Republic of Latvia

Cabinet

Regulation No. 395

Adopted 3 July 2018

**Procedures for Co-ordinating and Monitoring the Implementation of Projects in the Transport and Telecommunications Sector Financed by the Connecting Europe Facility**

*Issued pursuant to*

*Section 5, Paragraph two and Section 9, Paragraph two of*

*the Law on Monitoring of Connecting Europe Facility Projects*

**I. General Provisions**

1. This Regulation prescribes the procedures by which:

1.1. the applicant of a project shall submit for agreement to the Ministry of Transport as the managing authority (hereinafter – the managing authority) of the Connecting Europe Facility (hereinafter – the CEF) a project application in the transport sector and also in the field of broadband networks in the telecommunications sector in order to qualify for financing from the CEF;

1.2. the managing authority shall:

1.2.1. agree on a project application;

1.2.2. provide an opinion on the draft grant agreement and its amendments if the State budget co-financing has been granted for the implementation of the project;

1.2.3. monitor project implementation.

2. The beneficiary shall be the only funding beneficiary or one of the funding co-beneficiaries, if the project is implemented in cooperation with one or more legal persons established in Latvia or another Member State of the European Union.

3. If co-financing of the State budget has been granted to the beneficiary, the beneficiary shall, on annual basis and in accordance with the schedule for the preparation of the State budget project, prepare and submit to the managing authority information regarding the amount of co-financing of the State budget necessary for the implementation of the project in the medium term.

4. Co-financing of the State budget may be granted to a beneficiary, which is not a State budget institution, if the Cabinet has decided to grant the financing for the respective project.

5. If the co-financing of the State budget is granted to a beneficiary which is not a State budget institution, the contract with this beneficiary on the granting of co-financing of the State budget shall be concluded by the Ministry of Transport as the State budget institution which co-ordinates the implementation of the transport and communication policy.

6. If the difference between the amount of the State budget co-financing credited to the project account and the amount of the State budget co-financing actually spent on the eligible costs of the project is positive, the beneficiary shall reimburse the balance of the amount of the State budget co-financing to the performer of the budget within 60 days after the approval of the request for the final payment of the project in the European Commission’s Innovation and Networks Executive Agency (hereinafter – the Agency).

7. The co-financing of the State budget shall only be used to cover the costs of the eligible activities of the project provided for in the grant agreement. If the effected costs do not comply with the conditions of the grant agreement, the beneficiary shall cover them from its own resources.

**II. Application of Aid for Commercial Activities**

8. In order to fulfil the conditions of Section 9, Paragraph three of the Law on Monitoring of Connecting Europe Facility Projects, the applicant of a project shall submit for agreement to the Ministry of Finance the information needed for the receipt of the initial assessment in accordance with Section 10 of the Law on Control of Aid for Commercial Activity.

9. If, in conformity with the initial assessment of the Ministry of Finance regarding the conformity of the project with the Law on Control of Aid for Commercial Activity, the project is qualified as aid for commercial activity, the co-financing of the State or local government budget shall be granted, observing the relevant requirements specified in the legal framework referred to in Section 4 of the Law on Control of Aid for Commercial Activity, including:

9.1. where Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (hereinafter – Regulation No 651/2014) is applied:

9.1.1. the applicant of a project shall prepare an assessment of the aid for commercial activity in the project and submit it together with the initial assessment of the Ministry of Finance to the managing authority;

9.1.2. the managing authority shall ensure review of the assessment of the aid for commercial activity prepared by the applicant of the project and its submission to the European Commission in accordance with Section 11 of the Law on Control of Aid for Commercial Activity;

9.1.3. if the project application is approved, the beneficiary shall comply with the requirements of Regulation No 651/2014 in the implementation of the project;

9.2. if, in accordance with the legal framework referred to in Section 4 of the Law on Control of Aid for Commercial Activity, the notification of aid for commercial activity needs to be submitted to the European Commission:

9.2.1. the applicant of a project shall prepare the notification of aid for commercial activity and submit it to the managing authority;

9.2.2. the managing authority shall ensure the submission of the notification to the European Commission in accordance with Section 11 of the Law on Control of Aid for Commercial Activity;

9.2.3. the European Commission shall shall decide whether the planned project involves aid for commercial activity and the aid is compatible with the internal market of the European Union. If the project is approved, the beneficiary shall comply with the conditions of the decision of the European Commission when implementing the project;

9.3. the public financing shall not exceed the maximum amount specified in the legal framework referred to in Section 4 of the Law on Aid for Commercial Activity. The difference between the eligible costs and the maximum permissible public financing shall be covered by the beneficiary from funds not related to the aid for commercial activity;

