

REGULATION

on determining the criteria for awarding incentives in order to attract direct investments in the automation of existing capacities and innovations

I. INTRODUCTORY PROVISIONS

Scope of the Regulation

Article 1

This regulation prescribes in more detail the criteria, conditions and manner of attracting direct investments in the automation of existing capacities and innovations in industrial areas with high added value.

Terms

Article 2

Terms used in this Regulation have the following meanings:

1) *direct investments* are investments in tangible and intangible assets of companies in industrial areas with high added value, for the purposes of automation of existing capacities and innovations (hereinafter: investment for automation);

2) *investment project* is a project with whose realization a direct investment is performed, and which is provided in the business plan submitted with the application for the incentives allocation and which must contain a detailed description of the elements of direct investment and elements for expert analysis of the investment project, in accordance with this regulation;

3) *investor* is a domestic or foreign company that submits an application for the allocation of incentive funds, for the implementation of an investment project, through the beneficiary of funds who is a related entity. If the investor is a company with its registered office in the Republic of Serbia, it can also be a beneficiary of funds;

4) *beneficiary of incentive funds (hereinafter: beneficiary)* is a company with its registered seat in the Republic of Serbia that has been performing processing activities related to the investment project for at least two years. Exceptionally, the beneficiary of funds may be a newly established company if the investor, directly or indirectly, performs processing activities related to the investment project for at least two years;

5) *small business entity* is an economic entity with less than 50 employees and an annual income or total annual balance sheet not exceeding 10 million euros, in accordance with the provisions regulating state aid (hereinafter: small enterprise);

6) *medium-sized business entity* is an economic entity with 50 to 250 employees and an annual income not exceeding 50 million euros or a total annual balance sheet not exceeding EUR 43 million in accordance with the provisions regulating state aid (hereinafter: medium-sized enterprise);

7) *large business entity* is an economic entity with over 250 employees and an annual income of over 50 million euros or a total annual balance sheet of over 43 million euros in accordance with the provisions regulating state aid (hereinafter: large enterprise);

8) *investments in tangible assets* are investments in property, plants, and equipment that are recognized as eligible investment costs;

9) *investments in intangible assets* are investments in patents, licenses, and standardization, which are recognized as eligible investment costs if depreciated, used exclusively by the beneficiary, kept in the balance sheets of beneficiary for at least five years, or three years for small and medium-sized companies and purchased under market conditions from third parties;

10) *single investment project* is any direct investment made by the beneficiary of the incentive funds or a related company at the group level, within a period of three years from the date of the realization of the previous investment project for which the incentive funds were allocated, and in accordance with the previously concluded contract on allocation of incentive funds on the territory of the same or neighboring local self-government unit;

11) *period of realization of the investment project* is the period determined by the contract on the allocation of incentive funds, in accordance with this regulation, in which the beneficiary of the funds makes a direct investment;

12) *equipment imported on the basis of investor roles* is new equipment that the investor imports and invests in the company as his investment;

13) *industrial areas with high added value*, in the sense of this regulation, include the following industrial areas:

- production of chemicals and chemical products;
- production of basic pharmaceutical products and preparations;
- production of electrical equipment;
- production of computers, electronic, and optical products;
- production of unmentioned machines and unmentioned equipment;
- production of motor vehicles, trailers, and semi-trailers;
- production of other means of transport;
- production of rubber and plastic products;

14) *supply chain*, in the sense of this regulation, means the production process of the final product in multiple phases by multiple economic entities in industrial areas with high added value;

15) *innovation* in the sense of this Regulation means the introduction of a new or significantly improved product with the economic operator concerned;

16) *the index of production complexity* includes the amount and sophistication of knowledge, i.e. ranks the diversity and sophistication of productive knowledge required for the production of products.

17) *new final product* in terms of this Regulation is an innovative product of the final stage of processing and high index of production complexity, which is intended for use by end consumers.

18) *automation* in the sense of this regulation means an investment in tangible and intangible assets in order to improve the efficiency of the production process and increase productivity.

