

Case Id: ab4c39ed-212d-440d-bc36-bc08880457ce

Date: 27/05/2016 16:16:32

Public consultation on the revision of the Financial Regulation applicable to the general budget of the Union

Fields marked with * are mandatory.

You are invited to reply by 27/05/2016 at the latest to the online questionnaire available on this webpage (http://www.ec.europa.eu/budget/consultations/index_en.cfm).

This consultation follows the normal rules of the European Commission for public consultations. Responses will be published unless respondents indicate otherwise in the online questionnaire.

Responses authorised for publication will be published on the this webpage (http://www.ec.europa.eu/budget/consultations/index_en.cfm).

Context

The Financial Regulation was originally adopted on 21 December 1977, but has been amended repeatedly since then. It mainly contains provisions applicable to the general budget: principles, establishment, structure, implementation and auditing of the accounts. It also defines the rules for public procurement, the award of grants and prices and the general rules governing financial instruments.

It is thus the main point of reference for the procedures governing the establishment and implementation of the EU budget.

The European Commission considers that it is necessary to revise those rules in order to:

- simplify the regulatory and financial architecture
- promote synergies and flexibility in the implementation of the budget and
- promote a clear accountability framework.

The main issue is the need to reduce complexity of the financial rules and administrative burden. This concerns the financial and regulatory architecture, rules on grants, provisions governing indirect management, rules on financial instruments, shared management, reporting obligations and the management of administrative appropriations.

These issues have been identified during the last three years of implementation of the current rules.

The revision of the Financial Regulation will contribute to the implementation of the Better Regulation initiative. It is also an integral part of the initiative "Budget Focused On Results (http://ec.europa.eu/budget/library/biblio/documents/2015/2015_eu_budget_focused_on_results_conference_summary_en.pdf)" (BFOR (http://ec.europa.eu/budget/library/biblio/documents/2015/2015_eu_budget_focused_on_results_conference_summary_en.pdf)).

More detailed information on the Financial Regulation may be found on the following webpages:

- Beginner's guide to EU funding - Getting started (http://ec.europa.eu/budget/funding/information/getting-started_en)
- Financial Glossary (http://ec.europa.eu/budget/explained/glossary/glossary_en.cfm)
- Who manages the money? (http://ec.europa.eu/budget/explained/management/managt_who/who_en.cfm)

The existing text of the financial rules applicable at present can be consulted on the following webpages:

- Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1456323742337&uri=CELEX:02012R1268-20160101>)
- Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1456323742337&uri=CELEX:02012R1268-20160101>)

Consulting the public is one of the major steps in the process of proposing legislation in the EU. This consultation will help the Commission gather views and analyse the evidence in order to determine possible options for attaining the objectives of the revision.

A) Information about contributor

Please provide information to help us build your profile as a respondent.

*1. Are you a...

- Individual citizen
- International organisation
- EU organisation
- National public authority in EU Member State
- Regional public authority in EU Member State
- Local public authority in EU Member State
- Public authority of a third country
- Private company
- Public company
- NGO
- Consultancy
- Workers' organisation/association/trade union
- Industry association
- Other interest group organisation/association
- Research organisation/university
- Other

*2. Please enter your name and surname (if responding as an individual) / name and address of your organisation (if responding as the representative of an organisation/company etc.):

200 character(s) maximum

Centre d'Analyse de la Politique européenne (CAPE)
Paris, France
www.capeurope.eu

*3. If you are answering on behalf of an organization/institution, please indicate if your organisation is registered in the Transparency Register.

- Yes
- No
- Not applicable (not organisation/company etc.)

*5. Please enter your e-mail address

capeurope@gmail.com

6. What is your country of residence?

In case of legal entities / organisations / companies etc., please select the primary place of establishment of the entity you represent.

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Lithuania
- Luxembourg
- Latvia
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Spain
- Sweden
- Slovenia
- Slovak Republic
- United Kingdom

- Other

*7. Contributions received from this consultation may be published on the European Commission's website, with the identity of the contributor. Do you agree to your contribution being published under your name?

