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Conditions for the Measure “Development of Urban Regions” and Procedure for Drawing up an Investment Assistance Plan

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23.03.2009 nr 6 (RTL 2009, 29, 381) 29.03.2009
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The Regulation is established on the basis of Subsection 12 (4) and 19 (4) of the Structural Assistance Act for 2007-2013.

Chapter 1 GENERAL PROVISIONS

§ 1. Scope of application of Regulation

(1) The Regulation establishes the conditions and procedure for the submission and processing of applications and the use of the structural assistance (hereinafter *assistance*) to be granted under the measure “Development of Urban Regions” (hereinafter *measure*) of the priority axis “Integral and Balanced Development of Regions” of the “Operational Programme for the Development of the Living Environment” (hereinafter *operational programme*) approved by the Government of the Republic on the basis of Subsection 3 (3) of the Structural Assistance Act for 2007-2013.

(2) The eligible target regions of the measure as regards the spheres specified in Subsection 5(1) are: the towns/cities of Kohtla-Järve, Maardu, Narva, Pärnu, Saue, Tallinn, Tartu, and Viimsi rural municipality. The rural municipalities of Harku, Jõelähtme, Jõhvi, Kiili, Rae, Saku and Saue are eligible target regions as to the spheres specified in Clauses 5 (1) 1), 4) and 5).

§ 2. Definitions

In this Regulation, the following definitions are used:

- 1) **public urban space** means an area that all inhabitants and visitors of the urban region may freely use for movement or recreation;
- 2) **recreational space** means a natural or specially created, separated or adapted area for active leisure time;

- 3) **light-traffic road** means a special road for pedestrians and cyclists separated from car traffic, constructed in compliance with the requirements and marked (and equipped) accordingly.
- 4) **construction work** means a building in the meaning of Subsection 2 (6) of the Building Act;
- 5) **structural design work** means a design work in the meaning of Subsection 2 (4) of the Building Act;
- 6) **co-financer** – a partner participating in the project as specified by the beneficiary in the grant application: a local government unit, a legal person in public law, a state authority, a non-profit association or a foundation who contributes to the project financially to cover the eligible self-financing and is not a contractor in the project.

§ 3. Measure implementing authority and implementing agency

(1) The measure implementing authority shall be, pursuant to the Government of the Republic Regulation No. 111 of 29 April 2007 “Appointment of Authorities Organising Grant of Structural Assistance for 2007-2013”, the Ministry of the Interior.

(2) The measure implementing agency shall be, pursuant to the Government of the Republic Regulation No. 111 of 29 April 2007 “Appointment of Authorities Organising Grant of Structural Assistance for 2007-2013”, Enterprise Estonia (hereinafter *EE*).

§ 4. Objective of measure

The objectives of the measure shall be:

- 1) development of public urban space;
- 2) solving of city-specific problems;
- 3) improving the functional coordination between centres and hinterland.

Chapter 2 BASES FOR GRANTING ASSISTANCE

§ 5. Supported operations

(1) Within the framework of the measure, the following activities shall be supported:

- 1) development of sustainable urban transportation system (including light-traffic roads, traffic management, public transport management, etc.);
- 2) development of public infrastructure related to improving child care (crèches, kindergartens, special kindergartens);
- 3) development of public infrastructure related to increasing social safety (rehabilitation and activation centres, shelters, day centres, care homes, social housing, children's homes, sports buildings and facilities, etc.);
- 4) development of public urban space and recreational space and improving landscaping (town centres, squares, parks, coastal and shore areas, etc.);

5) layout planning for areas meant for public use.

(2) For the spheres specified in Clauses (1) 1), 4) and 5), at least 50% of the support volume shall be allocated. When preparing the plan, at least 50% of the project support volume confirmed by each regional plan shall be directed at the said spheres.

(3) Within the framework of the measure the following operations shall be supported:

- 1) construction and landscaping, purchase and installation of urban furniture, purchase of immovable's related to the spheres specified in Clauses (1) 1)-4);
- 2) purchasing furniture and fittings related to construction work and necessary for performing object functions, interior design;
- 3) carrying out geotechnical site investigations and geodetic surveys necessary for construction work, organisation of idea contests, structural design work, expert assessments of building designs and buildings and preparation of the cost calculation of the construction design, landscape planning, interior design, environmental impact assessment, establishing special conditions of heritage conservation and the necessary surveys, managing construction projects, owner supervision, author supervision, heritage conservation supervision;
- 4) carrying out explorations and expert assessments, technical design, acquisition, testing and user training of equipment and machinery, acquisition, development, testing and user training of software related to the spheres specified in Clause 1 (1);
- 5) preparation of thematic development plans related to public urban space and sustainable urban transport and detailed plans for areas meant for public use (incl. environmental impact assessment).

(4) Within the framework of the measure, the following operations shall not be supported:

- 1) maintenance repairs (periodic maintenance for ensuring the normal functioning of the building and extending the service life of the building);
- 2) purchasing vehicles;
- 3) development of accommodation and catering services and other services directed, as a rule, at raising net revenue;
- 4) investments in objects, which are in the ownership of companies or possession of companies on the basis of concession contract or contract for use, profit-making authorities or natural persons.

(5) Investments in objects, which are in the ownership or possession of companies, profit-making authorities or natural persons shall be eligible in case of light-traffic roads provided that servitude (incl. individual right of use) for at least five years as of the end of the eligibility period of project operations (hereinafter *project eligibility period*) has been established for the benefit of the applicant.