Eligible costs

Article 3

Eligible costs are investments in tangible and intangible assets from the day of submission of the application for the allocations of incentives until the expiration of the deadline for the implementation of the investment project, in accordance with the contract on the allocation of incentives (hereinafter: eligible investment costs).

Eligible investment costs also include the costs of renting business premises in which the investment project is implemented during the implementation period, provided that the lease period starting from the expiration date of the investment project is not less than five years for large enterprises or three years for small and medium-sized enterprises.

Expenses related to the acquisition of leased property, except for land and buildings, are only taken into account if the lease takes the form of a financial lease and contains the obligation to purchase the property at the end of the lease period, with eligible costs meaning the cost incurred on this basis during the project implementation period.

Eligible costs referred to in paragraph 1 of this Article can be also investments in equipment directly related to the investment project and which is further ceded to suppliers for processing or assembly for the beneficiary, provided that the period of use of this equipment from the expiration date of the investment project is not less than five years for large enterprises or three years for small and medium-sized companies, provided that the supplier himself has not received state aid for investments in the equipment in question.

The equipment from paragraph 4 of this Article is available to suppliers for the production of products that will be produced on the premises of the supplier, but which will serve as intermediate products for the production process of the beneficiary. The subject equipment remains the property of the beneficiary, but is made available to the supplier under the conditions defined in the procurement contract or similar contract. The subject equipment is related to business processes carried out on the premises of the beneficiary or its affiliates and can be returned to the beneficiary after the completion of the delivery of the goods or the expiration or termination of the contract. Eligible costs of investing in intangible assets for large enterprises can be recognized in the amount of 50% of the total value of eligible investment costs, and for small and medium-sized enterprises in the amount of 100% of eligible investment costs.

Costs related to the purchase of passenger vehicles and means of transport are not considered as eligible investment costs.

The assets that the company acquires on the basis of investments after submitting the application for the allocation of incentive funds, except for land and buildings, must be new.

Eligible costs of an investment of large economic entity for a fundamental change in the production process must exceed the depreciation of the assets linked to the activity to be modernised over the preceding three fiscal years.

When calculating eligible investment costs, prices reduced by the amount of public revenue are taken into account.

II. AMOUNT OF INCENTIVE FUNDS AND RIGHT TO PARTICIPATE IN THE PROCEDURE FOR ALLOCATION OF INCENTIVE FUNDS

Sources and purpose of funds for attracting direct investment

Article 4

Incentive funds for attracting direct investments for the implementation of this regulation shall be provided from the budget of the Republic of Serbia (hereinafter: the funds).

Funds can be allocated for the implementation of investment projects in industrial areas with high added value:

- a) which introduce automation of production processes within the beneficiary of funds, and/or
- b) which introduce innovation within the beneficiary.

Right to participate in the funds allocation procedure

Article 5

Right of participation in the funds allocation procedure is granted to investors who announce the investment projects in industrial areas with high added value, and who apply for the allocation of funds in the manner and under the conditions provided by this regulation before the commencement of the realization of the investment project.

The beneficiary is obliged to ensure the participation of at least 25% of eligible costs from its own funds or from other sources that do not contain state aid for the implementation of the investment project.

Exemption from the rights on the allocation of funds

Article 6

The following investors and beneficiaries of funds are excluded from the right to allocation of the funds:

- 1) economic entities experiencing difficulties, in the sense of provisions regulating the rules for the allocation of state aid;
- 2) which have due and outstanding tax liabilities in the Republic of Serbia;
- 3) which are obliged to recover irregular state aid or de minimis state aid;
- 4) whose contract on the allocation of incentive funds was terminated, except in the case of a consensual termination of the contract.

Economic entities which may be assigned the resources

Article 7

Funds may be allocated to an enterprise that meets the criteria and conditions set out in this regulation, and:

- 1) which is registered in the Business Registers Agency;
- 2) which has submitted application for the allocation of funds and the business plan for the investment project for which funds may be assigned in line with this regulation;
- 3) for which no pre-insolvency proceedings, reorganization, insolvency, liquidation or compulsory liquidation have been initiated, in accordance with the regulations governing insolvency and liquidation;
- 4) which has not been granted cash incentives for the same eligible costs.

