Inspection cannot be conducted within the time limit pursuant to Paragraph 4, the OP RDE MA shall inform the contracting authority through the internal message in IS KP14+.
- 7) The OP RDE MA shall inform the contracting authority on the outcome of the Interim Inspection through the internal message in IS KP14+.

#### **12.4.4 Information on the intent to conclude the contract using the exemption**

In accordance with Clause 12.1, Par. 2 or Par. 3, the Contracting Authority that intends to award an over-limit public contract by applying the exemption under Section 18, Par. 1 to 4 or Section 19 of the PPA / under Section 29 or Section 30 of the PPA, shall inform the OP RDE MA about its intention through the internal message sent to the address "OPVVV\_Veřejné zakázky" at least 10 working days prior to the expected date of the conclusion of the contract. In such a case, the ex-ante inspection is not conducted, however, the OP RDE MA may in justified cases provide the contracting authority with the opinion on this intention through the internal message in IS KP14+.

#### **12.4.5 Information on the intent to conclude the amendment to the contract**

In accordance with Section 12.1, Par. 2 or Par. 3, the contracting authority that intends to conclude the amendment to the contract for

- a) over-limit public contracts or
- b) below-limit public contract for construction work,

without conducting the procurement procedure, informs the OP RDE MA about its intention through the internal message sent to the address "OPVVV\_Veřejné Zakázky" at least 10 working days before the expected conclusion of the amendment. In such a case, the ex-ante inspection is not conducted, however, the OP RDE MA may in justified cases provide the contracting authority with the opinion on this intention through the internal message in IS KP14+.

#### **12.4.6 Special provisions for the contracting authority under Clause 12.1, Par. 4**

- 1) In accordance with Clause 12.1, Par. 4, the contracting authority that intends to award a contract of a higher value, whose estimated value reaches a minimum financial limit for sector contracting authorities under Government Regulation No. 77/2008 Coll., on Setting Financial Limits for the Purposes of the Public Procurement Act, as amended, allows the OP RDE MA to conduct the ex-ante inspection prior to the commencement of the procurement procedure.
- 2) In accordance with Section 12.1, Par. 4, the contracting authority that, as part of the project implementation, awards the contract of a higher value, whose estimated value is at least the financial limit for the sector contracting authorities under Government Regulation No. 77/2008

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Coll., on Setting Financial Limits for the Purposes of the PPA, as amended, allows the OP RDE MA to conduct the Interim Inspection prior to the conclusion of the contract.

- 3) In accordance with Section 12.1, Par. 4, the contracting authority that intends to award the contract of a higher value, whose estimated value is at least the financial limit for the sector contracting authorities under Government Regulation No. 77/2008 Coll., on Setting Financial Limits for the Purposes of the PPA, as amended, applying the exemption under Clause 12.1, Par. 4 of the second sentence, informs the OP RDE MA about its intention.
- 4) In accordance with Section 12.1, Par. 4, the contracting authority that intends to conclude an amendment to the contract of a higher value, whose estimated value is at least the financial limit for the sector contracting authorities under Government Regulation No. 77/2008 Coll., on Setting Financial Limits for the Purposes of the CoPP, as amended, informs the OP RDE MA about its intention.
- 5) The provisions of Clauses 12.4.2 to 12.4.5 shall apply mutatis mutandis.

#### **12.4.7 Common provisions for the interim inspection**

- 1) The provisions of Clauses 12.4.2 and 12.4.6 shall not apply before the release/closing the legal act on granting/transfer support.
- 2) The result of the ex-ante inspections are based on the facts known to the OP RDE MA during performing of the inspection and it is not possible to exclude presence of other facts, whose knowledge would lead the OP RDE MA to different conclusions. The purpose of ex-ante and interim inspections is to assist contracting authorities in awarding contracts co-financed from OP RDE funds and prevent from risks of possible inconsistencies. The result of the ex-ante or interim inspection cannot be regarded as the confirmation of eligibility or ineligibility of expenses related to a specific contract. Responsibility for the compliance of awarding a specific contract with the legal act on granting/transferring aid, any statutory provisions and other relevant rules are always borne by the contracting authority or beneficiary.

#### **12.4.8 Providing of information to OP RDE MA on course of procurement procedure**

- 1) Representative of OP RDE MA is entitled to take part as observer the opening of the envelopes, meeting of the evaluation committee and dealing in the competing dialogue organised in relation to all order co-financed from OP RDE. On request of OP RDE MA, the contracting authority is obliged to enable access to the representative of OP RDE MA to such meetings. If the the OP RDE MA requires so on basis of ex- ante inspection or other facts, the contracting authority is in addition obliged to send via IS KP14+ to the OP RDE MA the invitation to opening of the envelopes, each meeting of the evaluation committee and each dealing in competing dialogue related to the particular order, at least 5 business days before such a meeting. The specified deadline may be shortened in case the meeting should take place earlier than within the 5 business days after previous meeting. On request of the contracting authority, the OP RDE MA may waive missing of the deadline.
- 2) The submitted is obliged to immediately notify the granting authority via IS KP14+ on all proceedings reviewing the acts of the contracting authority started by the Office for

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protection of competition (hereinafter referred to as „Office for the Protection of Competition “) and on decisions of Office for the Protection of Competition, resp. court in the proceedings, whose subject is order financed from OP RDE.

#### **12.4.9 Ex-post inspection of selection procurement procedures**

Documentation within scope of Clause 12.4.1, Par. 1 to 4 must be submitted in the copy to the granting authority via IS KP14+ at the latest together with the payment application including the expenditure related to the relevant order.

### **12.5 Project savings**

If during the procurement procedure a difference between the presumed price of the order and the contracted price appears, project saving is originated.

- The beneficiary is obliged (by means of change proceeding) to move the saved means to the budget item Saving for distribution. Such saving will always be a non-substantial change of the budget.
- Whenever the cumulative amount of the savings exceeds 10 % from total eligible expenditure of the project, the beneficiary transfers the financial means (by means of non-substantial change) to the budget item Saving above 10%.
- From the item Saving for distribution the beneficiary transfers the financial means via substantial change without change to the legal act on grant award / transfer to the budget items, where it is able to use them in a meaningful and economic way. The beneficiary usually requests the transfer once a year. In case of current need the beneficiary may request the change at any time.

However, from the budget item Savings above 10 % the beneficiary shall not transfer the financial means. MA requests from the beneficiary, usually once a year, to submit to MA by means of application for substantial change the proposal for issuing of the change of the legal act on grant award / transfer, by which it decreases the total eligible expenditure of the project by the expenditure statement of the budget item Savings above 10 %. Also the fixed financial indicator is decreased by the same amount, if it is determined to date following the day after deadline for application for substantial change. The beneficiary is obliged to respond to the request by sending the appropriate application for substantial change.

## 13. CHAPTER – PARTNERSHIP

Partnership is a relationship established by closing of Partnership Agreement<sup>147</sup>, when the applicant/beneficiary creates a unit with one or two subjects (partners) called partnership. The Managing Authority of OP RDE is not liable for the Partnership agreement content made between the applicant/beneficiary and partners.

The applicant mentions the partners in the grant application, including roles, share on project activities and financial share, if it is planned. The substance of such a relationship is that the partners participate with the applicant/beneficiary on creating the project and if successful, also on its implementation and sustainability. The beneficiary carries out the main, essential part of project activities, if the call does not set differently. When submitting the grant application, the applicant submits the Statement of partnership/Partnership Agreement (determined by the claim or subsequent documentation to the call).

Partners legitimacy as well as their level of engagement is part of grant application, see chapter 5.2.1 (partner's legitimacy is defined in the call or subsequent documentation to the call).

The beneficiary is responsible for the project as a whole to the Managing Authority of OP RDE, acts as a subject responsible for managing the project relative to the partners and at the same time is responsible for dividing gathered resources among the partners based on agreed project budget and on documented real expenditure.

The partner participation on the project must not be based on the commercial relationship to the project subject (it is true for the whole project implementation or sustainability). During the course of the project, the beneficiary does not have a right to enter into any contractual relationship with its partners enumerated in the approved grant application within the project, whose subject is delivery or services for the project purposes provided for remuneration. Carrying out the partnership principle must not be in contradiction to the applicable Czech laws, in particular the partnership principle must not be abused to circumvent the CoPP/PPA.

All the project implementers and stakeholders must follow the procedures described in these rules – not only the beneficiary, but also his partners. Engaging the partner must be carried out in accordance with the rules for state aid, in such a way that there was not an indirect aid to the partner according to art. 107 par. 1 of the Agreement (see chapter 15 State aid).

### 13.1 Partnership types

Within the OP RDE the following partnership is possible:

- a) **partner with a financial contribution** – partner gets part of a grant for implementation of material project activities via the beneficiary;
- b) **partner without a financial contribution** – the partner takes part in carrying out material project activities, but is not provided with any financial contribution for taking part on the project.

<sup>147</sup> A recommended specimen contract can be found on the website of the MEYS. If more partners participate in the project, a multilateral agreement (between the beneficiary and all its partners) can be used.

