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Requirements and conditions for application for and proceedings of applications for 2014-2020 structural assistance for establishment of regulation on conditions for provision of support

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The regulation is established on the basis of subsection 21 (6) and subsection 22 (4) of the 2014-2020 Structural Assistance Act.

Chapter 1 GENERAL PROVISIONS

§ 1. Scope of application

(1) The regulation shall establish, for the implementation of operational programmes specified in clauses 1 (1) 1) and 3) of the 2014-2020 Structural Assistance Act (hereinafter Structural Assistance Act), the requirements and conditions for an applicant for structural assistance (hereinafter support), a partner and an application for support (hereinafter application), proceeding of an application, acceptance of an application or refusal to satisfy an application and amendment and repeal of the grant decision, which shall be included in the regulation on the conditions for the provision of support to be established by the head of the 1st level intermediate body.

(2) The provisions of this regulation may be applied to the establishment of the conditions and procedure for preparation of the investment plan to be established by a regulation on the conditions for the provision of support, except where otherwise provided for in this regulation.

(3) The regulation on the conditions for the provision of support may lay down additional requirements and conditions for the application and proceedings of applications, taking account of the specific character of the projects in the supported area, the requirements provided for in this regulation and, in the cases not covered by this regulation, the requirements provided for in the national and European Union legislation.

Chapter 2 REQUIREMENTS FOR APPLICANT, PARTNER AND APPLICATION

§ 2. Requirements for applicant and partner

An applicant and a partner shall meet the following requirements:

- 1) they have refunded the repayable support pursuant to the 2007-2013 Structural Assistance Act and the Structural Assistance Act if the due date for the performance of a claim has arrived;
- 2) they or their legal representative has no valid penalty imposed on the basis of §§ 209, 210, 260¹, 372, 373, 379 or 384 of the Penal Code;



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3) the support has not been recovered from them or the support has not been cancelled due to the relocation of the manufacturing pursuant to point (f) of Article 125 (3) of 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 and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, pp.320-469) if the applicant or partner has received support for manufacturing activities;

4) the economic activity related to the activities supported by them has not ceased or suspended;

5) they have the self-financing capacity and the capability to pay ineligible expenditures pursuant to § 3;

6) they have the qualifications and experience necessary for the implementation and management of the project and experience and legal, organizational and technical assumption pursuant to the regulation on the conditions for the provision of support..

§ 3. Capacity for self-financing and payment of ineligible expenditures

(1) An applicant and a partner shall have the capacity for self-financing and payment of ineligible expenditures as of the moment of submission of the compliant application.

(2) An applicant and a partner shall have the capacity for self-financing and payment of ineligible expenditures if all the following conditions are met:

1) their tax-arrears to the state with the interest accrued are not higher than 100 euros or are postponed;

2) they are not bankrupt, in liquidation or compulsory dissolution;

3) they are not, pursuant to the European Union law, undertakings in difficulty if they are beneficiaries of state aid.

(3) The regulation on the conditions for the provision of support may, in addition to the conditions specified in subsection (2), provide for additional conditions for assessment of the capacity for self-financing and payment of ineligible expenditures of an applicant and a partner.

(4) If the local government or its financial management unit contributes to the self-financing or payment of ineligible expenditures of the investment project, an applicant and a partner shall have the capacity for the payment of such expenditures, if, in addition to the requirements specified in subsection (2) of this section, the requirements specified in subsection 34¹ (1) of the Local Government Financial Management Act are complied with and the local government or its financial management unit have funds pursuant to subsections 34¹ (2) and (3).

(5) The requirements of subsection 34¹ (1) of the Local Government Financial Management Act, specified in subsection (4) shall not apply to the health care provider for the purposes of the Health Services Organisation Act.

(6) The Ministry of Finance shall provide, at the request of the 1st level intermediate body or the 2nd level intermediate body, an opinion of the circumstances specified in subsection (4), within five working days as of the receipt of the request for opinion. If the Ministry of Finance needs additional financial information from the local government for forming an opinion, the 1st level intermediate body or the 2nd level intermediate body shall be informed by the Ministry of Finance of the expected new term for the giving of an opinion.

(7) Upon provision of support on the basis of the investment plan subsections (4)–(6) shall be applied.

