

## **ANNEX 1**

# **General Terms and Conditions for the Government Grant**

### **I. Use of the Government Grant**

1. The Government Grant may be used only for the purpose stated in the Government Grant Decision.
2. In addition to what is laid down in the Finnish Act on Discretionary Government Transfers (688/2001) (or in a Government decree issued under section 8 of the said Act), recipients of the Government Grant must observe the terms and restrictions stated in the Grant Decision concerning the activity for which the transfer was granted.
3. When a Government Grant has been granted for the purpose of procuring or modernizing property used for a specific purpose defined in the Grant Decision, the property may not be permanently used for any other purpose than the one stated in the Decision nor its ownership or right of possession assigned to someone else during the period of time established in the Grant Decision. This period may not be more than ten years from the payment of the Grant or its final instalment.
4. However, the period of use of a property for which a Government Grant has been given as referred to in subsection above is 30 years as of granting the money if the Grant was given for a purpose other than promoting business activity to procure or modernize real property, a building or a dwelling in a building. A shorter period of use may, however, be prescribed by a Government decree issued under section 8 of the Act on Discretionary Government Transfers, or in a discretionary Government Grant Decision if this is justified by the purpose of the Grant.

### **II. Government Grant Recipient's Duty to Provide Information**

1. Recipient of the Government Grant must provide the Ministry with correct and sufficient information for the purpose of overseeing that the terms of the transfer decision are observed.
2. Recipients of the Government Grant must notify the Ministry without delay of any changes affecting the use of the transfer in accordance with its purpose and any other change affecting its use.
3. Recipients of the Government Grant must provide the Ministry with correct and sufficient information for the purpose of paying the Grant.

### **III. Right to Audit**

1. The Ministry has the right to audit Government Grant Recipients' finances and operations as required by the payment of Grant and supervision of its use. When the Grant has been approved to be used in a project or activity of a party other than that of the recipient, the Ministry is entitled to audit, as needed, the finances and operations of the party engaged in the activity for which the Grant was given.

2. The Ministry may issue a decision granting another authority or an outside auditor the authority to carry out the audits referred to in the subsection above. The auditor must be a chartered auditor or auditing firm within the meaning of the Finnish Accounting Act (459/2007) or the Finnish Act on Chartered Public Finance Auditors (467/1999). Auditing firms must designate an auditor to be in charge of the audit.
3. Outside experts may assist in audits at the request of the Ministry.
4. The Finnish Administrative Procedure Act (434/2003), Language Act (423/2003), the Act on Openness of Government Activities (621/1999) and sections 14 and 15 of the Act on State Civil Servants (750/1994) apply to auditors and outside experts.
5. Provisions concerning criminal liability of public officials apply to auditors and outside experts.

#### **IV. Auditing**

1. Recipients of the Government Grant must provide auditing officials and auditors referred to in section III with all information and reports, documents, records and other material needed for the purposes of the audit and assistance free of charge.
2. Auditing officials and auditors referred to in section III are entitled to seize the material subject to audit if auditing so requires. A record must be made of the seizure of material during an audit. The record must state the purpose of seizing the material and indicate what has been seized. Seized material must be returned without delay when no longer needed for the audit.
3. Auditing officials and auditors referred to in section III are entitled to have access, to the extent warranted by the audit, to the business, storage and other such premises used in the practice of a profession or in business and other areas in the possession or use of the recipient of the Government Grant, the conditions of which have a bearing on granting the money and supervising its use. Audits may not be carried out in premises covered by domestic peace.

#### **V. Interruption of Payment**

The Ministry may decide to interrupt the payment of the Government Grant:

- 1) if grounds exist to suspect that the Grant Recipient is not observing the provisions laid down in section I or II;
- 2) the grounds on which the Grant was given have essentially changed; or
- 3) interruption of payment is required by European Union law.

#### **VI. Repayment of the Government Grant**

1. Recipients of the Government Grant must repay without delay any transfer or part thereof they have received through error, in excess or manifestly without cause. Recipients must also repay the Grant or part thereof if it cannot be used as required in the Grant Decision. If the repayable sum does not exceed 100 Euros, it is not necessary to repay it.
2. The provisions of subsection above do not apply to the difference between a grant given on computational grounds and actual costs.

## **VII. Mandatory Clawback of the Government Grant**

1. The Ministry shall issue a decision ordering the discontinuation of the payment of the Government Grant and the claw back of the Grant already paid if the recipient of the Grant has:
  - 1) neglected to repay the Grant or part thereof which under section VI must be repaid;
  - 2) used the Grant for a purpose essentially different from that for which it was given;
  - 3) provided the Ministry with false or misleading information in a matter that was critical to the granting of the money, its amount or terms, or concealed such information; or
  - 4) otherwise essentially violated provisions concerning the use of the Grant or terms included in the Grant Agreement in a manner comparable to subsections 1–3 above.