The means for financing partner's eligible expenditures are usually provided to the partner via the beneficiary. Therefore, there is not a direct money flow between the Managing Authority of OP RDE and the partner. The only exception are the partners, who represent a separate state organization unit. In this case the beneficiary does not provide finances to the partner, the state organizational unit has it accounted for in its budget.

The ways of reimbursement between the beneficiary and project partner are given by the Partnership Agreement. The reimbursements can be made by advance payments, based on expenditure reports/payment of eligible expenditure before the project approval, or payment after the project approval (this variant is recommended by the Managing Authority of OP RDE). The partner is thus obliged to provide the beneficiary all the documents that form a foundation for preparing the report on project implementation/Final report on project implementation of the project. Following the Partnership agreement wording the beneficiary and the partners must agree on dividing the devices and unused consumables paid from the awarded grant between the partners before the project ending (applying the dates stated in the awarded grant between the partners). The beneficiary must provide the copy of deeds of transfer (deeds of gift) together with the list of transferred or given devices or consumables to the granting authority with Final report on project implementation.

### **Collaboration on local inspections**

In case there is a local inspection carried out at the project, the partner is obliged to provide maximum collaboration to the control body, e.g. provide access to accounting documents or assets evidence, or enable part of this inspection directly at the project partner/partners.

The beneficiary is the subject liable to the Managing Authority of OP RDE for carrying out the whole project (including those part of the project carrying out by its partners), i.e. when the project targets are not met, the beneficiary must be assigned to return the whole amount of grant, even if not reaching the objectives was caused by one of the partners. The partner's activity and amount of drawing of the aid on expenditure carried out by the partner must be described in the provided monitoring reports of the beneficiary.

## **13.2 Change of partner**

On rare occasions a partner exchange during the project course is possible. These situations must be always individually assessed by the Managing Authority of OP RDE.

Solving the situation, when the partner wants to leave the project or ceases to exist, means taking over his liabilities by the grant beneficiary or other partners engaged in the project. Partner's withdrawal from project implementation is handled as a substantial project change, see chapter 7.2 that requires an approval by the Managing Authority of OP RDE.

Only after it is not possible that the withdrawing partner's liabilities are taken over by the beneficiary or other partners engaged in the project, there may be an exception that the withdrawing partner is replaced by a new one or new ones. Engagement of a new partner always requires an approval by the Managing Authority of OP RDE – it is a substantial project change. The call, or other call documentation can modify or limit this regulation, prohibit changing the partner, etc.

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## 14. CHAPTER – SYNERGIES AND COMPLEMENTARITIES

In the period 2014–2020 synergic and complementary calls will be announced. The aim is to use the potential created by the options of combinations of support to fulfil the programmes' objectives and enable higher effect of project results.

### **Synergy**

If the call is called as a synergic one, it will be mentioned in the call. The synergic calls are divided into initial ones and following ones from the time point of view.

Depending on, whether the call is initial or following from the point of view of synergic connection, the applicant will fill out the following project attributes in the grant application, such as:

- for project submitted as part of the initial call, the applicant specifies the planned following activity/activities that he will carry out in the project/projects within the following synergic call;
- for project submitted within the following call the applicant selects particular project from the particular call, with which it is synergic or to which it follows and describes a material continuity to the initial project.

Evaluating the relevance of this synergic connection is part of Eligibility check and formal check.

For the project with a legal act of grant award / transfer that has been identified as a synergic one, the beneficiary during implementation shows a progress in fulfilling the synergic connection in the reports about implementation/sustainability (description of the progress in carrying out the synergic connection – evaluating the project contribution in connection to the synergic project, what is an added value of reciprocal carrying out both synergic projects and how the collaboration works).

### **Complementarities**

If the call is called as a complementary one, it will be mentioned in the call. The complementarity of submitted grant application is determined in the process of project evaluation for applicants/beneficiaries, whose grant application is marked as complementary, no claims are put either when filling the grant application, or during project implementation, if the call / call documentation does not state differently.

## 15. CHAPTER – STATE AID

### 15.1 Introduction to state aid

In the call/call documentation, the mode in which the aid is provided is always mentioned (e.g. whether it is provided in the mode that does not establish state aid, in the mode of compatible state aid by the (EU) Commission Regulation No. 651/2014, in the aid mode of a small extent/de minimis or services of general economic interest). This chapter outlines general conditions concerning individual aid modes and associated duties for the applicant/beneficiary. The call/following call documentation can specify other relevant conditions concerning state aid.

The European legislation generally prohibits provision of aid from state or public budgets that violates or can violate economic competition by making some enterprises or industries more advantageous, because it essentially means advantage in market environment and is therefore an undesirable event that corrupts economic competition. Providing such advantage constitutes **state aid**. There are however exceptions or special modes that on the predefined conditions make granting of state aid possible (there are already mentioned so called block exemptions, aid of small extent / de minimis or services of general economic interest). No enumeration of state aid forms exists and each case must be evaluated individually.

The central coordination, advisory, consulting and monitoring body in the area of state aid is the Office for the Protection of Competition. The activities of the Office for the Protection of Competition in the area of state aid are established by the Act on Amendment of Relationships in the Area of State Aid. Since May 1. 2004, all the decision-making authority of the Office for the Protection of Competition in the area of evaluating of the state aid compatibility with internal market was transferred to the European Commission.

#### **What is state aid:**

The basic regulation of the rules for state aid directly follows the primary European Union legislation, Article 107–109 of the Treaty on the Functioning of the European Union (“TFEU”) that is further explained in the Regulations of the Council and European Commission, as well as in non-legislative rules established by the European Commission (hereinafter only “EC”).

The state aid that corresponds with the characteristics of Article 107 Paragraph. 1 TFEU is any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market. **The aid that meets these criteria, is incompatible with the internal market and therefore is prohibited.** Some exceptions from general prohibition of state aid can be allowed based on directly usable regulation (e.g. block exemptions, de minimis aid etc.), or based on the EC decision.

It is not state aid in case of financing the projects directly by the European Union agencies or institutes (e.g. from the projects like Horizon 2020, Erasmus+, etc.). Last, but not least, it is not a state aid in case of execution of official authority on the part of the state (i.e. activities that are among the basic state functions – e.g. the police, army, etc.).

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**State aid is identified via these 4 characteristics that must be fulfilled cumulatively:**

- 1. Aid provided by the state or from state funds** (they can be e.g. national, regional, state, or public banks funds). The funds from which grants are provided come from the Czech and EU budgets; it means in case of projects supported by the OP RDE this feature is always fulfilled.
- 2. Preferential treatment for enterprise or industry in any form.** The preferential treatment for the purposes of EU rules regulating state aid is treated as an economic benefit that an enterprise would not gain without the public institution intervention on the market. The aid may give an advantage to certain enterprise's<sup>148</sup> business, because it enables this grant beneficiary to lower the cost on implementation of plans that would otherwise have to be paid from its own funds. From the point of view of accomplishing this feature it is therefore necessary to evaluate the following:
  - a) whether the applicant/beneficiary performs or will perform an economic activity within the project (i.e. whether it is an enterprise in terms of state aid rules);
  - b) how is such activity associated with the project;
  - c) whether the aid represents an advantage for the applicant/beneficiary, as the project implementation will influence performing economic activity by the beneficiary, whether it is extending current economic activity, or a new economic activity.
  - d) whether the aid is selective.

Due to the fact that the aid from the OP RDE is always an advantage, which the beneficiary would not receive under normal market conditions and, concurrently, the aid is always selective because it is restricted only to the beneficiaries of the OP RDE, the investigation of this character is always limited to the assessment whether the beneficiary is an enterprise in the meaning of state aid rules.

- 3. Possible distortion of competition on the EU internal market** – in the assessment of this character, it is necessary to determine whether in the context of the supported economic activity a market and (potential) competitors exist. In the event that the beneficiary carries out an economic activity on the liberalised market, it can usually be assumed that the granting of aid will distort competition because the aid can strengthen the position of the beneficiary when compared to other competitors. The measure thus may disrupt the competition, if it improves the competitive position of the enterprise over its competitors. In order to accomplish this characteristic, only the possibility of disruption of competition is sufficient, not its actual disruption.
- 4. Possible influence on the trade among EU member states** – if the advantage is given to an enterprise that is active on the market that is open to competition, it is supposed that the trade among EU member states can be influenced. To fulfil this feature it is sufficient to influence the trade among EU member states, not a factual

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<sup>148</sup> Alternatively, the entire production sector at the expense of other sectors. Production sector for the purposes of Art. 107 of the TFEU means not only actual production of certain goods but also the provision of services. Production sector includes not only electrical industry but also IT services, motor vehicles production, as well as transport.

influence on the trade exchange. Trade will be influenced when the business activity of the enterprise has a so-called border effect, whether in the territorial sense (i.e. the activity going beyond the geographic boundaries of the Czech Republic) or in terms of personal (i.e. the entities with the nationality of another EU member state participate or can participate in the competition on the relevant market or the customers come from other EU member states). Trade between member states may also be affected by the aid granted to the enterprise that provides only local or regional services, if such services could be offered by the enterprises from other member states and unless such an option is only hypothetical. Effect on trade is less likely if the scope of economic activities is very small (e.g. a very small turnover of the beneficiary). The trade among member states can be influenced also in the cases, when the receiving enterprise does not export. The influence on the trade in such cases infers from the prerequisite that its competitors can have more difficult access to given market because of the fact that such measure enables the beneficiary to keep or increase its production. The Commission presumes accomplishing this condition almost all the time. Therefore if the applicant refers only to the place of impact of its activities, it must prove it appropriately.