Maximum allowed amounts of funds

Article 8

The maximum allowed amounts of funds are determined in accordance with the criteria from this regulation and cannot conflict with the provisions prescribing the rules for the allocation of state aid.

The maximum allowed amount of funds for large enterprises may be determined in the amount not exceeding 50% of eligible costs for the implementation of the investment project.

The maximum allowed amount of funds for a medium-sized enterprise may be determined in the amount not exceeding 60% of eligible costs, and for a small enterprise it may be determined in the amount not exceeding 70% of eligible costs for the implementation of the investment project.

During determination of the amount of funds that may be allocated, cumulation with previously approved state aid is taken into account, in accordance with the regulations governing the rules for the allocation of state aid.

The maximum allowed amount of funds that may be allocated for investments greater than 50 million euros may not exceed 25% of eligible investment costs, and for investments

exceeding 100 million euros, respective percentage may not exceed 17% of eligible investment costs which is determined as follows:

- 1) for eligible investment costs up to EUR 50 million - up to 50% of those costs;
- 2) for the part of eligible investment costs exceeding the amount of 50 million euros - up to 25% of those costs;
- 3) for the part of eligible investment costs exceeding the amount of 100 million euros - up to 17% of those costs.

For direct investment that is considered a single investment project, the maximum allowed amount of funds that can be allocated to the beneficiary or related entity, is set at maximum percentage referred to in paragraph 5, of this Article.

III. PERMISSIBILITY OF ALLOCATION AND CONDITIONS FOR ALLOCATION OF FUNDS

Investment projects for which funds may be allocated

Article 9

Funds may be allocated for the realization of investment projects for investments in automation and/or introducing innovation, with the minimum value of investments in tangible and intangible assets being 5,000,000 euros.

Conditions for the allocation of funds

Article 10

Funds may be allocated provided that the direct investment takes place at the same location in the local self-government unit for a period of at least five years after the implementation of the investment project for large business entities, or at least three years for small and medium-sized business entities (hereinafter: guaranteed period of investment).

Deadline for the realization of the investment project

Article 11

The deadline for the realization of the investment project is up to three years from the day of submitting the application for the allocation of funds, which can be extended up to five years after concluding the contract on allocating incentive funds, counting from the day of submitting the application for allocation of funds, at the reasoned request of the funds beneficiary, and if the Council for Economic Development (hereinafter: the Council) assesses that the circumstances that caused the need to extend the deadline are objective and that the extension

is justified and purposeful, notably that the extension contributes to achieving the goals of investment and economic development in the most efficient way.

In case of extension of the deadline referred to in paragraph 1, of this Article, the validity period of the bank guarantee shall be extended in proportion to the extension of the deadline for the implementation of the investment project.

Criteria for expert analysis of the investment projects

Article 12

Criteria for expert analysis of the investment project are as follows:

- 1) investor references (distinct market profile, client references, previous experience and success in the implementation of investment projects, etc.);
- 2) amount and type of investment;
- 3) technological level of the activity that is the subject of the investment, in accordance with the Eurostat classification;
- 4) previous cooperation with suppliers and planned share of domestic suppliers;
- 5) effects of investment and introduction of new technology on production capacities, productivity and improvement of the level of product processing;
- 6) effects of innovation on improving the beneficiary's business;
- 7) effects of innovation on the level of production complexity of the funds beneficiaries;
- 8) previous and planned volume of international and total turnover (before and after the investment project) and the impact of the introduction of new products;
- 9) financial and market evaluation of the investment project (sources of financing, liquidity, profitability, sustainability and RoI period, etc.);
- 10) existing level of production and planned increase in productivity;
- 11) impact on the forming or the participation in the beneficiary's supply chain;
- 12) data on the current use of raw materials of domestic origin and its planned increase.

IV. TYPE AND AMOUNT OF FUNDS WHICH MAY BE ALLOCATED

Incentives for eligible investment costs

Article 13

Beneficiaries of funds for investments for the purpose of automation are assigned funds in the amount of 25% of eligible costs for investments in tangible and intangible assets.