Received contributions, together with the identity of the contributor, will be published on the Internet, unless contributor objects to publication of the personal data on the grounds that such publication would harm his or her legitimate interests. In this case the contribution may be published in anonymous form. Otherwise the contribution will not be published nor will, in principle, its content be taken into account. Please note that regardless the option chosen, your contribution may still be subject to requests for 'access to documents' under Regulation 1049/2001 (<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AI14546>).

- Yes, my contribution may be published under the name I have indicated (name of my organisation, company etc. or my name if I reply as an individual)
- Yes, my contribution may be published but should be kept anonymous (without name and contact details)
- No, please keep my contribution confidential (it will not be published but may be used internally within the Commission)

*8. May the European Commission contact you, in case further details on the submitted information in this questionnaire are required?

- Yes
- No

*

9. Have you received financing from the EU budget as?

(more than one box can be ticked)

- a beneficiary of a grant financing
- a recipient of procurement contracts
- a recipient for financial instruments
- a delegatee asked to further implement Union funds
- other
- no funding received

(B) Items for consultation: General questions addressed to all stakeholders

1. Less rules and more clarity-a single rule book

Currently, there are two separate pieces of legislation with financial rules for the implementation of the EU budget:

- the Financial Regulation setting-up the main principles and
- the Rules of Application detailing the provisions of the Financial Regulation.

1.1. Do you find the rules and the manner in which they are set up clear enough?

- Yes
- No
- No opinion

1.2. Would you be in favour of introducing only the most important rules in one piece of legislation (a single rule book): the Financial Regulation to be adopted by the European Parliament and Council? Less important rules could be dealt with in autonomous decisions (binding) or in guidance(not-binding). Are you in favour of this change?

- Yes
- No
- No opinion

2. Preventing conflict of interests

The Financial Regulation contains strict rules for the prevention and management of conflict of interests addressed to the staff of the European Union Institutions.

It is proposed to transform this obligation to prevent conflict of interests when implementing EU funds in a general principle applicable to all persons implementing EU funds. This is to avoid a legal gap where the legislation of Member States implementing EU funds does not explicitly foresee such a provision. Are you in favour of this change?

- I agree
- I don't agree
- No opinion

3. Flexibility - use of trust funds in internal policies for funding of actions in the European Union - flexibility in case of crisis

Background

Trust Funds have become a mechanism commonly used in the field of development cooperation to pool funds from different donors and involve them in the governance of these funds. The possibility for the Commission to set up its own "EU Trust Funds" has been in place since 2012 and represents a unique opportunity for the EU to reshape its ways of working in the external field (information can be consulted for example for the "Trust Fund Bêkou (https://ec.europa.eu/europeaid/bekou-trust-fund-introduction_en)" or the "Emergency Trust Fund for stability and addressing root causes of irregular migration and displaced persons in Africa (http://europa.eu/rapid/press-release_MEMO-15-6056_en.htm)"). Under the current legal framework trust funds cannot be used in internal policies.

3.1. The recent crises in the European neighbourhood and beyond have pointed at the need for flexibility in order to provide additional funding. A possible way to achieve flexibility would be to use trust funds not only for external crisis but also for internal crisis in order to pool EU funds with funds of other donors. Are you in favour of this option?

- I agree
- I don't agree

- No opinion

3.2. Another possible way to achieve flexibility would be the creation of small annual reserves in certain of the EU funding instruments for external relations per geographical area. Are you in favour of this option?

- I agree
- I don't agree
- No opinion

Comments

Comments for items 1 to 3(optional)

2,000 character(s) maximum

A continuous mechanism of grants: in order to be reactive and meet the immediate needs of the civil society, the NGOs, etc., it would be necessary to generalize the mechanism of European Endowment for Democracy. Indeed, in this mechanism, the grants are not awarded via a call for proposals, but according to the requests made by the future beneficiaries.