**If the above mentioned distinctive characters are cumulatively fulfilled, state aid is identified.** The aid identified as state aid can be legally provided without the need of its notification to the EC just based on one of the exceptions, or in case that the European Commission declares it compatible with the internal market during the notification process.

If the state aid definition characteristics are improperly assessed, it can lead to the granting of an illegal state aid and associated obligation to recover of the aid including possible sanctions.

### **The Enterprise**

Based on the Article 107 Paragraph 1 TFEU the state aid rules are generally used only in case that the beneficiary is **an enterprise**.

For the purposes of state aid, the enterprise is considered to be any entity carrying out an economic activity, regardless of its legal status or method of financing ( therefore, non-profit organisations, civic associations, unions, municipalities or regions may be considered the enterprise in some cases). A special enterprise category is formed by contributory organisation of territorial self-governing units. So called additional activities must be followed in case of these subjects. They are usually carried out on the market and the contributory organisations are in the competitive conflict with other entities because of their performance.

The fact whether the enterprise carries out an economic activity, i.e. carries out any activity consisting in offering goods or services on the market is crucial for the determination of the enterprise. The subject that performs both economic, and non-economic activities, is considered to be an enterprise only in connection with economic activities.

The fact that a certain service is provided internally or its provision is not permitted to third parties does not exclude the existence of an economic activity if other operators were willing able to provide the particular service on the respective market.

### **Economic activities**

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Economic activities are defined as offering goods or services on the market. It is also true that to apply the EU rules that regulate state aid it is not decisive whether the respective entity generates profit, because also the non-profit entities can offer goods and services on the market. In their case it will depend, to what activity the public funds will be directed.

If the same subject makes activities of both economic, and non-economic nature, the public financing of non-economic activities will not be done pursuant to Article 107 Par. 1 of the Agreement, if both activity types can be clearly separated to prevent cross-financing of economic activities. The certificate of distribution of costs, finances and income can be e. g. annual financial reports of given subjects.

### **Local character of measures**

In line with the Commission Communication on the concept of the state aid, according to the European Commission, the trade is not affected in the cases where the beneficiary provides services on a limited area of a single member state and is unlikely to attract customers from other member states and if more than a marginal impact of the measures of aid on cross-border investments and the creation of new businesses in the sector cannot be assumed.

The examples of local measures include e.g. sports and leisure facilities serving mostly for local users, cultural events, at which it is not likely to attract visitors from other member states, hospitals and health care facilities with the focus on local residents, information platform for tackling unemployment and social conflicts in a pre-defined and very small local area, etc.

According to the Commission Notification on a simplified procedure for assessing certain types of state aid,<sup>149</sup> a purely local character can be possible to prove inter alia, where:

- a) aid does not result in attracting investments in the region concerned;
- b) goods or services produced by the beneficiary are purely local and/or are attractive only for a geographically limited area;
- c) effect on consumers from neighbouring member states is insignificant and
- d) market share of the beneficiary in terms of any relevant market definition used is minimum and the beneficiary does not belong to a wider group of enterprises. The local nature of the measure must always be examined in relation to the specific project or beneficiary and it needs to be justified.

## **15.2 Public financing in the area of education and research and development not establishing state aid**

### **Aid in Education**

Public education organised within the national educational system and funded and inspected by the state can be viewed as a non-economic activity according to the jurisdiction of the European courts and in accordance with Article 2.5 of the Commission Communication on the concept of the state aid specified in Art. 107, Par. 1 of the TFEU.

In principle, the non-economic nature of public education is not affected by the fact that pupils or their parents must sometimes pay tuition or enrolment fees, which contribute to the payment of operational expenses of the system. If these funds cover only a fraction of the actual cost of

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<sup>149</sup> See Art. 5, Letter b) Clause viii), Footnote 27.

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the service, they should not be construed as the payment for a provided service, if they do not change the economic character of public education service, which is funded mainly from public sources. These principles may relate to: nursery schools, private and public primary schools, vocational education, teaching at universities performed as a second job and providing education at universities. These public educational services, however, should be distinguished from services financed predominantly by parents or pupils or commercial revenues.

Providing public education must be distinguished from providing services that do not fall under the national education system, although it is offered by the entities which are part of it. These are services that are related to supplementary activities of schools and school facilities, where schools/school facilities compete with other operators in the market (e.g. commercial language courses for the public) and which are financed predominantly by parents or pupils or commercial revenues. Despite the fact that these services / educational activities are offered by the entities that are part of the public education system, they are services by which schools / school facilities compete with other operators in the market (e.g. commercial language courses for the public) and which is necessary to regard as an economic activity due to their nature, financing structure and the existence of competitive private organisations.

### **Aid in research**

Par. 20 of the Framework for State aid for research and development and innovation 2014/C 198/01 ("Framework") states that if the research organization<sup>150</sup> or research infrastructure<sup>151</sup> is used for economic as well as non-economic activities, the rules of state aid apply to public financing only if this financing covers the cost associated with economic activities. **If the research organization or infrastructure used only for non-economic activities, its financing can completely fall behind the force of state aid rules provided that its economic usage is purely secondary**, i.e. It is an activity that is directly associated with the operation of research organization or infrastructure and is necessary for its operation or is inseparably connected with its main non-economic usage and its scope is limited.

For the purposes of the Framework this condition will be fulfilled according to the Commission in case that absolutely identical inputs will be used for economic activities (e.g. the material, devices, work force and fix capital) as in non-economic activities and the capacity allocated every year to these activities will not surpass 20 % of overall annual capacity of the given subject (relevant entity).

**Relevant entity** – the term used by the organisation for research and dissemination of knowledge as a subject is in the English wording for the Framework defined as an "entity".

The relevant entity is defined as a defined organizational unit that can separately and effectively dispose of assets and other resources purposely used for carrying out independent fundamental research, industrial research or experimental development or public dissemination of the results of these activities in the form of education, publications or knowledge transfer, e.g. activities defined by Par. 19 of the Framework.

<sup>150</sup> For the definition of a research organisation / organisation for research and dissemination of knowledge see Chapter 2 of the RfAB.

<sup>151</sup> For the definition of the research infrastructure see Chapter 2 of the RfAB.

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According to the EC declaration, within one legal entity several relevant entities may exist that are evaluated separately from the point of view of application of paragraph 20 of the Framework, regardless if the given subject / relevant entity is a separate legal entity. Concurrently a general policy applies that it does not depend on the legal position of the beneficiary, neither its financing.

Fulfilling the conditions of Paragraph 20 of the Framework (qualitative and quantitative conditions for possible performance of secondary economic activities can be related to more narrowly defined “relevant entity” (e.g. the laboratory, department or supported project).

In accordance with the stated conclusion, for the purposes of compliance with the conditions of Clause 20 of the Framework, the relevant entity can be defined particularly with regard to the nature of the supported project and/or with respect to the internal organisational structure of the beneficiary.

A separate project supported by the OP RDE can be considered relevant entity (accomplishing the conditions of Par. 20 of the Framework must be evaluated in this case relative to the part of the project, to which public resources are provided).

The relevant entity may also be defined in justified cases in accordance with the internal organisation of the beneficiary, particularly, in accordance with its organisational structure or internal division, provided that it is an organisational unit that is determined in accordance with relevant statutory provisions, is clearly defined in the internal rules of the beneficiary and at the same time it is a unit that can effectively independently perform research activities and/or dissemination of knowledge with regard to organisational structure, capital, material and manpower, which can effectively dispose of.

The OP RDE MA provides additional details for the definition of the relevant entity and the method of calculating the capacity to demonstrate the complementary nature of economic activities within the Methodology of reporting economic activities in terms of public aid.

### **Separating Economic and Non-Economic Activities**

In case, when there are economic activities made on the relevant entity level, it is necessary to ensure separate reporting of accounting costs and revenues associated with economic and non-economic activities. The usage of resources (material, devices, workforce and fix assets) for economic activities must be purely secondary, i.e. It must be such activity that is directly associated with the relevant entity operation and is necessary for its operation or is inseparably connected with its main non-economic usage and its scope is limited.

Separating economic and non-economic activities must be established in basic internal rules of the applicant/beneficiary/partner subject (statutes, founder charter etc.), no later than as of the day of submission of the grant application. Annual financial statements of the relevant entity can serve as a document on proper distribution of costs, financing and income.

With respect to the fact that the actual accounting department need not always be sufficient to demonstrate compliance with all quality criteria of Clause 20 of the 2014 Framework, in addition to the aforementioned accounting department, the OP RDE MA also recommends factual separating of economic and non-economic activities, notably through the evidence of the use of individual inputs (e.g. keeping instrument journals, evidence of the use of individual areas, keeping worksheets, etc.).

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The aim of this monitoring is to provide clear evidence of the rate of economic recovery and to avoid the possible state aid.