The beneficiary of funds is approved an increase in the amount of funds from paragraph 1, of this Article, amounting to 5% of eligible costs of investments in tangible and intangible assets, if the realization of the investment project the beneficiary of funds results in formation a chain of suppliers.

The beneficiary of funds is approved an increase in the amount of funds from paragraph 1, of this Article, amounting to 5% of eligible costs of investments in tangible and intangible assets, if the realization of the project results in production of a new final product of a high degree of production complexity.

The beneficiary of the funds is granted an increase in the amount of funds from paragraph 1 of this Article, if the conditions stipulated in paragraphs 2 and 3 of this Article are cumulatively met.

The total amount of funds that can be allocated in accordance with this Regulation and other incentives is determined in absolute amount and must not exceed the upper limit to which the total amount of state aid is allowed in accordance with regulations governing the rules for allocating regional state help.

V. FUND ALLOCATION PROCEDURE

Letter of intent and notice of possible level of incentive

Article 14

An investor who intends to realize an investment may submit to the Development Agency of Serbia (hereinafter: Agency) a Letter of Intent on the realization of the investment project.

The Letter of Intent contains, in particular, data on the investor, business activities, previous investment activities, planned amount of investment in fixed assets, as well as data from Article 12, of this Regulation, except for data from paragraph 1, point 3), of that Article.

If the Letter of Intent does not contain the elements referred to in paragraph 2 of this Article, the Agency shall request the investor to supplement it, and may request additional information from the investor, in accordance with this Regulation.

Based on the data from the Letter of Intent, the Agency submits a notification to the investor about the possible level of incentives, leaving him a period of 30 days to provide a standpoint.

The notification on the possible level of incentives is legally non-binding and contains information that the Council finally decides on the allocation and amount of funds after determining all the conditions for the allocation of funds in accordance with this Regulation.

Application for allocation of funds and expert analysis

Article 15

An investor who intends to realize an investment, in accordance with this Regulation, submits to the Agency an application for the allocation of funds in the prescribed form, in Serbian language (hereinafter: Application for the allocation of funds) to determine the fulfillment of conditions for the allocation of funds.

Based on the Application for the allocation of funds, the Agency performs an expert analysis of the investment project by applying the criteria from Article 12, of this Regulation.

The Agency advises the investor about the amount of incentives that he will propose to the Council and submits to him a draft contract on the allocation of incentive funds.

Expert analysis of the investment project includes an analysis of the possible amount of funds.

Funds allocation Application Form

Article 16

The request for the allocation of incentive funds is submitted on the Application for granting funds form.

The following shall be submitted with the Application for the allocation of funds:

1) business plan for the investment project for which implementation the funds are being allocated;

2) the original or certified photocopy of the registered financial statements of the investor for the previous two years of activity, with the audit report (if there is a legal obligation to perform the audit) if not published, while the foreign legal entity submits the original or certified photocopy of the financial statements with the audit report (if there is a legal obligation to perform the audit) and a certified translation into Serbian language or a statement by the investor that it is not obliged to obtain a report from a certified auditor. The investor is obliged to submit the original or certified photocopy of the consolidated financial report of the group or division and a certified translation into Serbian language or a statement that it has no obligation to consolidate with the submission of the original or certified photocopy of individual financial statements of related entities;

3) original or certified photocopy of the extract from the appropriate business register in the country in which the foreign investor has its registered office, not older than three months, certified by the competent authority, as well as a certified translation of the extract into Serbian;

4) certificate that no pre- insolvency, reorganization or insolvency proceedings have been initiated against investors and beneficiaries of funds, and the foreign legal entity shall issue a statement on this matter, which is an integral part of the Application for the allocation of funds;

5) proof of settlement of tax liabilities in the Republic of Serbia, while for foreign investors who did not operate in the Republic of Serbia, a statement that the investor did not operate in the Republic of Serbia and does not have a tax identification number assigned in accordance with regulations governing tax procedure and tax administration, which is an integral part of the Application for the allocation of funds;

6) statement that the responsible persons of investors and funds beneficiaries have not been convicted of criminal offenses against labor rights;

7) statement that the investor and the funds beneficiary have not been convicted of a criminal offense committed against the economy, which is an integral part of the Application for the allocation of funds;

8) statement that the investors and the beneficiaries of funds are not companies undergoing difficulties in terms of the rules on the allocation of state aid, which is an integral part of the Application for the allocation of funds;

9) statement that the investors and the beneficiaries of the funds are not in the process of refunding the state or *de minimis* aid, which is an integral part of the Application for the allocation of funds;

10) statement that the beneficiary of funds has not closed the same or similar activity on the territory of the Republic of Serbia in the period of two years before submitting the Application for granting funds and does not plan to close down such an activity within a maximum of two years after the completion of the investment project.