9.4. in the accounting records the beneficiary shall separate the activities qualified as aid for commercial activity from the activities not qualified as aid for commercial activity;

9.5. the beneficiary shall keep the project documentation related to the aid for commercial activity for ten years, starting from the day when the aid for commercial activity has been granted, unless other laws and regulations provide for a longer term;

9.6. the beneficiary shall commence works on the project within the time period specified in the grant agreement, but not sooner than after the submission of the project application to the Agency and if, in accordance with the legal framework referred to in Section 4 of the Law on Control of Commercial Aid, a notification needs to be submitted to the European Commission – after the European Commission takes a positive decision on the compatibility of the project with the internal market of the European Union.

**III. Submission of a Project Application and Agreement Thereupon**

10. The managing authority shall place the information on the website of the Ministry of Transport within three working days after the European Commission has published the call for CEF project proposals.

11. The applicant of a project, on the basis of the rules of the call for proposals announced by the European Commission, shall prepare the project application and submit it for agreement to the managing authority within the time period specified in the publication of the European Commission referred to in Paragraph 10 of this Regulation, but not later than 10 working days before the deadline for the submission of projects specified by the European Commission.

12. The project application shall be submitted to the managing authority in one copy in paper form or shall be sent electronically to the official electronic mail address satiksmes.ministrija@sam.gov.lv.

13. The managing authority shall, within five working days after receipt of the project application, evaluate its conformity with the requirements of the rules of the call for proposals, the sectoral development strategy and guidelines, as well as ascertain whether, in accordance with Section 9, Paragraph three of the Connecting Europe Facility, the initial assessment of the Ministry of Finance has been appended to the project application in accordance with Section 10 of the Law on Control of Aid for Commercial Activity, as well as (if applicable) the assessment prepared by the project applicant regarding the aid for commercial activity in the project or the notification of aid for commercial activity.

14. If the project application form is incomplete, the managing authority shall electronically inform the applicant of the project of the necessary adjustments and specify the deadline for the submission of the updated project application. The request for information shall be sent to the e-mail address specified by the applicant of the project.

15. If clarification is not necessary, the managing authority shall, by complying with the deadline specified by the Agency for the submission of projects, send the agreed project application to the applicant of the project.

16. Within three working days after the European Commission has published the results of the call for CEF project proposals, the managing authority shall inform the project applicants thereof.

**IV. Draft Grant Agreement and Amendments to the Grant Agreement**

17. Upon a positive decision of the European Commission on supporting the project application for co-financing from the CEF funds, the beneficiary shall conclude a grant agreement with the Agency.

18. Within 10 working days after coming into effect of the grant agreement or amendments to the grant agreement, the beneficiary shall electronically submit to the managing authority a signed copy of the grant agreement or the amendments to the grant agreement, sending it to the official electronic mail address satiksmes.ministrija@sam.gov.lv.

19. If co-financing of the State budget has been granted for the implementation of the project, the beneficiary shall agree on it with the managing authority before submitting the grant agreement and the amendments thereto to the Agency:

19.1. the managing authority shall, within 10 working days after receipt of the draft grant agreement or amendments thereto, evaluate the conditions for the implementation and financing of project activities, their conformity with the national sectoral policies and the laws and regulations governing the use of the State budget, and provide an opinion on the draft grant agreement or amendments thereto and send it to the electronic mail address indicated by the beneficiary;

19.2. the managing authority may, within the limits of its competence, propose to clarify the draft grant agreement or amendments thereto by informing the beneficiary and the Agency of the aforementioned proposals.

**V. Monitoring of Project Implementation**

20. The managing authority shall ensure monitoring of the CEF projects approved by the European Commission in the territory of Latvia in accordance with the Law on Monitoring of Connecting Europe Facility Projects.

21. The managing authority shall inform the Agency of the circumstances preventing it from ensuring the functions specified in Article 22 of Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010.

22. The beneficiary shall prepare the Actual Status Report and interim and final payment requests in accordance with the requirements of the grant agreement and submit them for checking to the managing authority together with a certification (Annex 1).

23. Upon a request of the managing authority, the beneficiary shall submit to the managing authority the documents related to the implementation of the project during the implementation of the project and after the implementation of the project, in accordance with the period for the storage of project documentation specified in the grant agreement.

**VI. Submission of the Actual Status Report and Agreement Thereupon**

24. By 10 March of the current year, the beneficiary shall submit for agreement to the managing authority the Actual Status Report on the activities implemented and expenditure effected in the reporting period.

