



**EXECUTIVE OFFICE**

**Management Board  
13 December 2012  
Parma**

<b>Meeting :</b>	<b>Management Board, Public Session</b>	
<b>Subject :</b>	<b>New Financial Regulation</b>	
<b>Document number:</b>	<b>mb 13 12 12 item 11 doc 9</b>	
<b>Document for :</b>	<b>X</b>	<b>Information</b>
		<b>Discussion</b>
		<b>Possible adoption</b>



## RESOURCES AND SUPPORT

### Executive Summary

- On 25 October 2012, the European Parliament and the Council adopted the revised General Financial Regulation<sup>1</sup> containing the financial rules applicable to the general budget of the Union. On 29 October 2012, The European Commission adopted the revised Rules of Application for that New Financial Regulation, which will enter into force on 1<sup>st</sup> January 2013 for the execution of the EU general budget 2013 onward.
- The revised Financial Regulations concern mainly the EU public procurement procedures by increasing the thresholds for low value procurement, simplifying payments modalities, and streamlining the provisions for low value grants.
- Bodies of the European Union, including EFSA, need to incorporate these changes in their individual Financial Regulations and Rules of Application basing on a regulatory document that the European Commission will adopt in 2013 and that is expected to be available to agencies early 2014. Following receipt of that document, EFSA will submit to the Board its revised Financial Regulation and Rules of Application for adoption.
- In the meantime, from January 2013 agencies are required to apply by analogy the revised provisions related to Procurement and Grants.

The Management Board is kindly requested to take note of the changes applicable from January 2013 as described below.

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<sup>1</sup> 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



## RESOURCES AND SUPPORT

### NEW FINANCIAL REGULATION

- On 25 October 2012, the European Parliament and the Council adopted the New Financial Regulation<sup>2</sup> containing the financial rules applicable to the general budget of the Union.

On 29 October 2012, the European Commission adopted the New Rules of Application containing the implementation rules of the New Financial Regulation.

The New Financial Regulation (FR) and the Rules of Application (RAP) enter into force on 1<sup>st</sup> January, 2013.

- The FR contains provisions in Art. 208 empowering the Commission to adopt a Framework Financial Regulation for bodies created under the Treaty on the Functioning of the European Union (TFEU) and the Euratom Treaty having legal personality and receiving contributions charged to the EU budget. This Article, which also targets the Agencies, states that:
  1. The Framework Financial Regulation shall be based on the principles and rules set out in the Financial Regulation.
  2. The Financial Rules of these bodies shall not depart from the Framework Financial Regulation except where their specific needs so require and with the Commission's prior consent.

EFSA's Financial Regulation is based on the current Framework Financial Regulation adopted by the European Commission on 23 December 2002 (Commission Regulation (EC, EURATOM) No 2343/2002) and following amendments.

Until the adoption by the European Commission of a revised Framework Financial Regulation for agencies, which is expected not earlier than the beginning of 2014, EFSA's Financial Regulation will not be adapted.

However, EFSA's Financial Regulation directly refers to the FR for anything concerning Procurement and Grants. In fact, articles 74 and 75 of EFSA's Financial Regulation state that the relevant provisions of the Financial Regulation shall apply. Therefore, for Grants and Procurement the changes in the FR become applicable to EFSA as of the 1<sup>st</sup> of January, 2013.

The main changes in the fields of Procurement and Grants are the following:

#### Procurement

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- New thresholds for low value procurement:
  - 1 candidate up to 15.000 € (currently up to 5.000 €);
  - 3 candidates from 15.001 € up to 60.000 € (currently 3 candidates from 5.000 € up to 25.000 € and 5 candidates from 25.001 € up to 60.000 €).
- Requesting financial guarantee is to be exceptional, prohibited for calls below 60.000 €, and must be always proportionate to the risk.

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<sup>2</sup> 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

- Only a single payment deadline will be possible: no split any more between the time limits to approve the report and that to approve the payment. Standard single deadlines are: 30-60-90 days.
- It becomes possible to define certain critical tasks which cannot be subcontracted by the tenderer.
- Deadline for publishing the annual list of contractors in OJ and EFSA webpage is extended from end March to end June; this list shall include awarded contracts from 15.001 € up to 60.000 € (currently from 25.001 € up to 60.000 €).
- Declaration on honour to be asked only for calls above 15.000 € (so far obligatory above 5.000 €).
- Declaration on honour will be now applicable also to natural persons managing/controlling the legal entity which is submitting the tender.
- New obligation of ex ante publicity for any negotiated procedures from 15.000 € up to 60.000 €.
- New standstill period of 10 days if rejection notification to tenderer is dispatched electronically (currently 14 days standstill period); no standstill period any longer for reopening competition under FWC.
- Interest rate on late payment is increased from ECB rate + 7% to ECB rate +8%.
- New possibility for tenderer to refer in its offer to previously submitted documents related to selection criteria if those documents are exactly the same.

## Grants

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- Work programmes can now be multi-annual, even though only the first year of rolling work programmes can at the same time be the financing decision.
- As a general rule, grant agreements will have to be concluded at the latest 9 months after the deadline of the call for proposals.
- No limit for the amount of lump sums, flat rates and unit costs. Below € 60 000 their use can be decided by the Responsible Authorising Officer (RAO). A beneficiary-per-beneficiary approach will now be possible based on, in particular, their usual accounting practices.
- Grant management will now focus on eligible costs, thus simplifying budget preparation, controls and the verification of the non profit rule, whose definition is streamlined.
- New rules on cascading grants: limits per action (grant) disappear.
- Whether beneficiaries earn interest on pre-financing or not will no longer be of any concern to EFSA.
- Non deductible VAT will be eligible except for activities of public authorities in Member States.
- Extension of low value grants (below € 60.000) to which simplified procedures apply:
  - no-profit rule does not apply
  - lighter supporting documents for proposals
  - no proof for the exclusion criteria
  - no financial guarantees.

The Management Board is kindly requested to take note of the information about the main changes in the Financial Regulation which will be applicable to EFSA Procurements and Grants as of January 2013. Upon the adoption of the Framework Financial Regulation by the Commission in early 2014, EFSA will submit to the Management Board the revised EFSA Financial Regulation and Rules of Application for adoption.