The beneficiary is obliged to register and give a proof to granting authority that possible additional economic usage of the resources is purely secondary pursuant to the regulation of the Paragraph 20 of the Framework. For these purposes a capacity<sup>152</sup> of the economic usage is reported separately for individual years (it cannot be an average for more years). With regard to the Framework wording the capacity is always measured for the elapsed year (i.e. from 1 January to 31 December of the reported year<sup>153</sup>) and the beneficiary evidences it retrospectively for each year of the project implementation and sustainability as an appendix to the first submitted implementation/sustainability report until 31 July of the year following the reported year.

**The conditions of non-economic usage of supported infrastructure (pursuant to the regulation of Par. 20 of the Framework) must be followed for the whole lifetime/or asset depreciation.**

In case of failure to comply with the rules described above, there is a risk that granted/disbursed aid might constitute state aid within the meaning of Art. 107, Par. 1 of the TFEU. It would mean a need for ex-post review of provided aid mode with possible impact on lowering the aid amount or its complete refund.

The details on the definition of the relevant entity, capacity calculation and reporting of its use can be further specified by the OP RDE MA depending on interpretation and decision-making practice of the EC in the Methodology of reporting economic activities in terms of public aid. (Annex No. 11). This methodology will be published on the OP RDE website and shall be binding for the applicant/ beneficiary from the date of its effect.

### **Non-economic activities in the area of science, research and innovations**

The following activities are in general considered non-economic activities (according to the paragraph 19 of the Framework):

a) Primary activities of research organizations and infrastructures, mainly:

- education with the aim of increasing numbers and improving the qualification of human resources. In accordance with the judicature and decision-making practice of the Commission and according to the notification on the state aid concept, the public education organised within the state educational system, which is largely or completely financed from the state funds and is controlled by the state. Education of the staff in the sense of state aid rules for supporting the education cannot be considered non-economic research agencies primary activities;
- independent research and development (“R&D”), with the aim to gain new findings and better understand the new topic, including cooperative R&D, if the collaboration, in which

<sup>152</sup> For the purpose of calculating capacity for devices, it is possible to use for example the nameplate capacity of the device.

<sup>153</sup> In the case of beneficiaries for which the accounting period is the economic year, the capacity can be possibly measured for the accounting period of the beneficiary determined in accordance with Section 3, Par. 2 of Act No. 563/1991 Coll., on Accounting.

the organization for research and dissemination of knowledge (“RO”) or research infrastructure (“RI”) is engaged, is effective<sup>154</sup>;

- Public dissemination of research results on non-exclusive and non-discriminatory foundation, e.g. through tuition, open-access databases, publicly accessible databases or open software;
- b) activities within knowledge transfer, if they are carried out by the research organization or infrastructure (including their departments or affiliates) or together with other similar subjects or on their behalf and if all the profit from these activities is re-invested to primary research organization or infrastructure activities. Non-economic character of these activities is maintained even in the case of entrusting the provision of the respective services to third parties through an open procurement procedure.

### **Forms of collaboration of publicly financed organisations for research and dissemination of knowledge and research infrastructures with enterprises**

Generally it can be said that the collaboration of ROs/RIs with the enterprises can have two basic levels, on the level of contractual research, and the level of cooperative projects. In both cases it is necessary to investigate, whether there is No. advantage for enterprises engaged in the cooperative projects with publicly financed ROs/RIs (in the meaning of Article 107 Paragraph 1 of the Agreement).

If the conditions set forth in the Framework (Articles 2.2.1 and 2.2.2) are met, the enterprise may not gain an advantage and the enterprise thus is not provided indirect state aid. However, if the conditions set forth in the Articles 2.2.1 or 2.2.2 of the Framework are not met, the whole amount of the ROs/RI contribution will be considered an advantage for cooperative enterprise/enterprises to which the state aid rules apply.

In case of effective collaboration the project costs can be borne in full extent by one or more parties and thus rid other parties of their financial risks. If the conditions of the Article 2.2.2 of the Framework are met, the enterprise involved in the cooperative project is not considered under indirect state aid.

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<sup>154</sup> Effective collaboration means collaboration of at least two independent parties for the purpose of knowledge or technology exchange or achievement of a common objective on the basis of division of labour where the parties jointly specify the scope of the collaboration project, contribute to its implementation and share risks and results. The project expenditure can be borne in any extent by one or more parties and thus rid other parties of their financial risks.

## Procurement procedure

The beneficiary is obliged to carry out procurement of goods and services (or another comparable transaction) pursuant to the procurement rules and public procurement regulation in a way that prevents state aid.

### 15.3 Exceptions that allow state aid without the need to notify the EC

In spite of the fact that the Article 107 of TFEU generally prohibits state aid, the EU legislation provides many exceptions, based on which the aid can be provided entirely in accordance with the EU law.

#### 15.3.1 Block exemptions

If the aid is provided according to the Commission Regulation (EU) No. 651/2014 from June 17 2014 that pursuant to Articles 107 and 108 of the Agreement declare certain aid categories compatible with internal market<sup>155</sup> (hereinafter "Commission Regulation No. 651/2014), this information will be stated in the call and aid and thus can be compatible with internal market in the sense of Article 107, Paragraph 3 of the TFEU and is exempt from the notification requirement under Art. 108, Par. 3 of the TFEU.

The Commission Regulation No. 651/2014 relates to the following areas: regional aid, aid for small-size and medium-size enterprise (SME<sup>156</sup>), support of access for small-size and medium-size enterprise to financing, aid for research, development and innovations, aid for education, aid for disadvantaged staff and handicapped staff, social aid for transport of inhabitants of remote regions, aid for environmental protection, aid for compensations for damages caused by some natural disasters, aid for broadband infrastructure, aid for culture and keeping cultural heritage, aid for sport and multifunctional recreational infrastructure and aid for local infrastructure.

The effective wording of the **Commission Regulation No. 651/2014** is available at <http://eur-lex.europa.eu>.

Relevant rules will be available in the follow-up documentation to the given call, because when applying the Commission Regulation No. 651/2014 the implementation must strictly follow the conditions set forth for particular aid category, mainly in the area of supported activities and aid intensity (see chapter III of the Commission Regulation No. 651/2014). Further it is necessary to keep the common conditions described in chapters I and II of the Commission Regulation No. 651/2014, e.g. by the allowable aid form, motivational effect or the cumulation rules.

The aid according to the Commission Regulation No. 651/2014 cannot be provided:

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<sup>155</sup> EU Official Journal, L 187, 26. 6. 2014, pp. 1- 84.

<sup>156</sup> For the SME definition see Chapter 2 Rules/Annex I Commission Regulation No. 651/2014.

- a) to the enterprise that has an outstanding obligation based on the collection order issued in response to the Commission decision, by which the aid is declared unlawful and incompatible with the internal market;
- b) the enterprise in difficulty<sup>157</sup> according to the Commission Regulation No. 651/2014;
- c) to the enterprise that operates in areas mentioned in paragraph 3 of Article 1, chapter I, Commission Regulation No. 651/2014;
- d) to support activities associated with export to third countries or member states, i. e. aid directly associated with exported quantity, aid for devices and operation of distribution network, or other regular expenses connected with the export activity;
- e) For the support conditioned by the use of domestic goods instead of imported goods.

The aid according to the Commission Regulation No. 651/2014 cannot be provided to the enterprise, to which a collection order was issued following the Commission decision, in which the aid is declared illegal and not in accordance with internal market;

**Aid intensity** – for individual block exemptions the Regulation n. 651/2014 established so called maximum aid intensity that must not be exceeded. The relevant aid intensity will be outlined in the follow-up call documentation.

**The aid threshold** is a value of maximum aid amount that can be provided within given block exemption. It must not be circumvented by artificially separating the project.

**Incentive effect** The aid can be provided in accordance to Commission Regulation No. 651/2014 only in the case if it has a motivational effect, it means that the applicant will submit the grant application before starting the project implementation<sup>158</sup>. To accomplish the motivational effect, it is further necessary that the grant application contains all these data: name and size of the enterprise, project description including its start and end, project locality, list of project costs and aid type (e.g. a grant) and the amount of public financing that is necessary for given project.

**Cumulation:** If the project obtains aid from more state aid sources, rules of cumulation must be followed. It means that it is necessary to add all the state aid to the same eligible expenditure so that the threshold values are not exceeded (the maximum intensity of the aid and absolute threshold).

The aid provided according to the Commission Regulation n. 651/2014, for which the eligible expenditure can be identified, can be accumulated:

- with other state aid as for various identified eligible expenditure;

<sup>157</sup> For the definition of the enterprise in difficulty, see Chapter 2 of the RfAB.

<sup>158</sup> “Start of works” means the earlier of either the start of construction works relating to the investment, or the first legally binding commitment to order equipment or any other commitment that makes the investment irreversible. Purchase of land as well as the preparatory work, such as obtaining permits and preparing feasibility studies are not considered to be the commencement of work (however, if the price of the built-up plots is included in the eligible expenditures, this purchase will be considered the commencement of work) In the case of takeover, “the commencement of work” means the moment of the acquisition of the asset directly related with the acquired establishment.

- with other state aid for payment of the same (partially or fully overlapping) eligible expenditure, but only in the case that such cumulation does not lead to exceeding the highest intensity or aid size that is used for such aid according to the Commission Regulation (EU) n. 651/2014.