This mechanism should be managed by Delegations and opened to all types of requests (human rights, democracy, civil society, etc.).

Advantages: this system would allow more reactivity for the EU. One should not wait for the launch of a call for proposals, which can take 9 months, to finance priority projects.

At the practical level: annual / pluri-annual funds could be voted for this mechanism. At a certain point, and according to the level of consumption, the Delegation could envisage to use the remaining funds to launch a call for proposals in order to be sure that they will be contracted before the term of D+3, and therefore not be lost.

(C) Items for consultation: specific questions for stakeholders implementing/receiving EU funds

4. Information on EU financing available in work programmes. Financing decisions & work programme (multiannual financing decisions and level of detail)

Background

EU spending programmes for the 2014-2020 periods refer to the adoption of annual or multiannual work programmes. Usually these work programmes constitute the financing decision foreseen by the Financial Regulation for a given year.

Financing decisions/work programmes are adopted by the Commission (often following a consultation process with the Member States) and provide the framework for the implementation of a programme by

the Commission. The financing decisions serve two purposes: (1) they provide for the political decision for which concrete actions the funds shall be spent and (2) they provide for transparency through the publication of work programmes on EU institution's internet site in order to inform potential applicants about funding opportunities.

Already since 2012 the Commission prepares multiannual work programmes implemented via annual financing decisions. In order to synchronise the decision making process and to allow for a stable multiannual planning, the Commission now considers allowing also multiannual financing decisions. Such simplification would require a reduction in the level of detail in the work programme/financing decision in order to adopt it to changing needs and challenges over several years while keeping the elements for which a political decision is necessary.

Therefore, the Financial Regulation could only require the following elements for a financing decision/work programme: (i) objectives and results, (ii) method of implementation, (iii) total amount of the financing decision, (iv) description of the actions, (v) reference to the basic act and budget line and (vi) in case of grants criteria for eligible beneficiaries.

The Commission would like to inquire if additional publication before the publication of the call for proposals/call for tender is helpful for the applicants.

4.1 Which documents do you consult before applying for EU financing?

(more than one box can be ticked)

- Work programmes
- Calls
- Notices
- National contact points for the programme
- EU website
- National Website
- Other

4.2 Is the current timing of publication (no later than 31 March) of the work programme appropriate to you, i.e. it is sufficiently before the publication of the calls?

- Yes
- No
- No opinion

4.3 Would you need any additional information for the preparation of the application or tender if the mandatory elements were reduced as set out above in the published work programme?

- Yes
- No
- No opinion

5. Increased convergence of rules

Background

The Commission works with a wide variety of partners. Different rules are used in order to manage the funding depending on the type of actions and of the partners.

For example, procurement rules are used (Title V of the Financial Regulation) in order to purchase services, supplies or works on its own account the public.

Commission uses grant rules (Title VI of the Financial Regulation) when making a contribution either to a project carried out by an external organisation or directly to that organisation because its activities contribute to Union policy aims.

The Commission works in indirect management with certain type of partners (entities listed in Article 58(1)(c) of the Financial Regulation). Furthermore, specific rules apply to financial instruments (equity or quasi-equity investments, loans or guarantees, or other risk-sharing instruments).

For some complex actions, different types of rules are currently applied (for example grant rules and financial instrument rules when financial instruments are combined with technical assistance for the development of projects).

5.1 Would you consider as an element of simplification to have a single set of rules depending on the main type of instrument (grant, procurement, financial instrument, indirect management) through which such complex actions are implemented? (see also question 8.1)

- Yes
- No
- No opinion

5.2 Would you consider as an element of simplification to have an increased convergence/interoperability of rules between grants, indirect management, and financial instruments based on common principles such as transparency and equal treatment in order to combine the different instruments to fund a project?