Documents which are necessary for determining whether no pre-insolvency, reorganization or insolvency proceedings have been initiated against investors and the beneficiaries of funds and whether they have settled their tax obligations in the Republic of Serbia, shall be obtained by the Agency in official manner, in accordance with the law governing general administrative proceedings, unless the applicant explicitly states that they will obtain those documents themselves.

The Business Registers Agency is obliged to provide unhindered access to the database of financial statements and the submission of aggregate data for groups of companies, branches or geographical areas.

If the Agency cannot determine the important facts for decision-making from the submitted documentation, it may request the submission of other documentation, i.e. other evidence relevant for reaching of decision on the submitted Application for the allocation of funds if it deems it purposeful.

Documents submitted by a foreign enterprise must be certified in accordance with the regulations of the country in which they were issued and translated into Serbian language by a certified translator.

The day of submission of the Application for the allocation of funds is considered to be the day of receipt of the Application for allocation of funds by the Agency.

The minister responsible for economic affairs prescribes the Application form for granting funds.

Determining the fulfillment of formal conditions for the allocation of funds

Article 17

The Agency determines the fulfillment of formal conditions for the allocation of funds.

If the Application for the allocation of funds is not submitted in accordance with Article 16, of this Regulation, the Agency shall send the Applicant a request to supplement the documentation.

If the Applicant does not act upon the request referred to in paragraph 2, of this Article, within 30 days from the date of receipt of the request, the Agency shall reject the Application for the allocation of funds as incomplete with an explanation.

If the Application for the allocation of funds does not relate to an investment project for which funds may be allocated in accordance with this Regulation or the conditions referred to in Article 6, of this Regulation are met, the Agency shall reject this application and deliver it to the applicant within 30 days from the day of receipt.

Objection to the decision of the Agency from para 3 and 4, of this Article may be submitted to the ministry authorized for economic affairs within eight days from the date of receipt of the Agency's decision.

The Ministry in charge of economic affairs shall decide on the complaint referred to in paragraph 5, of this Article, and deliver a response to the applicant within 30 days from the date of receipt of the complaint.

Applications that are complete and allowed are submitted by the Agency to the Council no later than 30 days from the date of receipt.

Relationship between the Agency and the Council

Article 18

The Agency performs administrative, technical, and expert tasks for the Council, proposes to the Council Chair to convene the Council session, prepares materials for consideration and decision-making for the Council sessions, provides necessary information on the status of investment projects, prepares minutes from the sessions and proceeds on Council decisions.

The Agency shall prepare the text of the draft contract on the allocation of funds.

VI. CONTRACT AND METHOD OF PAYMENT OF THE FUNDS

Contract on the allocation of incentive funds

Article 19

Mutual rights and obligations of the ministry in charge of economic affairs and the beneficiary of funds are provided by the contract on the allocation of incentive funds (hereinafter: the Contract) concluded by the ministry in charge of economic affairs and the beneficiary of funds.

The text of the draft Contract shall be submitted by the ministry in charge of economic affairs to the Government for prior approval.

The Contract contains: subject, amount and timeline of investment, deadline for implementation of the investment project, amount of allocated funds, schedule of payment of allocated funds, and obligation to notify in case of changes in investment timeline no later than the third quarter of the current year, as well as information on collateral, representations on fulfillment of conditions referred to in Article 16 of this Regulation, reporting obligations, control of fulfillment of contractual obligations, termination of the Contract, force majeure, environmental protection and safety and health at work, dispute resolution and other issues of importance for the implementation of the Contract.