The aid provided in accordance with the Commission Regulation (EU) No. 651/2014 cannot be accumulated with the aid de minimis for the same eligible expenditure, if such cumulation leads to exceeding the intensity of the aid established in the respective block exemption.

**For these purposes the applicant is obliged to submit together with the application form also the Affidavit that No. other state aid was provided to pay the eligible expenditure, or the de minimis aid and the maximum intensity of the state aid according to the Commission Regulation (EU) No. 651/2014 is not exceeded.**

**Announcing the information** – all the aid that will be after 01/07/2016 provided according to the Commission Regulation No. 651/2014 and whose extent will be over 500 TEUR, will be announced by the granting authority on the summary web page devoted to the state aid (for more information see Article 9, Chapter I of the Commission Regulation No. 651/2014). In the Czech Republic, European Commission information system will be used for the collection, publication and storage of data, the details shall be recorded at <https://webgate.ec.europa.eu/competition/transparency/public/search/home>. Wide public can gain an anonymous access to published data without registration. The granting authority can add further conditions by other relevant regulations.

### 15.3.2 Aid of small extent – de minimis

If the aid is provided according to the Commission Regulation (EU) n.1407/2013 from December 18 2013 on using Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid<sup>159</sup> (Commission Regulation No. 1407/2013 or “de minimis”), it will be mentioned in the call.

De minimis aid can be, unlike other types of measures, granted for any purpose, i.e. purposes of investment as well as operational in nature.

De minimis aid (or the aid of a small extent) has No. impact to competition because of its limited in extent, nor it influences a trade among Member States, thus it is not considered state aid when all the provisions by the Commission Regulation (EU) No. 1407/2013 are kept.

The de minimis aid according to the Commission Regulation No. 1407/2013 cannot be granted:

- a) for fisheries and aquaculture;
- b) in the area of the primary production of agricultural products enumerated in Annex I to the The Treaty on the Functioning of the European Union;
- c) to enterprises active in the area of processing of agricultural products and their market introduction;
- d) for acquisition of road freight transport vehicles by enterprises performing road freight transport for hire and reward;

<sup>159</sup> EU Official Journal, L 352, 24. 12. 2013, pp. 1–8.

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- e) for supporting activities associated with export to third countries or member states, i. e. aid directly associated with exported quantity, establishing and operation of distribution network, or other regular expenses connected with the export activity;
- f) for export and aid that determines using domestic goods at the expense of imported goods.

### **A threshold for the de minimis aid**

The de minimis aid [by Article 3 Paragraph 2 of the Commission Regulation (EU) No. 1407/2013] is such that its total amount provided by the member state to one enterprise cannot exceed 200,000 EUR. The applicant can verify the disposable amount for using the de minimis aid in the Central register of de minimis supports on the website of the Ministry of Agriculture (<http://eagri.cz/public/app/RDM/Portal>).

However, we recommend to all the applicants to always verify their “disposable limit” for drawing de minimis aid before submission of the grant application and adjust their project budget in such a way that the aid does not lead to exceeding it. The stated limit is necessary to examine in the sum of all the entities falling within the definition of “a single enterprise” (see below).

Regarding the provided aid that the beneficiary did not draw down in full, the granting authority may modify the record in the RDM to match the actual amount of the de minimis aid disbursed. This step must be preceded by the change of the legal act, in which the granting authority declares the amount of the de minimis aid that the beneficiary actually received and that by this revision it loses the legal claim for the remaining part of the aid to which it was legally entitled in the primary legal act of providing de minimis aid. The amendment of the legal act needs to be asked for by the beneficiary.

### **Single enterprise**

The EU Court of Justice decided that all the subjects controlled (legally or de facto) by the same subject should be for using the *de minimis* rule considered single enterprise (for details, see the Methodological Handbook for application of the term “single enterprise” according to the de minimis rules, which can be found on <http://www.uohs.cz/cs/verejna-podpora/podpora-de-minimis.html>).

The term “single enterprise” (“linked enterprise”) for the purposes of Commission Regulation (EU) No. 1407/2013 includes all the subject that have at least one of the following relationships:

- a) one subject owns more than 50 % of voting right that belong to the shareholders or associates in another subject;
- b) one subject has a right to nominate or withdraw more than 50% members of another subject's administrative, management or supervisory body.
- c) one subject has a right to apply 50% influence in another subject according to the agreement made with given subject, or by the provision in the articles of association, or the statute of this subject;
- d) one subject that is a shareholder or associate of another subject has itself, pursuant to the agreement with other shareholders or associates of given subject, more than 50 % voting rights belonging to shareholders or associates in given subject.

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The subjects that have any relationship stated above letters a) to d) via one or more other subjects are also considered one enterprise.

Enterprises connection for the de minimis aid purposes is followed only for enterprises that are located on the territory of the same member state, i. e. only in the Czech Republic.

In this connection it is important to mention that enterprises that have same bind to the identical public authority body (i.e. municipality, region etc.) and have No. relationships, are not considered linked enterprises. It is essential to make clear, whether the beneficiary is an enterprise without direct link to public authority body, or whether it is a beneficiary, who is established or owned by the public authority body.

The applicant is obliged to provide the granting authority a statement about the relationship of the link to other enterprises in the sense of defining one enterprise, in the form of Affidavit in the form of annex within completing the foundations for preparing the legal act on grant award/transfer, so that the granting authority can verify in advance that by providing the aid the allowed maximum limit of de minimis aid will not be exceeded.

### **Reference period**

The beneficiary's reference period is defined as **three following accounting periods** according to the accounting period used by the beneficiary. In accordance with the provision of Section 3, Par. 2 of the Accounting Act, No. 563/1991 Coll., as amended, its time period is an accounting period – continuous twelve months. The accounting period either matches the calendar year, or is an economic year.

The three-year period should be evaluated continuously in such a way that when new de minimis aid is assigned, the overall amount of provided de minimis aid must be taken into account in given one-year period and during two previous one-year accounting periods. The period of three one-year periods will be established according to the accounting period used by the enterprise. The applicant is obliged to inform the granting authority in his Affidavit, what accounting period he uses, and if he applies economic year, he must at the same time define the start and end dates of the economic year.

### **Day of granting of the aid**

The day of granting of aid of small extent is the day, when the beneficiary gains the legal title for it. Generally, it is considered the day of entry into force of the legal act, by which the granting authority decided on granting the aid of small extent to the particular beneficiary, if such act represents establishment of legal title of the beneficiary for the aid. To determine the date of granting the aid it is not relevant, when the de minimis aid was actually paid to the beneficiary.

The de minimis aid will be recorded in the Central de minimis register within 5 business days from granting to the beneficiary (i.e. from the publication of the legal act on grant award / transfer).

### **The exchange rate for the aid amount**

The exchange rate for the aid amount of a small extent from CZK to EUR depends on the day of granting de minimis aid. The exchange rate issued to this date by European Central Bank ("ECB") will be used for conversion. It can be found at <http://www.ecb.eu/stats/exchange/eurofxref/html/index.en.html>.

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With regard to the fact that the aid threshold is set in thousands EUR and the aid is paid in CZK in the Czech Republic, it is necessary to correctly find out the not drawn part of the limit.

### **De minimis aid cumulation**

Cumulation of de minimis aid with another aid to the same eligible expenditure is possible, but the maximum level that is given by the rules for another aid (e.g. rules for regional investment aid) must not be exceeded.

The de minimis aid can be accumulated with other forms of aid only to the maximum amount of 200.000 EUR. The rules for accumulating de minimis aid follow Article 5 of the Commission Regulation No. 1407/2013.

### **The applicant/beneficiary obligations to the granting authority**

- a) The applicant is obliged to provide the granting authority the declaration on the relationship with other enterprises in the sense of the definition of single enterprise, in the form of Affidavit.
- b) The applicant is further obliged to inform the granting authority in his Affidavit, what accounting period he uses, and if he applies economic year, he must at the same time define the start and end dates of the economic year (e.g. 1. 4.–31. 3.).

With regard to the above mentioned it is therefore necessary that the applicant provides this data to the granting authority as part of complementing the supporting materials for preparation the legal act on grant award / transfer. It is documented through an affidavit (a sample can be found on the [OP RDE website](#)).

### **15.3.3 Services of general economic interest**

The term services of general economic interest (“Services of general economic interest”) is not defined in TFEU, or in secondary EU law. However, the EC defined that Services of general economic interest are economic activities that bring results in overall public interest and that would not be provided on the market without public intervention. These services are usually ensured by the state, regions or municipalities in public interest (i.e. in the interest of public) and their distinctive characteristics is the fact that if they were not financially supported by public subject, they would not be provided at all, or their quality and scope would be limited. The public service obligation arises to the service provider based on the authorisation and the criterion of public interest. It ensures providing the service on the conditions enabling fulfilling its objective. There is a special legal modification concerning the aid that is provided to the beneficiary for the purposes of providing Services of general economic interest.

The services of general economic interest essentially refer to the grants for public subjects that usually fund functioning these providers. These compensatory payments (compensations) can establish state aid. The sample areas, where Services of general economic interest can be identified: travellers transport, health care, social services, public service broadcasting, postal services, power engineering.