(6) The construction and reconstruction of social housing specified in Clause (1) 3) shall be based on the restrictions provided in Article 7 (2) of the Regulation (EC) No 1080/2006 of the European Parliament and of the Council on the European Regional Development Fund and repealing Regulation (EC) No 1783/1999 (OJ L 210,

31.07.2006, p. 1-11) and in Article 47 of the Commission Regulation (EC) No 1828/2006 of 8 December 2006 setting out rules for the implementation of Council Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and of Regulation (EC) No 1080/2006 of the European Parliament and of the Council on the European Regional Development Fund (OJ L 371, 27.12.2006, p. 1-159).

§ 6. Eligible and non-eligible expenditure

(1) Within the framework of the measure, eligible expenditure shall include such expenditure of the final beneficiary or co-financiers, which is directly required for carrying out the eligible operations specified in Section 5 in the target regions specified in Subsection 1 (2) and achieving the objectives of the project (incl. Liabilities arising from Subsection 2 (1) of the Government of the Republic Regulation No. 211 of 30 August 30 2008 “Conditions and Procedure for Notification and Disclosure of Grant and Use of Structural Assistance, Marking Objects Financed out of the Assistance and Reference to Contribution of the European Union”).

(2) Investments in objects outside eligible target regions are eligible if at least 50% of project eligible self-financing is provided by local governments of eligible target regions.

(3) The following restrictions have been imposed on the expenditure to be financed:

- 1) the purchase of an immovable shall not exceed 10% of the total eligible expenditure of the project;
- 2) the expenditure of geotechnical site investigations and geodetic surveys, organisation of idea contests, structural design work, expert assessments of construction design and building, preparation of the cost calculation of the construction design, landscape planning, interior design, environmental impact assessment and preparation of special heritage conservation conditions and the necessary surveys, construction management, owner supervision, author supervision and heritage conservation supervision shall in aggregate not exceed 10% of the total eligible expenditure of the project.

(4) The following expenditure is not eligible:

- 1) expenditure specified in Section 15 of the Government of the Republic Regulation No. 26 of 31 January 2007 “Conditions and Procedure for Determination of Eligibility or Non-eligibility of Expenditure of Structural Assistance for 2007-2013”;
- 2) general and personnel expenditure of the project, including training expenses (excl. the user training expenses related to the equipment, machinery and software specified in Clause 5 (3) 4));
- 3) representation costs and gifts (incl. souvenirs and keepsakes);
- 4) expenditure for which compensation has been earlier received from the state budget, the European Union or foreign aid grants;
- 5) other expenditure not related to eligible operations and unnecessary and not essential to implementing the project.

(5) Value added tax shall be eligible if it can be certified that the person who incurred the eligible expenditure is not entitled, in accordance with the legislation regulation value added tax, to deduct the value added tax paid within the framework of the project from their taxable supply or to claim for refund of the value added tax and the value added tax is not compensated to the person in any other manner. If it is not possible to attain certainty with regard to the aforementioned, value added tax shall be treated as non-eligible expenditure.

(6) Eligible expenditure shall not include transactions between associated persons in the meaning of Section 8 of the Income Tax Act, except if this is strictly necessary from the point of view of implementing the project.

§ 7. Eligibility period

(1) The eligibility period of the measure is from 1 January 2007 to 31 December 2015.

(2) The date of commencement and final date of the project eligibility period shall be established by a resolution of approval of the application. The eligibility period of a project shall generally commence as of registration of an application or as of a later date. The final date of project eligibility may not be later than 31 December 2015.

(3) The eligibility period of a project may commence as of an earlier date than the registration of an application, but not earlier than 1 January 2007. Prior to registering the application, only operations related to geotechnical site investigations and geodetic surveys, organisation of idea contests, structural design work, expert assessment of construction designs and preparation of the cost calculation of the construction design, landscape planning, interior design, environmental impact assessment, preparation of special heritage conservation conditions and the necessary surveys or to purchase of immovable property and the expenditure thereof.

§ 8. Rate of assistance

(1) The rate of assistance shall be up to 85% of the eligible expenditure of the project. Self-financing shall form, in total, not less than 15% of the eligible expenditure of the project.

(2) The eligible self-financing shall not include the contribution made by natural persons and companies.

(3) The indicative distribution of the measure funds between the regions for 2007-2013 shall be established by the Minister for Regional Affairs before the initiation of the preparation of plan specified in Section 9. Some of the funds shall be divided equally between the regions. The distribution of the other part of the funds shall consider:

- 1) number of inhabitants in a region. In case of the rural municipalities of Harku, Jõelähtme, Jõhvi, Kiili, Rae, Saku and Saue 50% of their populations shall be taken into account;
- 2) the volume of structural funds planned for the local governments to develop transport infrastructure within the framework of the Operational Programme for Developing the Economic Environment.

Chapter 3

DRAWING UP INVESTMENT ASSISTANCE PLAN

§ 9. Investment assistance plan of urban local governments

(1) Applying for assistance of the measure is based on investment assistance plan of urban local governments (hereinafter *plan*).

(2) The plan is approved by the Government of the Republic.

(3) The plan is to be established for 2007-2013.