The agreement also determines the obligation of the beneficiary of funds to submit audio-visual material on the realization of the investment project, which the Agency has the right to use to conduct strategic marketing of economic potentials, promotion and reputation of the Republic of Serbia as an investment site.

An integral part of the Agreement is a business plan related to the amount, structure, and dynamics of investments.

If during the implementation period, there is a deviation from the contractual obligations provided by the business plan, the beneficiary is obliged to submit amendments to the business plan to the ministry in charge of economic affairs by the time of signing the annex to the contract, the agreement on mutual regulation of rights and obligations, or concluding the settlement.

The exception to the obligation of conclusion of an annex to the contract and submission of amendments to the business plan, is possible in case of changes the contractual conditions for withdrawal of the first tranche, so that the total deviation from the contractual obligations defined for the first tranche may not exceed 20% of the established schedule, provided the investment obligation relating to the entire investment project remains unchanged.

In case of changes in the investment timeline referred to in paragraph 7, of this Article, the beneficiary is obliged to submit a report by an independent certified auditor on the fulfillment of obligations set out in the Contract in the amount of at least 80% in the relevant year.

The Ministry in charge of economic affairs may terminate the Contract at any stage of execution, if it determines that the beneficiary does not meet the conditions set out in the Contract, i.e. that the purpose of the Contract is not achieved, if it turns out that the representations on fulfillment of conditions referred to in Article 16, of this Regulation, are not accurate, and if the Council decided to terminate it. If there are justified reasons, the ministry in

charge of economic affairs may terminate the Contract and collect the collateral before the session of the Council, of which it shall inform the Council at the next session of the Council.

Payment of allocated funds

Article 20

Payment of allocated funds is conducted on the basis of the submitted request (hereinafter: Request for payment) which the beneficiary submits to the ministry responsible for economic affairs, in accordance with the Contract.

Allocated funds are paid in annual installments, in accordance with the Agreement and available budget funds.

The amount of the installment is determined as a percentage of the total amount of allocated funds, in an amount proportional to the percentage of investments in tangible and intangible assets in each year of the investment project realization, in relation to total investments in tangible and intangible assets defined by the investment project, and the amount of the last installment is increased by the amount of funds referred to in Article 13, para. 2 and 3 of this regulation.

Along with the Request for payment of funds, the following shall be submitted:

- 1) report by the certified auditor who has professional liability insurance and possible additional evidence of fulfillment of the conditions for the payment of installment and
- 2) bank guarantee guaranteeing the return of paid funds.

Along with the Request for payment of the first installment, in addition to the documents referred to in paragraph 4, of this Article, two signed blank solo promissory notes with signed promissory note draft authorization shall be submitted in order to collect statutory default interest.

The beneficiary of funds may, instead of a blank solo promissory note, submit a bank guarantee for the collection of possible legal default interest, in the amount of the tranche, or when paying the last tranche, in the amount of total allocated incentive funds.

In the case referred to in paragraph 6, of this Article, the beneficiary of funds is obliged to submit, upon payment of each installment, in addition to the bank guarantee guaranteeing the amount of that installment, the bank guarantee covering the amount of possible statutory default interest as well.

For the payment of the last installment, the beneficiary of funds is obligated to submit a bank guarantee for the total amount of allocated funds with a validity period of three years and six months from the date of submission of the Request for payment of the last installment for small and medium-sized enterprises, i.e. with a validity period of five years and six months from the date of submission of the Request for payment of the last installment for large enterprises.

The Ministry in charge of economic affairs determines the merits and regularity of the Request for Payment, in accordance with the documentation submitted by the beneficiary.

Security instrument

Article 21

The funds beneficiary is obliged to submit a bank guarantee issued by a commercial bank registered in the territory of the Republic of Serbia, unconditional and payable on the first call in favor of the Republic of Serbia.

Disbursed funds must be secured by a bank guarantee, in accordance with the Agreement.

In addition to the bank guarantee, the funds beneficiary is obliged to submit two registered and signed blank solo promirosry notes with signed promissory note draft authorization in order to collect legal default interest, in accordance with the law determining the statutory default interest rate, in case of non-fulfillment of contractual obligations.