25. The beneficiary whom co-financing of the State budget has been granted for the implementation of the project shall append to the Actual Status Report detailed information regarding the eligible expenditure effected in the reporting period (Annex 2).

26. The managing authority shall, within 10 working days, evaluate the information provided in the Actual Status Report and verify the conformity of the project implementation and the use of the funding with the conditions of the grant agreement.

27. If the information provided in the Actual Status Report conforms to the conditions of the grant agreement, the managing authority shall provide a certification on a specific Agency form template.

28. Where the managing authority identifies shortcomings in the Actual Status Report, the beneficiary shall be obliged to eliminate these shortcomings within the time period specified by the managing authority by submitting explanations, additional information and documentation to the managing authority.

29. If the beneficiary does not eliminate the shortcomings identified within the time limit specified by the managing authority, the managing authority shall not provide the certification and inform the Agency thereof.

30. The beneficiary shall submit this information to the managing authority within 10 working days after receipt of the information regarding the evaluation of the Actual Status Report from the Agency.

**VII. Submission of Interim Payment Request and Agreement Thereupon**

31. After the end of the reporting period specified in the grant agreement, but not later than 15 working days before the deadline for the submission specified by the Agency, the beneficiary whom the co-financing of the State budget has been granted shall submit for agreement to the managing authority the request for interim payment.

32. The beneficiary shall, in accordance with requirements of the grant agreement, append to the request for interim payment an opinion of an independent auditor on the eligibility of expenditure included in the request for interim payment.

33. The managing authority shall, within 10 working days, evaluate the request for interim payment, examine its conformity with the conditions of the grant agreement, conformity with the data provided in the Actual Status Report and verify that the opinion of the auditor referred to in Paragraph 32 of this Regulation has been appended.

34. If the information provided in the request for interim payment conforms to the conditions of the grant agreement, the managing authority shall inform the beneficiary electronically of the agreement on the payment request.

35. If the managing authority identifies shortcomings in the request for interim payment, the beneficiary shall be obliged to eliminate these shortcomings within the time limit specified by the managing authority by submitting explanations, additional information and documentation to the managing authority.

36. If the beneficiary does not eliminate the shortcomings identified within the time limit specified by the managing authority, the managing authority shall inform the Agency thereof.

37. After receipt of the information regarding the evaluation of the request for interim payment from the Agency, the beneficiary shall submit this information to the managing authority within 10 working days.

38. The managing authority has the right to request a beneficiary to whom co-financing of the State budget has not been granted to submit a request for interim payment after the end of the reporting period specified in the grant agreement, but not later than 15 working days before the deadline for the submission specified by the Agency.

**VIII. Submission of and Agreement on a Final Payment Request**

39. The beneficiary shall submit for agreement to the managing authority a request for final payment after the deadline for the implementation of the project specified in the grant agreement, but not later than two months before the deadline for the submission specified by the Agency.

40. The beneficiary shall, in accordance with the requirements of the grant agreement, append to the request for final payment an opinion of an independent auditor on the eligibility of expenditure included in the request for final payment.

41. The managing authority shall, within 20 working days, evaluate the request for final payment and also check its conformity with the conditions of the grant agreement and that the opinion of an auditor referred to in Paragraph 40 of this Regulation has been appended.

42. If the information provided in the request for final payment conforms with the conditions of the grant agreement, the managing authority shall provide a certification on a specific Agency template.

43. If the managing authority identifies shortcomings in the request for final payment, the beneficiary shall be obliged to eliminate these shortcomings within the time limit specified by the managing authority by submitting explanations, additional information and documentation to the managing authority.

44. If the beneficiary does not eliminate the shortcomings identified within the time limit specified by the managing authority, the managing authority shall not provide a certification and inform the Agency thereof.

45. After receipt of the information regarding the evaluation of the request for final payment from the Agency, the beneficiary shall submit this information to the managing authority within 10 working days.

**IX. On-the-spot Checks of the Project Site**

46. The managing authority shall inform the beneficiary of an on-the-spot check of the project site five working days in advance.

47. The managing authority need not to inform the beneficiary of an on-the-spot check of the project site if the need to immediately verify the conformity of the project implementation with the requirements of the grant agreement has arisen.

48. The managing authority shall inform the beneficiary of the results of the on-the-spot check of the project site within 10 working days after it and, where necessary, specify a time limit for the elimination of the shortcomings identified in the check.

49. The managing authority may decide on a repeated on-the-spot check of the project site if the previous check identified a non-conformity with the grant agreement and the repeated check is necessary to ensure that the shortcomings have been eliminated.

50. The beneficiary shall ensure that the representatives of the managing authority have access to the documents and results related to project implementation during the period of project implementation and following project implementation, in accordance with the time period for the storage of the project documentation specified in the grant agreement.