(4) The plan is to be drawn by the following regions:

- 1) City of Tallinn;
- 2) hinterland of Tallinn, including Harku rural municipality, Jõelähtme rural municipality, Kiili rural municipality, Maardu town, Rae rural municipality, Saku rural municipality, Saue town, Saue rural municipality and Viimsi rural municipality and the city of Tallinn as regards the joint projects with local governments of the region;
- 3) Tartu town;
- 4) Narva town;
- 5) Jõhvi rural municipality, Kohtla-Järve town;
- 6) Pärnu town.

(5) The plan shall be prepared as preference list, which includes projects named by regions, as regards which eligible applicant may apply for assistance. For each project, the plan should include the name of applicant, name of project, maximum sum of assistance and minimum rate of self-financing and the expected beginning and end dates of project implementation.

(6) The drawing up a plan is organised by the Ministry of the Interior.

§ 10. Initiation of drawing up a plan

(1) The Ministry of the Interior shall notify the local governments of eligible target regions of the initiation of plan preparation by mail, providing at least 22 business days for the due date of submission of proposals.

(2) Proposals of the projects to be included in the plan are submitted to the Ministry of the Interior by the date specified in Subsection 1. Proposals may be submitted by local governments and non-profit associations and foundations under the control of local government. If one person submits several proposals, a side letter must specify the order of priority of the projects. Proposals about joint project shall be submitted by one local government participating in the project.

(3) Proposals are submitted on a form provided in Annex 1 in writing on paper or electronically in the digitally signed format. In case of submission on paper the filled out proposal form shall also be submitted electronically.

(4) The proposal must include the following information to the extent that enables to assess project eligibility and expediency according to Sections 5-8 and Subsection 12 (3):

- 1) problem description;
- 2) object importance proceeding from the development documentation (development plan of local government, thematic development plan, regional and national development documentation);
- 3) project objectives and their relation to the objectives of the measure;
- 4) potential beneficiaries of the project;
- 5) the list of operations for the achievement of project objectives and the proposed result of the project;
- 6) sustainability of project results;
- 7) current situation of preparation activities required for implementing the project and the related projects;
- 8) planned performer of the project, or applicant;
- 9) project schedule, including the estimated term for submitting the application or, in the case specified in Subsection 15 (1¹), applications to Enterprise Estonia;
- 10) project budget (estimated eligible and non-eligible expenditure);
- 11) planned sources of project financing
- 12) depending on the nature of the project, a description of the infrastructure object complete with design documentation at draft level (at least in the volume described in EVS 811 "Building design"). The draft shall recommendably be based on an idea contest held in the form of open public procurement with unlimited number of participants.

§ 11. Processing of proposals

(1) Proposals submitted within the term are registered in the Ministry of the Interior using general procedure thereof.

(2) The Ministry of the Interior shall carry out conformity check of the proposal to the requirements.

(3) If the proposal is not in conformity with the requirements specified in the conditions of the measure or additional information is required about the project, the Ministry of the Interior has the right to require that the proposal be brought into conformity with the requirements specified in the conditions of the measure or additional documentation submitted or amendments made to the operations specified in the proposal generally within 7 business days as of the submission of requirement thereof.

(4) The Ministry of the Interior shall decide not more than within 22 business days as of the due date for submitting proposals whether the proposals submitted are eligible or not.

(5) The Ministry of the Interior asks the point of view of the local governments of the regions specified in Clauses 9 (4) 2) and 5) as to the priority of the projects declared eligible.

(6) The Ministry of the Interior shall notify the applicant in writing of the determination of the proposals as non-eligible within 5 business days as of the passing of decision thereof.

§ 12. Preparation of draft plan

(1) The Ministry of the Interior shall ask for the opinion of relevant ministries of the relevance of the projects included in the proposals determined to be in conformity with the requirements proceeding from operational development plans and strategies and as to the technical and economical expediency of the investment and the financial capability of the local government.

(2) The Minister for Regional Affairs shall form an assessment committee for assessing the projects provided in the proposals and prescribe the assessment instruction, specifying the tasks of the assessment committee, the descriptions and weights of assessment criteria, scale of assessment and the final score formulae as well as the value of the minimum positive final score. Members of the assessment committee shall declare their impartiality and independence from projects assessed and of parties that submitted the proposals.

(2¹) Before assessment, the assessment committee shall be entitled to make proposals to refer the project for expert architectural or building assessment and to specify or amend the project. The expert architectural or building assessment shall be commissioned by the Ministry of the Interior. The Ministry of the Interior shall forward the proposals to specify or amend the project to the entity making the proposal specified in Subsection 13 (1), granting at least 10 business days for responding.

(3) Considering the points of view of the relevant ministries, the assessment committee shall assess the projects provided in the proposals on the basis of assessment instructions prescribed by the Minister for Regional Affairs as to the following criteria:

- 1) project relevance proceeding from development documentation and priority in the region;
- 2) sustainability of the results of planned operations;
- 3) impact of the planned operations on the achievement of measure objectives;
- 4) state of the art and relevance of the project solutions;
- 5) cooperation of regional local governments in implementing the project.

(3¹) The Ministry of the Interior shall send a notice concerning projects with negative assessment results to the entity that made the proposal within 5 business days from the signing of the assessment committee report, indicating the reasons for the negative result.

(4) The Ministry of the Interior shall prepare a draft plan on the basis of assessment results obtained from the assessment committee and pursuant to the requirement of Subsection 5 (2) maximally pursuant to Subsection 8 (3) to the extent of funds allocated to each region. Only projects with positive assessment results can be included in the plan.