Statutory default interest is calculated for the period from the day of payment of each individual installment until the day of return of the total amount of paid funds.

In case of non-fulfillment of contractual obligations or partial fulfillment of contractual obligations, as well as in case of non-realization of the purpose of the investment project, the ministry in charge of economy may collect funds up to the amount of paid funds and prescribed statutory default interest.

VII. CONTROL OF PERFORMANCE OF CONTRACTUAL OBLIGATIONS

Reports submitted by the funds beneficiary

Article 22

The beneficiary of funds is obligated to submit a report on the implementation of the investment project for which the funds have been allocated to the ministry in charge of economic affairs.

The report referred to in paragraph 1, of this Article, shall be submitted as follows:

- 1) within 60 days from the day of submission of a proper Request for payment of the last installment, i.e. from the day of completion of the investment project, and
- 2) within 60 days from the date of expiration of the guaranteed investment period.

The report on the realization of the investment project contains a report on the findings of facts of the independent certified auditor, who has professional liability insurance, on the audit of the project, which includes verification of the investment in amount and structure, as well as verification of compliance with other provisions of the Contract (hereinafter: the auditor's report).

The beneficiary of funds is obligated to enable an independent certified auditor to audit the fulfillment of the investment obligation (amount and structure of investments during the project implementation), as well as the fulfillment of other contractual obligations and, for that purpose, to inspect the beneficiary's documentation.

The auditor's report contains a conclusion with a positive or negative opinion, and in case of giving a qualified opinion, i.e. refraining from expressing an opinion, he is obliged to explain in the conclusion what the reservations are, i.e. to state the facts and reasons why he refrained from giving an opinion.

The audit of an investment project that represents an investment of special importance may be performed by an audit company that employs at least four licensed certified auditors on a full-time basis.

If the auditor's report shows that the beneficiary has not fulfilled all contractual obligations during the project implementation period (negative opinion, opinion with reservations, refraining from expressing an opinion), the ministry in charge of economic affairs shall provide written notice to the funds beneficiary of the latter's obligation to eliminate identified deficiencies. During or after the project implementation period, in case of complete fulfillment of the investment obligation in terms of the total amount of investment determined by the Contract and partial deviation regarding the investment structure, the beneficiary is obliged to submit a consolidated business plan to the ministry in charge of economy before submitting the Request for Payment, that is, the report on project implementation.

If within 30 days after receiving the notification referred to in paragraph 7, of this Article, the beneficiary does not eliminate the deficiency, the ministry in charge of economic affairs may terminate the Contract and request a refund of the allocated funds paid to the beneficiary, increased by the amount of statutory default interest or upon the decision of the Council, propose to the beneficiary the signing of an annex to the Contract.

Control and monitoring of the fulfillment of contractual obligations

Article 23

The Ministry in charge of economic affairs may at any time during the implementation of the investment project conduct control over the amount, timeline, and structure of investments, as well as the purpose provided by the investment project, i.e. the Contract, in order to exercise control the fulfillment of contractual obligations.

The Ministry in charge of economic affairs shall also exercise control during the period of guaranteed investment in accordance with Article 10, of this Regulation, and the Contract.

Copies of reports and data referred to in para 1 and 2, of this Article, shall be submitted to the Agency by the ministry responsible for economic affairs.

On the basis of respective report and data, referred to in paragraph 3 of this Article, the Agency monitors the timeline of the implementation of the investment project during the implementation of the investment project.

If it is determined that in order to proceed with the respective investment project, a decision of the Council is required, the ministry in charge of economic affairs prepares a report and proposed measures and submits it to the Council through the Agency.

The report referred to in paragraph 5 of this Article, shall contain data and information on all elements of the investment project, and must necessarily contain:

1) summary of the auditor's report on the audit of the investment project, which includes verification of compliance with all provisions of the Contract;

2) information on the amount of investment of the beneficiary in relation to the elements of investment specified in the Application, Contract, or investment project;

3) review of blockades on current bank accounts of the beneficiary of funds, if any;

4) information on the problems that the investor, i.e. the beneficiary of funds encounters during the implementation of the investment project;

5) other information of importance for the preservation of financial, developmental and bilateral economic interests of the Republic of Serbia, which may be endangered by the actions of the funds beneficiaries.