**X. Evaluation of Non-conformity**

51. Non-conformity within the meaning of this Regulation is a non-conformity of the expenditure effected by the beneficiary with the conditions of the grant agreement.

52. The managing authority shall establish the non-conformity on the basis of:

52.1. the received Actual Status Report, request for interim and final payment;

52.2. the results of the on-the-spot check of the project site;

52.3. the information referred to in Paragraphs 30, 37 and 45 of this Regulation.

53. In the cases referred to in Sub-paragraphs 52.1 and 52.2 of this Regulation, the managing authority shall inform the Agency of the non-conformity.

54. The managing authority shall submit to the Cabinet information regarding the ineligible expenditure effected within the project, if such expenditure are found for the beneficiary to whom the co-financing of the State budget has been granted for the implementation of the project.

Prime Minister Māris Kučinskis

Minister for Transport Uldis Augulis

**Annex 1**

Cabinet Regulation No. 395

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**Certification of the Beneficiary**

|  |  |
| --- | --- |
| The certification is provided for the actual status report/interim payment request/final payment request *(delete as applicable)* of the project |   |
|   | *(indicate project name and number)* |
|   |
| (hereinafter – the report) for the period: |
|   |
| *(indicate the reporting period)* |

In accordance with the information provided in the report, I certify that:

– the expenditure effected under the project comply with Article 8 of Regulation No 1316/20131;

– information regarding the project activities implemented and expenditure effected within the reporting period is full, reliable and true;

– the eligible expenditure have been effected within the reporting period specified in the Grant Agreement;

– the eligible expenditure included in the report comply with the eligibility conditions under the Grant Agreement;

– the storage of the original documents related to the implementation of the project is ensured, and they are available at the request of competent authorities;

– copies of the documents appended to the report and the electronic version of the report correspond to the original;

– the procurements carried out during the reporting period have been organised in accordance with the requirements of the Grant Agreement;

– if the estimated contract price of the service/supply/construction work is below the thresholds for contract prices specified in the Public Procurement Law, the beneficiary has conducted a market survey receiving written tenders from at least three applicants in order to determine whom the contract should be awarded, and has ensured the documentation of the market survey results;

– the eligible expenditure effected in the reporting period and included in the report have been effected in conformity with the concluded procurement contracts with the performer on the provision of services, supplies of goods or construction work;

– if co-financing of the State budget has been granted for the implementation of the project, an account has been opened in the Treasury for the receipt of funds from the State budget and the Connecting Europe Facility;

– the accounting records of the project are ensured;

– the rational use and maintenance of project results is ensured;

– the beneficiary is informed that the managing authority may carry out an on-the-spot check of the project site;

– information and publicity measures have been taken in accordance with the requirements of the Grant Agreement;

– the amount of the value added tax included in the eligible expenditure has not been deducted as input tax in accordance with the procedures specified in the Value Added Tax Law.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|   |   |   |   |   |
| (given name, surname) |  | (signature) |  | (date) |

1Regulation (EU) No 1316/2013 of the European Parliament and of the Council of 11 December 2013 establishing the Connecting Europe Facility, amending Regulation (EU) No 913/2010 and repealing Regulations (EC) No 680/2007 and (EC) No 67/2010.

Minister for Transport Uldis Augulis

**Annex 2**

Cabinet Regulation No. 395

3 July 2018

**Financial Statement on the Eligible Expenditure for \_\_\_\_\_\_\_\_ (year)**

|  |  |
| --- | --- |
| Project name, number |   |
| Beneficiary, registration number |   |
| Responsible for preparing the statement, contact details (phone, e-mail) |   |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Activity No. and name in accordance with the concluded Grant Agreement\* | Description of costs based on the implemented activities\* | Co-financing rate applied by the CEF | Financing provided for the activity in the reporting period in accordance with the Grant Agreement (*euros*) | Eligible funding actually spent in the reporting period (*euros*) |
| CEF co-financing | co-financing of the beneficiary | State budget co-financing | amount | incl. VAT |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| For example, Activity No. 1 “A1.1.1. Study on Mineral Resources” | Object of expenditure, justification for the need of expenditure, list of supporting documentation for the justification of expenditure  | The co-financing rate applied by the CEF defined in Article 3 of the Special Conditions of the Grant Agreement | The funding provided for the activity in the reporting period is defined in Annex III to the Grant Agreement | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

Note. \*Information may be provided in English

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Beneficiary |   |   |   |   |   |
|  | (given name and surname, position) |  | (signature) |  | (date) |

Minister for Transport Uldis Augulis