(5) The draft plan is approved by the monitoring committee of the priority axis.

(6) The Ministry of the Interior shall submit the draft plan approved by the monitoring committee to the Government of the Republic for endorsement. The plan may be endorsed by the regions. The Ministry of the Interior shall notify the entities that have made proposals for projects included in the plan of the approval of the plan within 5 business days at the latest from the publication of the plan in the State Gazette (*Riigi Teataja*).

§ 13. Supplementing the plan

(1) If some of the funds of the measure remain uncovered by the projects in the plan or if, as a result of refund or project depreciation, funds become available, the Minister for Regional Affairs shall declare a submission of proposals for covering the available funds with projects thereof.

(2) The Ministry of the Interior shall notify local governments of the eligible target regions of the expiry period of the additional proposals by mail, setting a period of at least 44 business days for the submission of proposals. The proposals are submitted pursuant to requirements provided in Subsections 10 (2)-(4).

(3) The processing of proposals shall be carried out on the basis of Subsections 11 (1)-(4) and (6) and Subsections 12 (1) and (3).

(4) After receiving assessment results from the assessment committee the Ministry of the Interior shall prepare an amendment draft plan. The amendment draft plan shall be prepared nationally on the basis of the project that returned the best results maximally to the extent of available funds. As a result of the amendments, the proportions of total funds allocated and to be allocated to the spheres specified in Clauses 5 (1) 1), 4) and 5) shall not be less than 50% of the total funds of the measure.

(5) The amendment draft plan shall be approved by the monitoring committee of the priority axis.

(6) The Ministry of the Interior shall submit the amendment draft plan approved by the monitoring committee to the Government of the Republic for endorsement generally twice a year. The Ministry of the Interior shall notify the entities that have made proposals for the projects approved upon the amendment of the plan of the approval of the amendments to the plan within 5 business days at the latest from the publication of the Government of the Republic Order in the State Gazette.

§ 13¹. Amendment of the plan

(1) If some of the funds indicatively allocated for a region on the basis of Subsection 8 (3) remain unused by projects, the local governments of the region may in justified cases apply for the initiation of the amendment of the plan in order to increase the maximum amount of assistance of projects approved in the plan, including in the event of changes in project activities. The local governments referred to in Clauses 9 (4) 2) and 5) shall agree the application to amend the plan with other local governments of the same region.

(2) The Ministry of the Interior shall be entitled to initiate the exclusion of projects from the plan in accordance with Clause 15 (1) 1).

(3) The draft amendment of the plan shall be approved by the monitoring committee of the priority axis.

(4) The Ministry of the Interior shall submit the draft amendment of the plan approved by the monitoring committee of the priority axis to the Government of the Republic for approval. The Ministry of the Interior shall notify the entities that have made proposals for projects related to the amendment of the plan of the approval of the amendments to the plan within 5 business days from the publication of the Government of the Republic Order in the State Gazette.

Chapter 4

REQUIREMENTS FOR APPLICANTS AND CO-FINANCIERS

§ 14. Requirements for applicants and co-financiers

(1) As regards the projects provided in the plan, applicants can be the following:

- 1) local governments;
- 2) foundations and non-profit associations if the operations planned in the project are the activities specified in the articles of association of the organisations.

(2) The following general requirements shall be applicable with regard to applicants:

- 1) the applicant does not have any unstaggered tax arrears at the moment of registration of application;
- 2) no liquidation proceedings have been commenced or bankruptcy orders have been issued with regard to the applicant or a person under whose control the applicant is;
- 3) the applicant has repaid earlier and in due course an amount received from the state budget, European Union or foreign aid funds, which has been subject to repayment or, upon staggering of the repayment of the assistance, made the repayment at the prescribed term and in the prescribed amount;
- 4) the applicant has received no assistance for the compensation of the same expenditure from the state budget, European Union or foreign aid funds;
- 5) if assistance for the project or for single operations of the project is applied from several measures or other state budget, European Union or foreign aid funds at the same time, the applicant shall submit the respective information;
- 6) the applicant shall certify the existence of the required funds for self-financing in accordance with the rates and conditions provided for in Section 8 and considering the restrictions on financial activities established on local government units by legal acts;
- 7) the applicant has sufficient experience and knowledge for implementing the project;
- 8) if the applicant is a local government, it shall have the applicable development plan in accordance with Subsection 37 (3) of the Local Government Organisation Act. If local governments submit a joint project, all local governments shall have an applicable development plan;

- 9) the applicant shall be an owner or a possessor or one of the owners or possessors of the object which is to be created or acquired or whose value is to be increased under the project. In case the joint project involves several legal persons, the applicant must be the owner of at least one of the objects of infrastructure to be established or renovated under the project, except in case the applicant of the joint project involving several local governments is a foundation or non-profit association, whose activities specified in the articles of association include implementation of joint projects of local governments and if the local governments participating in the project are co-financiers;
 - 10) in case of land and construction works whose owner is the state, an agreement shall be concluded between a local government and the state, which provides the obligation to preserve the object created, renovated or organised under the project for the objective specified in the project during not less than five years as of the end of the project eligibility period.
- (3) In case the co-financier of the project is one of the owners or possessors of the object of infrastructure created or renovated under the project, the provisions specified in Clauses (2) 1)-5) shall be applied.