§ 4. Requirements for application

(1) An application shall comply with the following requirements:

- 1) the application shall be submitted in a prescribed manner and form together with the required documents;
- 2) the application shall contain the information, which is appropriate, exhaustive and correct, required by the regulation on the conditions for the provision of support,;
- 3) the application has been signed by an applicant or the legal representative thereof;
- 4) the support is requested for the purposes and activities to be supported provided for in the regulation on the conditions for the provision of support;
- 5) the target level of the result indicator of the project shall contribute to the target level of the output indicator of the activities of the measure;
- 6) the application request identifies an output indicator with the target level for each supported activity, which shall contribute to the achievement of the target level of the result of the project;
- 7) the description is given in the application of the impacts of the results of the project on the promotion of the objectives of regional development, environment protection and climate, equal opportunities, state government or information society if this is relevant;
- 8) the activities to be supported are carried out during the eligibility period specified in the regulation on the conditions for the provision of support, but no later than 31 December 2023;
- 9) the activities to be supported have not been completed or fully implemented before the submission of the application, regardless of whether the expenditures have been paid;
- 10) the place of implementation of the activities to be supported is in Estonia, except where the place of implementation is in accordance with Article 70 (2) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council, or with Article 13 (2) and (3) of Regulation (EU) no 1304/2013 of the European Parliament and of the Council on the European Social Fund and repealing Regulation (EC) No 1081/2006 (OJ L 347, 20.12.2013, pp. 470-486);

- 11) the amount of support requested for the implementation of the activities to be supported and its proportion in the eligible expenditures comply with the regulation on the conditions for the provision of support;
- 12) a sufficient description has been given of the measures ensuring the obligation specified in clause 24 14) of the Structural Assistance Act, including the fixed expenditures of the project, their amount and the sources of covering thereof have been defined;
- 13) upon involvement of a partner in the project, an application contains the data of the partner and the activities to be supported which are carried out by the partner;
- 14) the support is not requested to the cost for which support has already been allocated from another measure or domestic or other foreign aid funds;
- 15) an application contains information concerning the manner of the service of documents and information to the applicant, if the manner of communicating the information has not been determined by the regulation on the conditions for the provision of support.

(2) An application shall include the following declarations:

- 1) the consent of a partner for the participation in the project;
- 2) an applicant is aware of the requirements for the provision information to the public related to the receipt of support, which are established on the basis of subsection 39 (10) of the Structural Assistance Act;
- 3) the applicant is aware that the data relating to the receipt of support specified in subsection 39 (3) of the Structural Assistance Act shall be made public;
- 4) the applicant is aware of the fact that the provision of support may be withdrawn and thereby the amounts which have been unduly paid shall be recovered if there exist the bases for the financial correction specified in subsection 45 (1) of the Structural Assistance Act, or the grant decision may be repealed if there occur the bases for the revocation of the grant decision specified in subsection 22 (3) of the Structural Assistance Act;
- 5) the applicant is aware of the impact related to revenue earned on the receiving of support and has taken account of the restrictions on generating net revenue within the framework of the preparation of the application;
- 6) the applicant and the partner agree that they are audited and examined on the basis of the Structural Assistance Act.

Chapter 3 PROCEEDINGS OF APPLICATION

§ 5. Receipt of application

- (1) If an application is not filed on due time, the application shall be dismissed and a decision shall be made with regard thereto on the basis of subsection 21 (3) of the Structural Assistance Act.
- (2) If an application is to be submitted through the register of structural assistance (hereinafter the register) or through the information system of the 2nd level intermediate

body and there is a technical error in the operation of the register or information system preventing the timely submission of the application, the next working day after the elimination of the error shall be deemed to be the due date for submission of the application.

§ 6. Verification of compliance with requirements of applicant, partner and application

- (1) When the application has been accepted, the compliance with requirements of an applicant, partner and application shall be verified.
- (2) If deficiencies are discovered upon the verification of the compliance with the requirements, an applicant shall be informed thereof at the earliest opportunity and the term for elimination of deficiencies shall be determined, where appropriate. The time limit for application proceedings shall be extended by the time spent on the elimination of deficiencies. When the deficiency has been eliminated, the requirement related to the deficiency shall be deemed satisfied.