The Ministry in charge of economic affairs submits to the Business Registers Agency a list of beneficiaries of funds under the Contracts.

In case of registration of changes with the funds beneficiaries, the Business Registers Agency is obliged to inform the Ministry in charge of economic affairs without delay.

The control of the amount of investment in tangible and intangible assets referred to in paragraph 1, of this Article, shall be performed in accordance with the Annex on the manner and procedure of control of the amount of investment, which is printed with this Regulation and forms an integral part thereof.

VIII . FINAL PROVISIONS

Entry into force

Article 24

This Regulation shall enter into force on the eighth day from the day of its publication in the "Official Gazette of the Republic of Serbia".

05 no

In Belgrade, _____2022

MANNER AND PROCEDURE TO CONTROL THE AMOUNT OF INVESTMENT

1. INVESTMENT REPORT

1.1. The findings from the auditor's report on the amount and structure of investments contain:

1) introductory part: basic data on the funds beneficiary and the Contract, as well as the annex(-es) to the Contract, if any, name of the funds beneficiary, company registry number, tax identification number, contract number, subject of the contract, amount and timeline of investment and deadline for the investment project, Application for the allocation of incentive funds, and may contain other information,

2) list of documentation on the basis of which the finding on the executed amount of investment was made,

3) findings on the amount of investment and compliance with contractual obligations.

2. DOCUMENTATION ON THE BASIS OF WHICH THE AUDIT OF THE AMOUNT OF INVESTMENT IS PERFORMED

The control of the amount of investment envisaged by the investment project, depending on the subject of investment, is performed on the basis of the following documentation:

a) for proving the duration of the lease agreement: lease agreement.

b) for tangible assets:

A) For the land:

1) Acquisition for compensation (Sale and Purchase Agreement, proof of payment, excerpt from the cadastre and/or from the real estate register), proof that it has been accounted for in the business books of the beneficiary of incentive funds.

2) Lease of land (lease agreement, proof that it has been accounted for in the business books of the beneficiary of incentive funds).

B) for buildings and production plant:

- For greenfield investments:

1) construction permit if it is provided for a specific type of construction works,

2) use permit for facilities and/or a group of facilities for which a construction permit has been issued,

3) evidence that the building is registered in the property cadaster as the property of the beneficiary of funds,

4) minutes on acceptance of completed works (minutes of the commission for technical acceptance of works),

5) proof of records in the business books of the beneficiaries.

- For brownfield investments:

Which do not include the reconstruction of existing facilities:

1) contract on purchase/sale of the facility, i.e. title deed or use permit for the facility, i.e. contract on lease of the facility,

2) proof of records in the business books of the beneficiaries.

Which include reconstruction / adaptation of existing facilities:

1) permit for reconstruction / adaptation,

2) use permit,

3) duly prepared and certified Interim Payment Certificates (IPCs) and Final account with proof of payment,

4) minutes on acceptance of completed works (minutes of the commission for technical acceptance of works),

5) proof of records in the business books of the beneficiaries.

C) Plants, machines, equipment:

1) invoices of the supplier made to the beneficiary, i.e. investor; customs documentation in case of imported equipment,

2) proof that the funds beneficiary has become the owner of the assets,

3) proof of records in the business books of the beneficiaries.

c) for intangible assets:

1) legal basis for acquisition,

2) supplier invoices,

3) proof that the intangible asset is recorded in the business books of the beneficiary,

4) statement of the responsible person of the funds beneficiary that intangible assets are used exclusively by the funds beneficiary.

d) to prove the fulfillment of the conditions for the forming of the supply chain:

1) contracts and orders from at least three supply chain participants, as well as other documentation.

e) to prove the fulfillment of the conditions of the final product:

1) declaration, certificate as well as other documentation.

Compensation arrangements, as well as payment in goods or services without cash flows, shall not be considered, for the purposes of this Regulation, as the acquisition of material resources referred to in Part 2, point b), of this Annex.