Chapter 5

SUBMISSION AND PROCESSING OF APPLICATIONS, CONDITIONS AND PROCEDURE FOR MAKING PAYMENTS OF ASSISTANCE

§ 15. Submission of and requirements for applications

(1) To receive assistance an application as to the project confirmed in the plan pursuant to the planned submission deadline provided in the proposal as specified in Subsection 10 (2):

- 1) if circumstances emerge due to which an application is not submitted on the date specified in the plan. If such circumstances emerge the applicant shall submit a new schedule for EE without delay. The term for the submission of applications can generally only be extended once and not by more than one year. If the applicant does not submit a new schedule or fails to submit the application by the extended date, the Ministry of the Interior may initiate the exclusion of the project from the plan and the redistribution of the funds of the measure among other eligible target regions;
- 2) if an applicant wishes to submit an application earlier than the due date provided in the proposal. In such case the applicant shall submit a new schedule to EE at least 3 months ahead.

(1¹) In regards to projects where the implementation of the project in individual stages is justified, separate applications may be submitted for every stage, if the stage-by-stage application has been indicated in the schedule presented in the proposal.

(1²) If the plan establishes conditions for a project, the applicant shall fulfil such conditions, depending on their nature, before the submission of the application to Enterprise Estonia or present documents concerning the fulfilment of the conditions within the project eligibility period to Enterprise Estonia together with the application.

(1³) If the plan stipulates that the construction design has to pass an expert architectural assessment, Enterprise Estonia shall organise the expert architectural assessment. In

such case the processing term specified in Subsection 16 (4) shall be extended by the time of conducting the expert assessment, but not by more than 21 business days. Enterprise Estonia shall approve or reject the architectural solution. In the case of rejection Enterprise Estonia shall notify the applicant of the reasons for the rejection and grant the applicant a term for making amendments. The applicant shall be obligated to enter the relevant amendment and submit them to Enterprise Estonia for review.

(1⁴) If the expected volume of the public procurement specified in the proposal exceeds 50 million kroons, the tender documents shall be approved by Enterprise Estonia. The tender documents shall be submitted to Enterprise Estonia before the announcement of the public procurement. Enterprise Estonia shall review the tender documents within up to 21 business days from the submission of the documents. In the case of rejection of the documents, Enterprise Estonia shall notify the applicant of the reasons for the rejection. The applicant shall be obligated to enter the necessary amendments and submit them to Enterprise Estonia for review before the announcement of the public procurement.

(2) The application shall consist of the application form provided in annex and of annexes to the application form. The application shall be submitted to Enterprise Estonia.

(3) The receipt of applications shall be commenced by EE after the endorsement of the plan. EE shall publish a notice thereof also on its webpage.

(4) The application shall conform to the requirements provided in Subsection 15 (1) of the Structural Assistance Act for 2007-2013. The application form shall include the following attachments:

- 1) project specification;
- 2) project budget;
- 3) project schedule;
- 4) documents certifying self-financing of the project (incl. contribution of co-financiers);
- 5) curriculum vitae (CV) of the project manager;
- 6) justified and comparable price calculation and the underlying initial task or tender documents that forms the basis of the budget. Design and construction procurements shall be held separately;
- 7) a confirmation of the following: the applicant shall ensure the preservation and public use of the property created or acquired as a result of the project for the objectives and under the conditions specified in the application and resolution of approval of the application during not less than five years as of the end of the project eligibility period and shall not conduct any transactions with property that give an unjustified advantage to any person or authority during the aforementioned term or any transactions as a result of which the applicant earns net revenue from letting the property;
- 8) project implementation report submission schedule along with the forecast payments, considering Subsections 18 (6) and (8);

- 9) background information about the applicant and the co-financier(s) (not required in the case of local governments);
 - 10) annual report of the year prior to that of application in the case of applicants specified in Clause 14 (1) 2);
 - 11) list of experts participating in the project, including their curricula vitae (CVs);
 - 12) copies of co-operation agreements between organisations participating in the project;
 - 13) the consent of the co-financier to making enquiries to competent bodies;
 - 14) the permits (incl. the building permit) and approvals necessary for the implementation of the project;
 - 15) in the case of buildings, building design documentation in accordance with the Building Act and the basic design stage under standard EVS 811;
 - 16) in the case of structures, construction design in accordance with the requirements of Regulation No 70 of the Minister of the Economic Affairs and Communications of 27 December 2002 "Requirements for Construction Designs to Be Submitted upon Applying for Building Permit";
 - 17) documents certifying the right of ownership or right of use of the object, the value of which is increased as a result of the project, during the project period and for five years from the end thereof;
 - 18) in the case of purchasing construction works and second-hand equipment, the seller's certificate to the effect that no European Union, national budget or foreign aid funds have been used for the purchase of the construction works or second-hand equipment in the last 10 and 7 years, respectively, and an assessment report issued by a certified real estate appraiser up to 90 calendar days before the purchase transaction;
 - 19) an analysis of the cost-effectiveness and feasibility of the project and the annual income and expenses involved in the management of the object, taking into account the provisions of Subsections 11 (1) and (2) of the Government of the Republic Regulation No 26 of 31 January 2007, "Conditions and Procedure for Determining Eligibility or Non-eligibility of Expenditure of Structural Assistance for 2007-2013";
 - 20) an environmental impact assessment in accordance with the Environmental Impact Assessment and Environmental Management System Act.
- (5) [Invalid]
- (6) The application shall be submitted in writing on paper or electronically in the digitally signed format. If submitted on paper, the application form, project description, budget and schedule shall also be submitted electronically.