The decision-making factor for determining, whether the Services of general economic interest financing from public funds means state aid is the judgement of the European Court of Justice (nowadays the Court of Justice of the European Union) to the Altmark judgement (C-208/00). In this decision the Court set out 4 cumulative conditions for whose compensation

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fulfilment (compensation payment) does not mean advantage for the SGEI operator. Therefore, one of the definition signs of state aid is excluded (advantage of the SGEI operator), thus also the compensation (balancing payment) invested into Services of general economic interest does not represent state aid.

### **Aid under Decision No. 2012/21/EU**

Aid in the form of compensation payment for the public service obligation, which meets all the conditions of Decision No. 2012/21/EU <sup>160</sup>, is compatible with the internal market and shall be exempted from the notification requirement laid down in Art.108, Par. 3 of the Contract on EU Operation if it also meets the requirements under the contract or sectoral Union legislation.

A verifiable fact that throughout the project implementation, the beneficiary shall carry out activities within the project that fall among the activities defined by the Authorisation to perform services of general economic interest, i.e. a document which the beneficiary receives as an integral part of the legal act to provide/transfer aid, for the entire term of the project is a condition for granting aid from the OP RDE. The Authorisation shall determine the activities and their scope, term of authorisation and the amount of the compensation payments, which are considered to be services of general economic interest. The aid granted is considered to be the compensation payment.

The period of authorisation may not exceed 10 years and the maximum amount of aid must not exceed 15 million EUR/year.

### **Aid according to the Commission Regulation No. 360/2012**

Another possible variant of financing the SGEI is the support provided according to the special Commission Regulation (EU) No. 360/2012 on using Articles 107 and 108 of the Treaty on the Functioning of the European Union to the de minimis support granted to establishments providing the services of general economic interests (hereinafter “Commission Regulation No. 360/2012”). In this case, the beneficiary receives as integral part of the legal act of granting/transfer aid the Authorization to perform public service, for the entire term of the project. The Authorisation shall determine the activities that are considered services of general economic interest, their scope, period of authorisation and the amount of compensation.

One enterprise may be provided with the aid to 500 TEUR for three financial years and one enterprise shall be determined in the same manner as in the case of de minimis aid pursuant to Commission Regulation No. 1407/2013. This limit also includes the aid granted under other regulation on de minimis aid. De minimis aid pursuant to Commission Regulation No. 360/2012 may not be combined with any other compensation payment for the same service of general economic interest (Art. 2. Par. 8 of Regulation No. 360/2012) regardless of whether such compensation payment constitutes state aid or the state aid compatible under Decision No. 2012/21/EU or not.

The provided aid shall be recorded by the granting authority in the central registry of small-scale aid within the time limit stipulated by law. More information on the application of the SGEI

<sup>160</sup> Commission Decision dated 20. 12, 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to state aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest.

rules can be found along with the Manual of Services of General Economic Interest on the website of the Office for the Protection of Competition (<http://www.uohs.cz/cs/verejna-podpora/sluzby-obecneho-hospodarskeho-zajmu-sgei.html>).

If the aid is provided in the form of Services of general economic interest, it will be mentioned in the call.

## **15.4 Identification of state aid in the scope of supported activities**

The expected support modes within the OP RDE can be found on the OP RDE website [OP RDE](#).

## **15.5 Basic obligations of the applicant/beneficiary in the area of state aid**

The applicant is obliged to act based on the conditions that are set out in the call to submitting grant application and following documentation to this call. Engaging the partner must be carried out in accordance with the rules for state aid, in such a way that there was not an indirect state aid of the partner and his advantage according to Art. 107, Par. 1 of the TFEU (for Partnership, see Chapter 13).

The beneficiary is obliged to carry out procurement of goods and services (or another comparable transaction) pursuant to the procurement rules and public procurement regulation in a way that prevents state aid. The rules for selecting suppliers are amended in Chapter 12.

For the purposes of evaluation, the beneficiary is obliged to allow the granting authority access to all documents concerning its activities, inner structure, accounting etc., any time during the evaluation of the grant application, as well as during the follow-up project implementation and its sustainability, to judge, whether the applicant/partner meets the above mentioned conditions. To avoid any doubts it is mentioned that evaluating the fulfilment of these conditions by the applicant/partner the granting authority can verify not only formal settlement or formal information (e.g. in public registers), but also the factual functioning of the applicant/partner.

## **15.6 State aid register in MS2014**

In MS2014+ the data item state aid will be registered in the grant application.

## **15.7 Consequences of a breach of State aid rules**

The EC has the main role in assessing breaches of the rules for public aid. Beneficiaries of public aid can be required to repay the state aid granted, including interest.<sup>161</sup> It is irrelevant whether the fault was on the part of the public aid beneficiary or not.

If the European Commission decides that the illegal public aid is incompatible with the common market, the MA shall issue an order to the beneficiary to refund the aid and the beneficiary has the obligation to refund the state aid granted. The aspect of the disruption of the balanced

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<sup>161</sup> Council Regulation (EU) No. 2015/1589, Interests shall be payable from the date on which the unlawful aid was available to the beneficiary to the date of its refund; the amount of interests is determined in accordance with Commission Regulation (EC) No. 794/2004.

condition on the market by the intervention of the public body shall reflect here. In order to remedy the situation, this state must be removed.

This also corresponds with Section 7, Par. 1 of Act No. 215/2004 Coll., on the Regulation of Certain Relations in the Field of State Aid and Amending the Act on Aid of Research and Development: "If the Commission decides on the recovery or provisional recovery of the public aid, the public aid beneficiary is obliged to refund the state aid granted, including interests determined by the Commission."

The limitation period for the commencement of a dealing in the case of unlawful aid is 10 years and it starts on the day on which the aid was granted.

Exceeding the limit for the de minimis aid may result in the obligation to repay the granted aid. The aid exceeding the limit as well as the entire aid is refunded.

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## **16. CHAPTER – HORIZONTAL PRINCIPLES (PURSUANT TO ARTICLE 7 AND 8 OF THE GENERAL REGULATION)**

The applicant for grant in a specific part of grant application describes the impact and reasons of the project influence on individual horizontal principles, or describes implementation of particular activities for their support. For more details about the way of evaluating the grant application, see Chapter, 5.4 and for further details, see the text of the individual call.

### **16.1 Equality between men and women**

In OP RDE there are predominant activities that are not primarily focused on the equality between women and men; all priority axes however have influence in this area. The principle of equality between women and men will thus be applied as a horizontal policy in individual investment priorities. When programming, managing, monitoring and evaluating the contribution of supported interventions to the equality between men and women will be taken into account. The beneficiary is liable for ensuring equal access of men and women as target groups to activities implemented by the projects and will ensure that discrimination based on sex is not applied.

The Managing Authority of OP RDE puts emphasis on the fact that the applicant within the support of equality between men and women properly takes into account special needs of individual target groups and uses additional means to remove possible barriers (e.g. through taking into account special educational needs of girls and boys, or through removing gender stereotypes).

### **16.2 Equal opportunities and a non-discrimination**

The principle of equal opportunities and protection against discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation were respected in designing the OP RDE in all the priority axes and specific objectives. These principles will also be monitored in the implementation of projects where the main effort will be to remove barriers for the target groups, which would inhibit their participation.

The OP RDE will not support any measures that lead to discrimination and segregation of marginalised groups such as Roma children and pupils and other children and pupils with the need for supportive measures (children and pupils with disabilities and social disadvantage).

### **16.3 Sustainable development**

The OP RDE focused on improving the quality of education, research, development, and co-operation among the actors. The basic modern principles both in education and in research and development include the development of key competences for sustainable development, environmental protection, resource efficiency, measures mitigating climate change, providing conditions for disaster resilience and risk prevention. Responsible attitudes to sustainable development will be encouraged both in grant applications and their subsequent implementation, and throughout implementation, e.g., by preferring electronic communication.

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Within the OP RDE there is No. support for which could have a negative impact on sustainable development. Minimum principles of sustainable development will be required from each project and subsequently will be assessed as part of the project implementation.

The issue of influence on environment in the OP RDE is evaluated only in selected activities supported from the ERDF, e.g., construction works, purchase of sophisticated machines, devices, equipment etc. In this type of operation, the relevance of environmental protection, reducing the risk of disasters (of natural and other origin) or resource efficiency (including electric, heating and other savings) is high and the aim is that investments of this type meet the highest current standards. Therefore, environmental protection and the meeting of those standards will be a part of appraising this type of project proposals. In monitoring, the projects in relevant specific objectives will be internally monitored for their output environmental indicator "Extended, refurbished or newly-built capacity without taking agricultural land". The specification can be found in the call text (or the follow-up documentation).

In research and development projects specialising on research activities as such and on co-operation of various actors, the emphasis will be put on environmental protection within the relevance of the project objectives and activities. Applicants will describe the environmental impact in their projects, mainly in resource efficiency, climate change, disaster resilience and prevention. The sustainable development principle will be taken into account by means of selection criteria in the appraisal and selection of the submitted project proposals.

## 17. CHAPTER – PUBLICITY RULES

The Publicity Rules do not impose any obligations on the Applicant or Beneficiary beyond the scope of the obligations that follow from the General Regulation.