- Yes
- No
- No opinion

6. Use of grants: Simplified forms of cost reimbursement (unit costs, lump sums and flat-rates)

Simplified forms of cost reimbursement encompass unit costs, lump sums and flat-rate financing. They cover all or certain specific categories of eligible/acceptable costs which are clearly identified in advance:

- a) where the coverage takes the form of an amount per unit, the EU contribution is based on a unit cost (e.g. a person-day rate for personnel costs);
- b) where the coverage is expressed in global terms, i.e. by an overall amount, the EU contribution is based on a lump sum (e.g. an amount covering the costs for organising an event of a certain scale);
- c) where the coverage takes the form of a percentage applied to other categories of eligible costs or to the contribution to other categories of eligible costs, the EU contribution is based on a flat rate (e.g. flat rate covering indirect costs or other costs of the action);

Simplified forms of cost reimbursement are intended to:

- focus the implementation and management on delivering concrete results/outputs;
- facilitate and simplify reporting;
- shift emphasis from cost based to performance based controls;
- simplify payment procedures as verifying accounting documents evidencing the actual costs (e.g. invoices, payslips, etc.) would no longer be required.

The Commission is committed to use simplified forms of cost reimbursement on a larger scale in the future. It is therefore interested in the level of satisfaction of recipients of EU funds by the simplified forms currently in use.

6.1. In case you have been a recipient of EU funds and the EU reimbursed partially or fully costs based on simplified forms (for example, some costs are reimbursed on the basis of unit costs or a flat rate, or some or all costs of the action are covered by a lump sum) has this:

- facilitated reporting?
- alleviated the administrative burden?
- increased certainty about the level of the EU contribution?
- other

If other, please specify below

Not yet recipient of EU funds

6.2. If you have already had the possibility to choose between the reimbursement of actual costs and the payment of lump sums, flat rates or unit costs, have you still preferred the reimbursement of actual costs ?

- Yes
- No

If yes, why?

- lump sums/flat rates/unit costs do not cover the real costs;
- reporting as regards lump sums/flat rates is too burdensome
- the system of lump sums/flat rates/ unit costs is too complex and it's not totally clear how they are established
- other

6.3. Should the use of lump sums, flat rates become the norm rather than the exception?

- Yes
- No
- No opinion

6.4. Would you accept to be reimbursed your costs based on the concrete objectives/results achieved?

- Yes
- No
- No opinion

7. Use of indirect management: simplified rules on indirect management

Background

Indirect management is the implementation of EU funds that the European Commission entrusts to the entities listed in Article 58(1)(c) of the Financial Regulation. To be eligible to manage EU funds, the Commission carries out an assessment of their procedures ("pillar assessment") on accounting, internal and external controls, procedures for disbursing funds, publication and data protection to establish whether the entities' procedures are equivalent to those of the Commission.

When implementing the budget via a partner that may be eligible under both management modes (direct or indirect management), the EU must decide which management mode to apply.

The experience of the first two years of implementation and negotiations with partners has revealed shortfalls in the application of the new structure of management modes introduced by the 2012 Financial Regulation revision. Those bottlenecks mainly concern:

- i. the fact that the Commission does not sufficiently rely on the procedures of its partners and continues to exercise unnecessary control after they have passed the pillar assessment.
- ii. the risk of inconsistencies created by the application of different sets of rules for direct and indirect management. The choice between the different management modes is often considered as unclear. There are cases where the same activity can be financed by one or the other mode and that there is no justification for the different requirements imposed. It may be that the nature of organisation of Commission's partners is not sufficiently taken into account in the choice of the management mode. There is also a lack of clarity as to which rules should apply to hybrid situations (where organisations perform some tasks which fall under direct management and others which fall under indirect management).

7.1 In case you are an entity implementing EU funds in indirect management, how would you describe your experience with being subject to the current financial rules on indirect management?

(more than one box can be ticked)

- Appropriate to the nature of the activity
- Disproportionate reporting obligations
- Disproportionate controls of the Commission despite the pillar assessment
- Inconsistent application of rules for direct and indirect management
- Disproportionate requirements on the visibility of the Union action (Actions that are wholly or partially funded by the European Union incorporate information and communication activities designed to raise the awareness of specific or general audiences of the reasons for the action and the EU support for the action in the country or region concerned, as well as the results and the impact of this support.)