§ 7. Selection of projects

- (1) If an applicant, a partner, and an application together with the project described therein has been declared to be in compliance with the requirements, upon the selection of the projects the selection criteria and methodology provided for in the regulation on the conditions for the provision of support shall be implemented, which is in accordance with the monitoring committee of the operational programme.
- (2) The 2nd level intermediate body shall make public the project selection criteria on its web page if they are not included in the regulation on the conditions for the provision of support.
The following shall be provided:
 - 1) the scale of score values given to a selection criterion;
 - 2) the description of the circumstances on which the score values are based;
 - 3) the threshold laid down for a selection criterion or the total amount of score values; 4) the procedure for giving score values or the procedure for reasoning the compliance or non-compliance with the threshold if the threshold has been provided for each selection criterion.
- (3) The projects are selected on the basis of evaluation results of the projects within the limits of the budget for funding the applications on whether the threshold is exceeded or complied with or on the basis of the ranking list.
- (4) To make the selection between the projects with equal results it must be provided for in the regulation on the conditions for the provision of support whether to give preference to a project which has a higher rate of self-financing, for which the application has been filed before or which meets other criteria.



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(5) If, as a result of the implementation of subsection (4), the projects get equal results, the choice is made by drawing lots.

(6) Upon the provision of support under the investment plan the subsections of this section shall be implemented upon the preparation of the conditions and procedure for preparing the investment plan to be established by the regulation on the conditions for the provision of support.

§ 8. Satisfaction of and refusal to satisfy application

(1) A grant decision shall be made if:

- 1) an applicant, a partner and an application comply with the requirements specified in the regulation on the conditions for the provision of support and
- 2) an application is subject to satisfaction on the basis of evaluation results.

(2) The decision on the refusal to satisfy the application shall be made if:

- 1) an applicant, a partner or an application fails to comply with even one of the requirements specified in § 2 and § 4;
- 2) an applicant or a partner affects the proceedings of the application by fraud or threat or in any other unlawful manner;
- 3) an applicant fails to provide an opportunity for the on-the spot verification of the compliance with the requirements of an application at an applicant and a partner and on the site of the implementation of the planned activities for the purposes of subsection 21 (7) of the Structural Assistance Act;
- 4) on the basis of the evaluation results the threshold is not exceeded or complied with;
- 5) due to the size of the budget for the funding of applications it is not possible to support the project;
- 6) an applicant does not agree to the proposal of partial satisfaction of the application pursuant to subsection 9 (1) regarding the reduction of support or amendment of the supported activities planned in the project.

(3) If an applicant or a partner has employed a person who is staying in Estonia without a legal basis and who has no legal basis for employment in Estonia, their application shall not be satisfied within five years as of the detection of illegal employment.

(4) The grant decision shall set out:

- 1) the date of making the decision);
- 2) the beneficiary's name, address and personal identification code or registry code;
- 3) the name and number of the project;
- 4) the total cost of the project;
- 5) the amount of support or its proportion in the eligible expenditures if the project is required to contain self-financing;
- 6) information on the state aid, including state aid covered by the block exemption, or the provision of de minimis aid in the case the provision of such aid is involved;

- 7) the objective of the project, activities to be supported and the expected timetable for their implementation;
- 8) the output indicator together with the target level for each of the activities to be supported;
- 9) the output indicator together with the target level of the project;
- 10) the eligibility period of the project;
- 11) the obligations of the beneficiary;
- 12) the reimbursement of expenditures on the basis of actual expenditures and the expenditures paid or on the basis of simplified methods of reimbursement of expenditures;
- 13) the procedure for the submission of documents, information and reports being the basis for payment of support;
- 14) the bases for the suspension of the payment of support and financial correction and the bases for revocation of the grant decision;
- 15) the reference to the place, term and procedure for contestation of the decision if an applicant has a right of challenge; 16) the data of the decision-making body;
- 17) other necessary information specified in the regulation on the conditions for the grant of support.