However, for the purpose of promotion of the implementation of the OP RDE as the whole, the Managing Authority of the OP RDE sets a minimum scope of collaboration of beneficiaries while promoting the project implemented, while the beneficiary is obliged to respect two rules:

- The beneficiary has no right to obstruct promotion of the implemented project if such promotion does not require its collaboration;
- if the promotion of the project requires the beneficiary's collaboration, it is the duty of the beneficiary to provide any reasonable collaboration; in such extent that the Beneficiary does not incur any additional costs of such collaboration.

### 17.1 General obligations of beneficiaries in terms of publicity

General obligations of beneficiaries in the area of publicity include the following:

1. Within all the information and communication measures, the beneficiary shall demonstrate the grant awarded from ESIF by displaying **the EU emblem, reference to the EU and reference to the fund or funds** from which the project is supported.
2. In the course of the implementation of the project, the beneficiary shall inform the public about the grant awarded from the funds in the following manner:
  - a) the Beneficiary shall publish on its website (if any), a brief description of the project, including the objectives and the results, emphasising that the project has obtained grant from the Union;
  - b) after the commencement of the physical implementation of the project, it shall place at least one **poster with information** about the project (A3 size at least) <sup>162</sup>, including the information on the financial aid from the Union in the following wording: "This project is co-financed by the EU." at a place easily visible to public, such as for example the entrance area of the building. If the Beneficiary implements multiple projects at one place<sup>163</sup> funded from the same programme, it is possible to install one poster, of minimum size A3, for all those projects.

**The poster is displayed in case of following projects:**

- the projects financed from ESF;
- the projects financed from ERDF and the total Union contribution to the project does not exceed EUR 500 000;

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<sup>162</sup> The poster can be replaced by a carrier, on which the information shall be displayed permanently in writing (a board, billboard, etc.) while observing the minimum A3 size.

<sup>163</sup> In the cases when a poster cannot be placed in the place of the project implementation (projects aimed at social work in the field, etc.), the poster can be placed at the registered office of the beneficiary.

- The project is funded from the ERDF and the total Union contribution to the project does not exceed EUR 500,000 and the project was not based on purchase of tangible asset or financing of infrastructure or construction work.
- c) In case of operations supported from the ESF and where appropriate<sup>164</sup> in case of operations supported from the ERDF or CF, the beneficiary shall ensure that the subjects participating in the operation will be informed of that financing.

Every document related to the implementation of the project, which will be used for informing the public or target groups of the supported project or its part, including any acknowledgement of the participation or other acknowledgement, must include a declaration stating that the programme was supported from the given fund/European structural and investment funds. Such obligation will be considered as fulfilled if the Beneficiary informs about the supported project in the following way:

- displaying the EU emblem and identifying the fund/funds and the programme.

The obligation to indicate with the prescribed logos and texts in accordance with the rules stated above/below shall not apply to documents that are not intended to inform the public or the target groups about the project supported (contracts, invoices, public contracts, etc.).

- d) In case of implementation of a project funded from the ERDF, the beneficiary shall post, at a prominent place, well visible to the public, a temporary billboard (for the implementation period of the project), which will be of significant size<sup>165</sup>, for every operation based on financing infrastructure or construction work whose total financial assistance exceeds EUR 500 000.

The rules concerning disclosing mandatory publicity instruments and related activities (information on the website) are recommended to be met in the shortest period after the issue of the legal act, but not later than the submission of the First Report on the Implementation of the Project. The beneficiary informs of the fulfilment of these obligations in the first report on the implementation of the project, in the case of single-stage projects then in the final report on the implementation of the project.

3. No later than in three months after completion of the operation, the Beneficiary shall put up **a permanent plaque or permanent billboard** of significant size at a prominent place, well visible to the public, for each operation fulfilling both following criteria:
- total amount of financial assistance per operation exceeds EUR 500 000;
  - the operation is based on purchase of a tangible item or financing infrastructure or construction work.

<sup>164</sup> Suitable cases mean trainings, conferences, seminars and workshops.

<sup>165</sup> The recommended size of the temporary billboard is the standard euroformat of 2.4 × 5.1 m. Other specifications of the billboard and permanent board shall be part of the ESIF Uniform Visual Style Handbook.

The poster, permanent plaque or billboard shall state the title of the operation/ project, main objective of the operation/project, and amount of the financial support provided by the EU in the following wording: "This project is co-financed by the EU."

The permanent plaque, billboard or poster shall be made in compliance with the ESIF Manual of Uniform Visual Style for the programming period 2014–2020 (hereinafter the UVS Manual) and the MEYS Manual of Visual Identity, available on the MEYS website <http://www.msmt.cz/strukturalni-fondy-1/pravidla-pro-publicitu>.

In case that after completion of the operation the three-month deadline for installation of the permanent plaque or permanent billboard was met, on condition that the rules for use of the ESIF uniform visual style and MEYS logo were respected, the Beneficiary may create a joint plaque for multiple projects implemented at the same site.

The appropriate instrument with all the required formalities is recommended to generate through the Generator of Mandatory Publicity Tools for the period of 2014-2020, which is available at: <https://publicita.dotaceeu.cz/>.

**Table 1 – Summary of tools**

Obligatory tools	Optional tools
<ul style="list-style-type: none"> <li>• Temporary billboard (for the term of the project)</li> <li>• Permanent memorial plaque / billboard</li> <li>• Poster of the minimum A3 size</li> </ul>	All other communication tools and activities fall under the optional tools / optional publicity

## 17.2 Obligatory elements in obligatory and optional tools/ optional publicity

Obligatory elements defined by the Directive of the European Parliament and of the Council (EU) No. 1303/2013 and further specified by its Implementing Regulation are obligatory for all subjects and all tools (obligatory and optional):

- **EU emblem**
- **Title "European Union"**
- **Reference to ESI Funds**
- **Reference to OP RDE**

### General rules of using logos

- Using logos other than the EU logo is the only item specified beyond the scope of requirements following from the Directive of the European Parliament and of the Council (EU) No. 1303/2013 and its Implementing Regulation.
- Graphic norms for the Union emblem and the determination of standard colours are available in the ESIF Manual of uniform visual style for the programming period 2014–2020

(see the website <http://www.msmt.cz/strukturalni-fondy-1/pravidla-pro-publicitu>), including the combination of the EU emblem and the text embedded in the EU logo.

- c) Logos must be well-visible. Their position and size must be proportional to the dimensions of the material or the document.
- d) The logos are placed so that, regardless they are used horizontally or vertically, the following rule of position is respected: the EU logo should be placed on the left (if used horizontally); and on the top (if used vertically); the OP RDE logo is placed on the second position.
- e) The EU logo/emblem should be at least the same size as the other logos used.
- f) In several logos in a row, protective zones of individual logos should be respected.
- g) The logos shown on website are **always made in colour**; in all the other cases, the colours should be used as well (if possible). The monochromatic version may be used in well-grounded cases only. The well-grounded exceptions i.e. the use of the monochromatic logo, include the cases when the materials are printed on standard office printers, or some other cases, when the material would not allow using the colour version, or if using the colour version would be uneconomical, unecological or unaesthetic.
- h) Making black-and-white copies of original colour material is not considered as non-compliance with Publicity Rules.
- i) In optional tools, the obligation of reference to the fund shall not apply for small promotional objects, where the display of the full version is not technically feasible. For the minimum dimensions of the EU logo, refer to the Manual of the uniform visual style for EU funds.

#### **Particular obligations of the beneficiaries related to using logos in individual types of tools/cases**

##### **1. Obligatory tools**

In case of obligatory tools financed under the same programme, however, from multiple funds at a time, or from a multi-fund programme, only the two following logos will be present in the zone designed for obligatory publicity:

- a) EU logo;
- b) MEYS logo.

It is impossible to place any other logos anywhere within the tool. Furthermore, a reference to the EU and ESI funds (jointly) and to the programme will be stated. This information shall be included in the EU logo (see the example):



EVROPSKÁ UNIE  
Evropské strukturální a investiční fondy  
Operační program Výzkum, vývoj a vzdělávání



##### **2. Optional tools**

As regards optional tools/ optional publicity funded under the same programme yet from multiple funds at a time, or from a multi-fund programme, the tool must bear the EU emblem,

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the reference to EU and ESI funds (jointly) and to the programme. This information may be included in the EU logo. Abbreviated names of programmes may be used within the EU logo as well.

Furthermore, other logos may be placed onto the tool, too. However, it is recommended to respect the zone designed for obligatory publicity – in the way it is defined in the Manual of Uniform Visual Style, i.e. it is not recommended to place other logos, except for the logos of financing entities (i.e. MEYS being MA), within the same horizontal line (if used horizontally) or within the same vertical line (if used vertically); the above-mentioned general rules should be respected in all times, providing that the technical solution for the given tool allows to do so.

### **17.3 Sanctions in case of non-compliance with the Publicity Rules for beneficiaries in the OP RDE**

Establishment of a sanction mechanism in terms of non-compliance with the publishing rules is important from the view of adherence to the set rules on the Beneficiary's side.