7.2 Do you agree that after having carried out an in-depth prior assessment of partner's procedures with positive results, the Commission could rely solely on the partner's procedures and on the concrete results achieved?

- Yes
- No
- No opinion

8. Use of financial instruments: simplified rules for Financial Instruments

The Financial Regulation defines financial instruments as Union measures of financial support provided on a complementary basis from the budget in order to address one or more specific policy objectives of the Union. Such instruments may take the form of equity or quasi-equity investments, loans or guarantees, or other risk-sharing instruments, and may, where appropriate, be combined with grants.

The Financial Regulation (Title VIII) provides for a solid regulatory framework for financial instruments including provisions on remuneration, transparency, internal control, audit and reporting.

However, negotiations with Entrusted Entities and the first years of implementation have shown a need to review the requirements in the Financial Regulation (and/or its Rules of Application), to streamline the rules and to further align the design of financial instruments on the most efficient and up-to-date market practices.

For detailed information, consulting a report on financial instruments adopted by the Commission (<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1447766564555&uri=COM:2015:565:FIN>) is recommended.

8.1. More efficient combination between Financial Instruments and additional forms of support:

Regulatory requirements should be streamlined and harmonised (e.g.: reporting, record-keeping, performance-based remuneration) to allow for a more efficient combination between financial instruments and additional forms of support from the Union budget (e.g. grants) provided within a single action.

Today, when financial instruments are combined with other forms of support relating to financial instruments, it is not always clear which sets of rules apply. The Commission considers that it could be clarified that the rules of the Financial Instruments could apply in such cases. Would you support this change?

- I agree
- I don't agree
- No opinion

8.2. Treatment of reflows

Reflows generated by EU financial instruments are currently treated in a differentiated way according to their nature: revenues (dividends, capital gains, guarantee fees, interest) are returned to the Union budget, whilst repayments (capital repayments, guarantees released, repayments of the principal of loans) are re-injected into the instrument which produced them. Such a differentiation leads to difficulties in recording the amounts received by the entrusted entities and consequent delays in the treatment of such amounts. Moreover, this differentiation impairs the efficiency of financial instruments since it reduces the amounts that could usefully be re-injected into high-performing financial instruments, and it increases the need for payments from the Union budget.

The Commission therefore considers necessary to harmonise the treatment of all reflows (revenues and repayments) from financial instruments, allowing their injection into the instrument which produced them. Following the end of the implementation period, all outstanding amounts would be returned to the Union budget, if, for the following programming period, the financial instrument which produced such reflows is not maintained.

Are you in favour of this change?

- I agree
- I don't agree
- No opinion

9. Final remarks

Should you want to raise specific points not covered by the questionnaire, you can include them below.

Comments (optional)

2,000 character(s) maximum

One of the major problems for small NGOs is the difficulty managing EU grants . The contractual requirements are a big burden for the work of NGOS and put in danger their financial situation. Indeed, there is often the risk of managing EU funds in a legal manner, but the expenses can be considered as not eligible ex post (for operational reasons). This can lead to recovery orders that can have a very bad impact on the financial situation of the concerned NGO.

Indeed, the funds are already spent and therefore, the NOG will have to find other sources of financing to pay off the debt. For that purpose, it would be necessary to extend the use of flat-rate and lump sums. But to get to this point, a preliminary work should be made during the contracting phase in order to finalize a realistic and coherent budget. Contracting meetings should be automatic and involve the operational and financial officers of the European Commission. This will fix a common understanding on the different types of costs and smooth the implementation of the grant contract. During these contracting meetings, we could envisage lump sums for seminars; etc
Unit costs should however remain for the purchases of equipment (computers; cars; printers; etc.). The budget would then be much simpler and more manageable and the focus could remain specifically on the expected results .

Contact

BUDG-FINANCIAL-REGULATION@ec.europa.eu