(5) The decision on the refusal to satisfy the application shall set out:

- 1) the date of making the decision;
- 2) applicant's name, address and personal identification code or registry code;
- 3) name of the project;
- 4) reasoning of the project in accordance with subsection 21 (5) of the Structural Assistance Act, according to which the reason for the total grade of the project or the appraisals and considerations of the appraisers shall not be further explained;
- 5) an explanation of the place, term and procedure for contestation of the decision, if an applicant has a right of challenge;
- 6) the data concerning the decision-maker; 7) other necessary information.

(6) An application and the additional information provided for this application are an integral part of the decision made on the application. The grant decision may include reference to the information contained in the application instead of its description.

(7) An applicant shall be sent the decision on the application by electronic means if the applicant has given consent thereto in the application or by mail or it shall be notified of through the register.

§ 9. Partial satisfaction of application and satisfaction with secondary conditions

(1) The initial application may be satisfied partially if the satisfaction of the applications to the full is not possible due to the size of the support prescribed for financing the applications or if it is not justified, taking account of the amount of the support applied for, project activities and the results to be achieved thereby. The proposal for partial satisfaction shall



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contain a proposal to reduce the support applied for or to modify the activities to be supported, planned in the project.

(2) Before making a decision to satisfy the application partially the 2nd level intermediate body is required to give an applicant an opportunity to present their positions pursuant to clause 23 (1) 1) of the Structural Assistance Act.

(3) The grant decision may be made with secondary conditions for the purposes of § 53 of the Administrative Procedure Act if it is likely that the necessary assumption for making the final decision arrives or is fulfilled at the latest within the term noted in the secondary condition and the setting of a secondary condition is reasonable. Upon arrival or fulfilment of the secondary condition, as appropriate, the relevant information shall be prepared to the grant decision.

(4) If, during the proceedings of an application, the requirements specified in subsection 3 (4) have not been met, but on the basis of the available information it can be presumed that the project could be implemented during the eligibility period provided for in the regulation on the conditions for the provision of support, a grant decision may be made with a secondary condition pursuant to subsection 34¹ (5) of the Local Government Financial Management Act, appointing a date for the compliance with the requirements in the decision after receiving an opinion from the Ministry of Finance.

Chapter 4 AMENDMENT AND REVOCATION OF GRANT DECISION

§ 10. Amendment of grant decision

(1) The amendment of the grant decision may be initiated by the 2nd level intermediate body or the beneficiary.

(2) The amendment of the grant decision shall be formalized as a decision if the objective and the output indicator of the project specified in the grant decision do not change, but the following is amended:

- 1) the activity to be supported or the scope thereof or the activity is omitted or an additional activity is appended;
- 2) the output indicator or its target level to be achieved by the activities to be supported;
- 3) the target level of the results indicator of the project;
- 4) the total eligible expenditures of the project, or the proportion of the support in the eligible expenditures;
- 5) the eligibility period of the project;
- 6) the procedure for reimbursement of the expenses if the amendment of the procedure lies in the payment of support on the basis of the actual and paid expenditures or on the basis of the simplified methods of the reimbursement of expenditures or
- 7) another circumstance specified in the grant decision pursuant to the regulation on the conditions for the provision of support.



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(3) When the circumstances, not specified in subsection (2) of the regulation on the conditions for the provision of support, change they shall be submitted immediately to the 2nd level intermediate body for information in a format which can be reproduced in writing.

(4) If the amendment of a grant decision is related to the circumstances specified in clauses (2) 1)–3), the relevance of the amendments shall be verified before making the decision in accordance with the relevant requirements provided for in the regulation on the conditions for the provision of support and, where necessary, also on the basis of the selection criteria for projects.

§ 11. Increase of support

(1) The amount of the support may be increased if it is justified, and the remainder of the budget for funding the projects allows for an increase in the amount of the support.

(2) The amount of the support indicated in the grant decision made with regard to the project approved with the investment plan may not be larger than the amount of support specified in the investment plan.

§ 12. Revocation of grant decision

(1) The grant decision shall be revoked by the 2nd level intermediate body partially or fully in the cases specified in subsection 22 (3) and subsection 47(3) of the Structural Assistance Act.

(2) Prior to partial or full revocation of the grant decision the 2nd level intermediate body is required to give the beneficiary an opportunity to present their positions pursuant to clause 23 (2) 2) of the Structural Assistance Act.

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