The fundamental prerequisite of successfully fulfilled obligations in the area of publicity is applying preventive procedures, not repressive recourse.

The following rules are applicable for all irregularities in the area of publicity:

1. any non-compliance subject to financial correction should be visible/identifiable to the naked eye (irregularities not visible to the naked eye are not given sanctions);
2. reasonable deadlines are determined for amendment;
3. the maximum amount of all sanctions related to irregularities in the area of publicity per one operation/project is CZK 1 000 000 to avoid too high sanctions for non-conformities which do not directly affect the project objectives;
4. sanctions are imposed by percentage since this is the way ensuring equal treatment of all applicants; the percentage is computed **from the total amount of grant**, which is awarded to implementation of the project within the legal act on grant award / transfer, and that at the **current amount** at the time when the sanction was imposed;
5. any documentation (request for correction, notification on non-compliance etc.) will be communicated via MS2014+.

There are two categories of non-conformities: non-conformities in case of obligatory tools, and non-conformities in case of optional tools. The procedures for either case are described in the following chapters.

#### **A) Rules for enforcement of sanctions in obligatory tools**

In case of a finding stating a Beneficiary's breach in a concrete rule in the area of publicity in any of obligatory tools, the Beneficiary will be asked for correction in writing, within a deadline defined by the inspection body (the deadline shall correspond to the time needed for such correction). After that, the following procedure will apply:

1. the Beneficiary corrects the situation within the required deadline – no. sanction is imposed;

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2. the Beneficiary does not correct the situation within the required deadline or rectifies it in a wrong way – the **sanction** for breach will be imposed, in compliance with Table 2; after that, the Beneficiary will be asked for correction once more. The inspection body shall define reasonable deadline for correction;
3. if the Beneficiary does not correct the situation after such repeated request, **the sanction for unrespecting of the request made by the provided of the financial assistance** will be imposed, and that at the same amount as it was determined at the time of identification of the breach, according to Table 2; for the purpose of this, it is stated in the related legal act that the financing is provided on condition that an issue will be corrected if the Beneficiary is asked to do so, and, furthermore, that failure on the Beneficiary's side to rectify the situation within the determined deadline and in the way as required will be considered as breach in the conditions of providing the financing, and, furthermore, that every case of failing to correct the situation will be sanctioned, i.e. every unfulfilled request for correction represents one breach in the terms and conditions of the Grant Award Decision. Following from such arrangements, it is possible to impose the sanction for unrespecting of the request by the MA several times if the rectification is not ensured within the deadline specified in the request, until the correction has been ensured. In terms of obligatory tools, any irregularity must be rectified, in **any** case.

**Table 2 – Sanctions in obligatory tools**

Publicity Tool	Misconduct	Amount of the penalty
Obligatory tools	The tool is completely missing	1.2%
	Something is missing or is incorrect on the tool: <ul style="list-style-type: none"> <li>– EU logo (EU emblem including all statutory references/texts)</li> <li>– name, main objective of the operation and information on EU financial aid</li> <li>– prescribed dimension of the tool</li> </ul>	0.8 %
	Redundant logo is stated	0.1 %

#### **B) Rules for enforcement of sanctions in optional tools / optional publicity**

In case of a finding stating a Beneficiary's breach in a concrete rule in the area of publicity in any of optional tools, **the beneficiary will be asked for correction in writing, within a deadline defined by the inspection body** (the deadline shall correspond to the time needed for such correction). After that, the following procedure will apply:

1. If the correction **is** possible and the Beneficiary **rectifies** the situation within the required deadline, no sanction is imposed.
2. If the correction is **not** possible (for example, for technical reasons, there is no sense in doing it, it would be economically unsound<sup>166</sup>), the Beneficiary will be reproached –

<sup>166</sup> All the reasons for which the remedy is not possible need to be properly substantiated in writing by the beneficiary within a specified period. Generally, the correction is economically disadvantageous, unless the cost of removing the error exceed the amount of the penalty. Other cases need to be assessed by the inspection body.

**reproach No. 1**, category A or B, refer to Table 3 below; no sanction will be imposed. Should the same non-compliance occur in any other tool / medium again during the following inspection, the Beneficiary will be reproached once more - reproach No. 2, category A or B, refer to Table 3 below; No. sanction will be imposed, either. However, the sanction will be imposed if the Beneficiary, during the third inspection, is reproved for the third time – **reproach No. 3**, for the third irregularity in the same category (A or B) in any optional tool<sup>167</sup>. The same sanction will be imposed if the fourth or any other non-compliance is identified in the same category (A or B).

3. If a correction **is** possible but the beneficiary does not correct the situation within the **required** deadline, the **sanction** as per Table 3 will be imposed.

**Table 3 – Sanctions in optional tools / optional publicity**

Publicity Tool	Category	Misconduct	Level of misconduct	Amount of the penalty
Optional tools / optional publicity	A	EU logo (EU emblem, including all statutory references/texts)	completely missing	0.6 %
	B	– EU logo (EU emblem, including all statutory references/texts) – Information on the website, if such exists <sup>168</sup>	– it is listed incorrectly  – completely missing / is listed incorrectly	0.4 %

## 18. CHAPTER – LIST OF ABBREVIATIONS

MA	Managing Authority
AA	Audit Authority
CBA	cost-benefit analysis
CRS	Central Register of Grants
CZK	Czech crown
CNB	Czech National Bank
CR	Czech Republic
CSI	Czech School Inspection

<sup>167</sup> One reproach may be given for more optional tools together For the tools that have already been counted once, no additional reproach may be given.

<sup>168</sup> EP and Council Regulation (EU) No. 1303/2013, Annex XII, 2.2 Responsibilities of Beneficiaries, Par. 3.

TIN	tax identification number
PA	partnership agreement
CfW	contract for work
VAT	value added tax
CoS	contract of services
FTT	Further training of teachers
ECB	European Central Bank
EC	European Commission
EDS/SMVS	Subsidy Registration System / State-owned Property Administration (former Information System for Programme Financing – ISPROFIN)
ERDF	European Regional Development Fund
EIS	economic information system
EMFF	European Maritime and Fisheries Fund
ENVI	environmental
EC	European Communities
ESF	European Social Fund
ESI/ESIF	European Structural and Investment Funds
EU (Union)	European Union
ECA	European Court of Auditors
EUR	euro
EAFRD	European Agricultural Fund for Rural Development
FAQ	frequently asked questions ( Frequently Asked Questions)
FP	financial plan
CSNF	Cultural and Social Needs Fund
CF	Cohesion Fund
FTE	full-time equivalent
GBER	General Block Exemption Regulation
GDP	gross domestic product
HP	horizontal principle
ICT	information and communication technologies
ID No.	identification number
IoP	information about the progress of the project implementation
IP	individual project

IPo	individual project others
IPr	individual project regional
IPs	individual systemic project
IS	implementation structure
ISCED	International Standard Classification of Education
ISDS	data box information system
IS ESF2014+	information system for monitoring of supported entities
IS KP14+	end beneficiary information system (module MS2014+)
UVS	uniform visual style
UPT	urban public transport
MoF	Ministry of Finance
MoRD	Ministry for Regional Development
MG	methodological guideline
MLSA	Ministry of Labour and Social Affairs
SME	small and medium-size enterprise
MEYS	Ministry of Education, Youth and Sports
MS2014+	monitoring system of Structural Funds and Cohesion Fund for the programming period 2014–2020
MC	Monitoring Committee
N/A	not available
NCI	National Codebook of Indicators
SAO	Supreme Audit Office
DM	Deputy Minister
NCA	National Coordination Authority
NCC	New Civil Code
NSDF	National Strategic Development Framework
NUTS	territorial statistical unit
BFA	body of the financial administration
OLAF	European Anti-Fraud Office (Office Européen de Lutte Anti -fraude)
GRBE	general regulation on block exemptions
OP	operational programme
OP RDI	Operational programme Research and Development for Innovations
OP RDE	Operational Programme Research, Development and Education

MEP	municipality with extended powers
SOU	state organisational unit
PCA	Payment and Certification Authority
SFO SOU	state-funded organisation of the state organisational unit
RfAB	rules for applicants and beneficiaries
BoBD	breach of budgetary discipline
CRSA	Central register of small-scale aid
RIS3	Research and Innovation Strategy for Smart Specialisation of the CR
MA	Managing Authority
Coll.	Collection of Acts
SO	specific objective
SF	structural funds
TFEU	Treaty on the Functioning of the European Union
SMS	Short Message Service (from English Short Message Service)
SGEI	Services of general economic interest
SB	state budget
JSF	Joint Strategic Framework
TA	technical assistance
TPN	thematic partnerships and networks
OfPDP	Office for Personal Data Protection
OPC	Office for Protection of Competition
R&D	research and development
SRI	science, research and innovations
RI	research infrastructure
RO	research organisation / organisation for research and dissemination of knowledge
MP	major project
UN	university
AoFS	Act on Financial Supervision
SFoA	simplified forms of accounting
PIR	Project Implementation Report
PSR	Project Sustainability Report
FPCR	Final Project Completion Report

FPSR	Final Project Sustainability Report
SP	simplified project
CoPP	Code of Public Procurement
PPA	Public Procurement Act
FPA	final payment application
PA	payment application