§ 16. Registration of applications, declaration of conformity of applications and applicants

- (1) The applications shall be processed and the resolution of approval or denial of the application shall be adopted by EE.

- (2) All applications shall be registered.
- (3) The applications shall be processed on a continuous basis in the order they are received.
- (4) The general period of processing of applications shall be up to 25 business days as of registration thereof. The applicant shall be notified of the resolution of approval or denial of the applications or of the current status of processing of the application not later than in 25 business days. If any additional circumstances become evident, EE shall be entitled to extend the processing of the application by up to 25 business days.
- (5) EE shall verify the conformity of applications and applicants to the requirements:
 - 1) EE shall be entitled to require submission of missing additional information or additional materials;
 - 2) the applicant shall be required to reply to all the questions asked with regard to the application and permit verification of compliance of the application;
 - 3) if any inaccuracies are detected upon verification of conformity of the application, the applicant shall be notified thereof immediately and a term shall be set out for elimination of the deficiencies. As a rule, up to 10 business days shall be granted for eliminating the deficiencies and the term of processing of the application shall extend by the number of the days;
 - 4) if the operations specified in the application diverge considerably from the operations provided in the plan so that the objectives specified in the plan cannot be achieved, EE shall ask for the assessment of the Ministry of the Interior as to the expediency of the amendments or the conformity of the operations with the criteria that formed a basis for drawing up the plan. Upon a negative assessment by the Ministry of the Interior the application shall be declared unsuitable;
 - 5) if there is reasonable doubt whether the local government is capable of meeting the requirement stipulated in Clause 14 (2) 6), Enterprise Estonia shall ask the Ministry of Finance for an assessment of the financial capability of the local government.
- (6) EE has a right to use independent experts in the processes of verifying the conformity of the application.
- (7) An application or an applicant is not conforming if any of the following circumstances exist:
 - 1) the requirement imposed on the applicant or application in the Regulation have not been fulfilled;
 - 2) the application contains inaccurate or incomplete information or the applicant attempts to influence the decision-making process through fraud or threats or in any other unlawful manner;
 - 3) the applicant fails to provide an opportunity for the verification of conformity of the application to the requirements;
 - 4) the applicant fails to eliminate the deficiencies in the application during the term set out in Clause (5) 3).

§ 17. Resolution of approval or denial of the application

(1) If an application or an applicant is declared not to conform to the requirements, EE shall adopt a resolution on denial of the application.

(2) With regards all applications, which are declared to conform to the requirements, EE shall adopt a resolution of approval of the application

(3) EE shall agree on the form of the resolution with the Minister for Regional Affairs. The resolution on denial of the application shall specify reasons for the denial. The resolution of approval of the application shall specify the rights and obligations of the beneficiary and establish conditions. The resolution shall provide, inter alia, the following:

- 1) the beneficiary;
- 2) the amount of the assistance in Estonian kroons;
- 3) the maximum amount of the assistance in Estonian kroons;
- 4) the minimum rate of self-financing;
- 5) the beginning and end dates of a project;
- 6) the obligations of the beneficiary;
- 7) the conditions for payment of the assistance;
- 8) the submission of the reporting;
- 9) bases for reclamation of assistance.

(4) The resolution of approval or denial of the application shall be announced to the applicant either in writing or electronically within five business days as of the adoption of the resolution.

§ 17¹. Amendment or annulment of resolutions of approval of applications

(1) The beneficiary shall apply to Enterprise Estonia for an amendment to the resolution of approval in the following cases:

- 1) if the volume of a budget line prescribed for a specific activity in the project budget changes by more than 10% on account of another budget line;
- 2) if the beneficiary plans to extend or suspend the term of implementation of the project or altering the activities or objectives of the project specified in the application;
- 3) if the eligible expenses budget of the project is increased due to an increase in the public procurement cost in open procurement or due to a rise in the rate of value added tax stipulated in Subsection 15 (1) of the Value Added Tax Act and an increase of the amount of assistance is applied for on the conditions stipulated in Subsection 18 (5) of the Structural Assistance Act for 2007-2013;
- 4) if the project eligibility period is longer than 60 months and an increase of the amount of assistance is applied for on the conditions stipulated in Subsection 18 (5) of the Structural Assistance Act for 2007-2013.

(2) Enterprise Estonia may reject the beneficiary's application to amend the resolution of approval of the application, if:

- 1) the amendments are not in accordance with the content and objectives of the project;
- 2) the amendments are not in accordance with the requirements stipulated in the Regulation;
- 3) it would not be possible to complete the implementation of the project by 31 December 2015 upon the amendment of the resolution;
- 4) the financing budget of the measure does not allow for the amendment of the resolution;
- 5) the amendments are not justified.

(3) Enterprise Estonia shall generally decide the amendment of the resolution of approval of the application within 25 business days from the moment of registration of the relevant application. Upon the emergence of additional circumstances Enterprise Estonia shall be entitled to extend the processing of the application by up to 21 business days.