## **VIII. Discretionary clawback of the Government Grant**

1. The Ministry may issue a decision ordering the discontinuation of the payment of the Government Grant and the claw back of the Grant or part thereof already paid, if:
  - 1) the Grant Recipient has violated section I or II ;
  - 2) the Grant Recipient has refused to provide material referred to in section IV or assistance as referred to in said subsection with regard to an audit;
  - 3) the Grant Recipient has terminated the activities for which the Grant was given, reduced them substantially or assigned them to another party;
  - 4) the Grant Recipient has in violation of section I assigned to another the ownership or possession of property procured with the transfer;
  - 5) the Grant Recipient has in violation of section I permanently altered the purpose of the property for which the Grant was given;
  - 6) the Grant Recipient has been subject to recovery proceedings, or placed into liquidation, bankruptcy or made subject to debt adjustment referred to in the Finnish Act on restructuring of a business (47/1993) or debt rescheduling referred to in the Act on the Adjustment of the Debts of a Private Individual (57/1993) or another act with equal content with those previously mentioned in this paragraph and in force in the home country of the Grant Recipient, unless the purpose of the Grant requires otherwise, or;
  - 7) the Grant Recipient takes action that is in practical terms comparable to what is laid down in this subsection by giving a matter related to the granting, payment or use of the money a legal form that does not comply with its true nature or purpose.
2. If the property for which the Grant was given has been destroyed or damaged during the period of use laid down in section I and new, corresponding property will not be procured to replace that which was destroyed or damaged, the Ministry may issue a decision ordering the termination of the payment of the Grant and order that a sum that corresponds to the share of the Grant of the original acquisition price of the property be clawed back from any insurance indemnity or other compensation.
3. The Ministry may also decide that the payment of the Grant be terminated and the Grant already paid be clawed back if required by European Union law or the Finnish Act on Discretionary Government Transfers (688/2001)..

## **IX. Investment Aid to be Repaid and Clawed Back**

1. The amount of investment aid to be repaid or clawed back under sections VI-VIII above is the share of the market value of the property after the completion of the investment project for which the aid was granted that corresponds to the share of the aid in relation to the original procurement costs of the said property.

2. If investment aid was granted to support business activity, the amount of the Government Grant to be repaid or clawed back is, by way of derogation from subsection 1 above, the amount paid as investment aid.

#### **X. Interest**

Recipient of the Government Grant must pay an annual interest in accordance with section 3, subsection 1 of the Finnish Interest Act (633/1982) plus 3 percentage points on the amount to be repaid or clawed back from the day the Grant was paid.

#### **XI. Penalty Interest**

If the sum clawed back is not paid by the due date set by the Ministry, an annual penalty interest is payable on the sum in accordance with the interest rate referred to in section 12 of the Finnish Interest Act.

#### **XII. Reasonableness**

1. The Ministry may in cases referred to in section VI-VIII decide that a part of the sum to be repaid or clawed back, and any interest or penalty interest on it, will not be clawed back if repayment in full is unreasonable in the light of the financial standing and circumstances of the recipient of the Government Grant or the type of the property procured using the Grant or the procedure on which repayment or claw back is based or because of a change in circumstances.
2. For an extremely pressing cause, the Ministry may decide not to collect the sum to be repaid or clawed back or the interest or penalty interest on it at all.

#### **XIII. Joint and Several Liability**

When the Government Grant has been given jointly to several aid recipients, all recipients are jointly liable to repay the Grant to the Ministry.

#### **XIV. Period of Limitation**

1. The right to be paid the Government Grant that has been given expires if the Grant Recipient has not provided an acceptable explanation required for the payment of the Grant by the deadline set in a Government decree issued under section 8 of the Finnish Act on Discretionary Government Transfers or in the Grant Decision. If no deadline has been set, the right to be paid expires within two years of the end of the financial year in which the Grant was given.
2. The duty to repay the Government Grant or part thereof referred to above in section VI will expire when ten years have elapsed from the payment of the Grant or its final instalment. If a deadline is set for the use of Grant or property in which the Grant was invested in a Government decree issued under section 8 of the Finnish Act on Discretionary Government Transfers or the transfer decision as laid down in section I, the ten-year period is calculated from the deadline.

## **XV. Offsetting**

A sum to be repaid or clawed back, including interest, may be collected by deducting it from another Government Grant paid to the same recipient and granted by the Ministry.

## **XVI. Procurement**

All procurement shall be made in accordance with generally accepted principles and good procurement practices. The Finnish legislation on public procurement shall be applied if the Agency has received more than half of the value of the procurement as an aid or subsidy from the Ministry or other Finnish governmental authorities (Act on Public Procurement and Concession Contracts 1397/2016)

## **XVII. Law Applied**

In addition to these terms and conditions and in all other aspects the Finnish Act on Discretionary Government Transfers shall apply to the Government Grant.