(4) The resolution of approval of the application may be annulled in cases provided for in Subsection 18 (6) of the Structural Assistance Act for 2007–2013 or upon the occurrence of at least one of the following circumstances:

- 1) the beneficiary's application to amend the resolution of approval of the application is rejected and it is not possible for the beneficiary to continue using the assistance on the prescribed terms and conditions;
- 2) the beneficiary submits an application to have the resolution of approval of the application annulled.

§ 18. Conditions for making payments of assistance

(1) The assistance shall be paid to the beneficiary. Payments on the basis of partly paid expense documents shall be made to the beneficiary or the contractor.

(2) Payment of the assistance shall be made on the basis of the ratio of the amount of assistance specified in the resolution of approval of the application and the total eligible expenditure, and the amount of the payable assistance cannot exceed the amount of assistance specified in the resolution of approval.

(3) The beneficiary shall submit project implementation interim or final report to EE within the term specified in Subsection 17 (3).

(4) On the basis of paid expense receipts the interim and final report shall be attached with copies of expense receipts (invoice, contract, and legal instruments) and of documents certifying the payment of expenditure, including with regards non-eligible expenditure. If payment on the basis of partially paid expense receipts is permitted according to Subsection (5), the interim report shall be attached with copies of expense receipts (invoice, contract, and legal instruments) and of documents certifying the payment of expenditure as to the self-financing specified in the resolution of approval of the application as well as to the non-eligible expenditure.

(5) Payments on the basis of partially paid expense receipts can be made only in justified cases and within the framework of interim reports and only in accordance with the procedure provided for in Subsections 6 (2), (3) and (5)-(9) of the Regulation No. 15 of the Minister of Finance of 1 March 2007 “Conditions and Procedure for Payment of Structural Assistance for 2007-2013”.

(5¹) Prepayments can be made to the beneficiary in accordance with the procedure stipulated in Regulation No 15 of the Minister of Finance of 1 March 2007, "The Conditions of and Procedure for the Payment of Structural Assistance of 2007–2013". The prepayment claim shall be accompanied by an expense forecast, separately indicating the amounts of assistance and self-financing, as well as other documents requested by Enterprise Estonia.

(6) After EE has approved project implementation interim or final reports, the beneficiary shall submit a respective application (hereinafter *payment claim*) for the payment of the assistance.

(7) The payments shall be made in accordance with the procedure provided for in Regulation No. 15 of the Minister of Finance of 1 March 2007 “Conditions and Procedure for Payment of Structural Assistance for 2007-2013” in accordance with the actual certified eligible expenditure recorded in the payment claim.

(8) The beneficiary may submit a payment claim every three months or less often. In justified cases the beneficiary may submit interim reports more frequently.

(9) EE shall process payment claims specified in Subsection (6) not later than within 16 business days after having received a payment claim for the beneficiary. Payment of assistance shall be made to the beneficiary in case of correct information on the 5th business day after the end of verification by EE of the payment claim in accordance with Regulation No. 15 of the Minister of Finance of 1 March 2007 “General Conditions and Procedure for Payment of structural Assistance for 2007-2013”.

(10) EE may adopt a resolution on partial or full refusal of payment of the assistance if:

- 1) the submitted payment claim or expense receipts do not correspond to the prescribed requirements;
- 2) the assistance is applied for in order to cover non-eligible expenditure;
- 3) the project is related to repayment until final refund of the reclaimable amount.

Chapter 6

CHALLENGE PROCEEDINGS

§ 19. Challenge proceedings

Challenge submitted against a resolution or activity shall be processed in accordance with § 34 of the Structural Assistance Act for 2007-2013.

Chapter 7
RIGHTS AND OBLIGATIONS OF BENEFICIARY AND EE

§ 20. Rights of beneficiary

The beneficiary shall be entitled to:

- 1) change the project budget or operations approved by the resolution of approval of the application without submitting to EE an application for amendment of the resolution of approval of the application if the project budget decreases and the objectives and volume of the operations foreseen in the project do not change, or if the budget line volume foreseen in the project budget for a specific operation changes on the account of another budget line volume not more than 10% and the objectives and operations foreseen in the project do not change. In such case EE must be notified of the changes in advance;
- 2) obtain information and advice from EE related to the fulfilment of obligations specified in Section 21.

§ 21. Obligations of beneficiary

The beneficiary shall be required:

- 1) to ensure the existence of the self-financing fixed in the application and resolution of approval of the application;
- 2) to use the assistance in compliance with the submitted application and resolution of approval of the application;
- 3) to return to EE the assistance in the cases specified in Subsection 26 (1) of the Structural Assistance Act for 2007-2013 or if so required by EE in accordance with the cases specified in Subsection 26 (2) of the aforementioned Act;
- 4) to submit, on the form, in the manner and within the term prescribed by EE, the required information and reports;
- 5) to keep separate accounts on the use of the assistance and self-financing. In the accounting of the beneficiary the project expenditure and the expense receipts and payment documents recording the aforementioned must be clearly distinguishable from other expenditure, expense receipts and payment documents of the beneficiary;
- 6) to seek consent from EE if the budget line volume prescribed for a specific operation in the project budget changes on the account of another budget line volume by more than 10%;
- 7) to seek consent from EE for amending of the project implementation term,
- 8) to seek consent from EE for amendment of the operations of the project;
- 9) to enable supervisory activities or audits to be carried out with regard to the expense receipts and payment documents recording use of self-financing, acquired equipment, materials and performed work, including enable access for inspectors to premises and territory that the beneficiary owns, rents or uses in any other manner;

- 10) to make all required information and documents available to the inspector within five business days as of the receipt of a respective notice;
- 11) to render all possible assistance for carrying out inspection, audit and supervision;
- 12) to observe all the precepts issued as a result of supervisory activities and audits;
- 13) as a subject of the Public Procurement Act to observe, upon making procurements, the requirements established in the Public Procurement Act;
- 13¹) to submit, if possible, three comparable price offers, if the beneficiary is not subject to the obligation to hold public procurements;
- 14) upon the use of the assistance, to indicate in the manner prescribed by Government of the Republic Regulation No. 211 of 30 August 2008 “Conditions and Procedure for Notification and Disclosure of Grant and Use of Structural Assistance, Marking Objects Financed out of the Assistance and Reference to Contribution of the European Union” that it is structural assistance;
- 15) to preserve the documentation and material relating to the application, assistance and implementation of the project in accordance with Section 5 of the Structural Assistance Act for 2007-2013 until 31 December 2025;
- 16) to immediately notify EE in writing of all the changes in the presented information or of circumstances which affect or may affect fulfilment of obligations by the beneficiary, including changes in the name or address or arising from the statutes or articles of association or changes in the authorised representatives, transformation, declaration of bankruptcy or appointment of liquidators, dissolution, etc., also in the case the aforementioned changes have been registered in a public register or disclosed in the media;
- 17) to immediately notify EE in writing of the high probability or inevitability of the negative result of the project that has become evident during its implementation and of the questionable expediency of the further continuation of the project;
- 18) to immediately notify EE in writing of the adoption of a resolution on transfer of a business entity or a part of business entity forming a single entity and being a basis for implementation of the project or on transfer of objects or rights belonging thereto during project implementation and within five years as of the end of the project eligibility period;
- 19) to ensure preservation and public use of the property created or acquired as a result of the project for the objectives and under the conditions specified in the application and resolution of approval of the application during not less than five years as of the end of the project eligibility period and not to conduct with the property any transactions that give unjustified advantage to any person or authority during the aforementioned term;
- 20) in case of transfer of rights with regard to the property created and acquired for the assistance, to agree with EE on the conditions of transfer and further liability for the purposeful use of the property during project implementation and within five years as of the end of the project eligibility period;
- 21) to refund the assistance reclaimed by EE in the amount and by the due date specified in the resolution on reclamation of the assistance;

- 22) to ensure fulfilment of the obligations of the co-financier(s) involved in the implementation of the project imposed on them by the cooperation agreement specified in Clause 15 (5) 2) of this Regulation and by other relevant orders specified in Clauses 1), 2), 5), 9)–20);
- 22¹) to immediately notify Enterprise Estonia in writing of net revenue received as a result of the project, which has not been taken into account before the resolution of approval of the application, during the project and within five years from the end of the project eligibility period;
- 23) to fulfil any other obligations provided for in legislation.

§ 22. Rights of EE

EE shall be entitled:

- 1) to carry out supervisory activities or audits with regard to the expense receipts and payment documents recording use of the assistance and self-financing, acquired equipment, materials and performed work;
- 2) to require submission of additional relevant information and documents with regard to project operations and expenditure included in the application;
- 3) to refuse payment of the assistance entirely or partially in the cases specified in Subsection 18 (10);
- 4) to refuse amending the resolution of approval of the application if due to reasons stipulated in Clauses 21 6)-8) the amendment claims do not conform to the requirements provided in the Resolution of the conditions for the measure, or the project objectives or are not justified;
- 5) to declare the resolution of approval of the application invalid pursuant to the provisions of the Structural Assistance Act for 2007-2013 and the provisions of legislation thereto;
- 6) to reclaim the assistance partially or entirely pursuant to the Structural Assistance Act for 2007-2013 and the provision of legislation thereto;
- 7) to inspect the tender documents and participate in the procurement committee as an observer.

§ 23. Obligations of EE

EE shall be required:

- 1) to make the application and report form and the relevant instructional material available on its website;
- 2) to review the application specified in Clauses 21 6)-8) not later than within 25 business days. In case of amendments specified in Subsection 21 (8), EE shall be required to ask for an appraisal from the Ministry of the Interior about the expediency of the amendment before the adoption of a resolution. An application for amendment shall be approved by amending the existing resolution of approval of the application;
- 3) to approve or reject the reports specified in Clause 21 4) not later than within 25 business days as of the receipt thereof. EE shall be required to immediately

notify the beneficiary of the resolution of approval or rejection of the reports specified in Clause 21 4) and of aforementioned payment claim specified in Subsection 18 (6);

- 4) after adoption of a resolution of approval of the application to make the following information available on its website: name of the beneficiary, name of the project, total volume of the assistance and project, objectives and operations of the project and the project period;
- 5) to preserve the documentation related to the application and implementation of the projects at least until 31 December 2025.

Chapter 8

IMPLEMENTING PROVISIONS

§ 24. Implementation of the measure

- (1) The measure shall be implemented as of 1 January 2007;
- (2) Requirements stipulated in Subsection 15 (4) shall not apply to procurement announced before 25 March 2009.
- (3) The redistribution of the funds of the measure among other eligible target regions stipulated in Clause 15 (1) 1) shall be applied from 1 January 2011.

Siim Valmar Kiisler
Minister for Regional Affairs

Märt Kraft
Secretary-General