

REGULATIONS ON COOPERATION WITH EXPERTS

at the Foundation for Polish Science as part of the European Funds for a Smart Economy Programme (FENG)

I. DEFINITIONS

- 1) **Director (Director PD)** – Director of the Programme Division of the Foundation for Polish Science or Deputy Director,
- 2) **IB Employee** – Employee of the Programme Division of the Foundation for Polish Science or other organisational units of IB involved in cooperation with experts,
- 3) **Field** – an area of competence in which the expert has the knowledge, skills, experience or required permissions, as well as a specific subject area (defined in accordance with the National Revenue Service) and its specialisation (SO KIS).
- 4) **FENG Expert** – a person referred to in Chapter 17 of the Act, who is included in the List of FENG Experts and with whom the FNP has concluded a Framework Cooperation Agreement with an Expert.
- 5) **FENG** – European Funds Programme for a Smart Economy 2021-2027,
- 6) **FNP** – Foundation for Polish Science
- 7) **IB** – Intermediate Body
- 8) **MA** – Managing Authority
- 9) **PEC** – Project Evaluation Committee
- 10) **Regulations** – the Regulations for Cooperation with Experts at the Foundation for Polish Science under the FENG Programme,
- 11) **RPEC** – Regulations for the Project Evaluation Committee
- 12) **Framework Agreement on Cooperation with an Expert (Agreement)** - an agreement referred to in Article 83(1) of the Implementation Act, concluded between an Expert and the FNP, regulating the rights and obligations of the parties to execute Orders under the FENG Programme,
- 13) **Act (Implementation Act)** – the Act of 28 April 2022 on the principles of implementing tasks financed from European funds in the financial perspective 2021-2027 (Journal of Laws 2022, Item 1079),
- 14) **List of Experts**– List of FENG Experts referred to in Article 81(2) of the Act, kept by the FNP as part of the European Funds for a Smart Economy Programme 2021-2027,
- 15) **Assignment** – a proposal for the implementation of the tasks referred to in Article 80 of the Act and in the Regulations, which will at least specify: the type of task, the amount of remuneration for its performance, detailed rules, the date of its completion and the role of an expert in performing these tasks,
- 16) **Board** – Executive Board of the Foundation for Polish Science

II. SCOPE

- 1) The Regulations apply within the Foundation for Polish Science acting as an IB under the FENG Programme 2021-2027 to cooperate with experts referred to in Chapter 17 of the Act, for the purposes of performing IB tasks:
 - a) related to the selection of projects for co-financing (including an assessment of whether the Project Selection Criteria are met, evaluation of the Project after it has been re-submitted for evaluation by the competent institution pursuant to Article 61(8) of the Act),
 - b) resulting from concluded Project Co-financing Agreements (e.g. Checking Project Implementation, including verification of the Beneficiary's payment applications, monitoring progress in Project Implementation, including mid-term evaluation of the Project, giving opinions on changes to implemented Projects, Project evaluation at the end of implementation, control and monitoring of project sustainability, other types of expertise),
 - c) related to the appeal procedure (verification of the assessment of compliance with the Project Selection Criteria, with which the Applicant disagrees, and verification of the applicant's procedural allegations regarding the project evaluation carried out).

III. TYPES OF TASKS PERFORMED BY EXPERTS

- 1) An Expert is appointed to carry out FNP tasks related to:
 - a) Selection of projects for co-financing, involving: preparation of a merit-based evaluation of the Project (an assessment of whether the Project Selection Criteria are met), including participation in meetings of the Project Evaluation Committee;
 - b) In the event of IB tasks resulting from the Project Co-financing Agreement, including:
 - Preparing opinions on the Project during the implementation of the grant agreement and at the end of the Project, including remote mid-term evaluations,
 - Preparing opinions on applications for changes to the Project,
 - Preparing opinions and recommendations in connection with a visit to the Project Implementation Site, e.g. in the scope of mid-term evaluation of the Project or checking Project Implementation,
 - Monitoring the progress of the Project at the stage of verification of the Beneficiary's payment claims and the sustainability of Projects),
 - Other commissioned tasks requiring the involvement of an Expert,
 - c) Implementation of tasks related to the appeal procedure, in particular preparation of opinions and participation in the protest committee.
- 2) The detailed nature of the tasks carried out by the Expert will be specified in the Regulations of the Project Evaluation Committee or in the Executive Manual. The FNP treats the Expert's position as:
 - a) An opinion (this is not binding on the competent institution and does not necessarily have to be taken into account), or
 - b) A decision (this is binding on the competent institution and must be taken into account).
- 3) For the tasks in question:
 - a) In Point II, Paragraph 1 Point a, the manner in which IP treats the expert's position is determined by the RPEC according to which IP treats the expert's position as a solution – which means that it is binding on IP, which must take it into account in the final decision of the assessment stage,

- b) In point II(1)(b), the IB treats the Expert's position as an opinion, which means that it is not binding and the FNP does not necessarily have to take it into account when making a final decision,
 - c) In point II(1)(c), the IB treats the position of the Expert as an opinion, which means that it is not binding on the IB and does not have to be taken into account when making a final decision (in accordance with the Rules of Work of the Protest Committee).
- 4) For the tasks referred to in Paragraph 1, the FNP may appoint Experts included in the FNP's List of Experts.
 - 5) Inclusion in the List of Experts and conclusion of a Framework Agreement with the Expert does not imply that the FNP is obliged to instruct the FNP Expert to perform any of the tasks referred to in Paragraph 1. Therefore, the Expert is not entitled to any claims in this respect, including financial claims, for the standby period.

IV. RULES FOR EXPERT SELECTION

- 1) The Management Board appoints Experts or appoints a Project Evaluation Committee from among experts entered in the List of Experts referred to in Article 81 of the Act, on the basis of proposals of candidates submitted by a DP employee in consultation with the Director.
- 2) In the case of the Protest Committee, experts are appointed to it by the Management Board in accordance with the Rules of Procedure of the Protest Committee. However, Experts who were involved in the assessment of the application for funding may not be appointed to the Committee.
- 3) Experts shall be selected according to the following rules:
 - a) Candidates for experts shall be selected from the List of Experts,
 - b) when selecting experts, the degree of compatibility of the subject of the application with the knowledge, skills, experience of the Expert and the required authorisations in the field covered by the programme according to the role of the Expert specified in the Mandate is taken into account, including: the relevant field, keywords, scientific achievements and other achievements in the field covering the subject of the Application or Project, business or scientific activity (publications, patents, implementation of R+D Projects, participation in business ventures and implementing the findings of R+D), the professional experience of the Expert and any history of cooperation between the FNP and the Expert,
 - c) When selecting an Expert, there shall be no discrimination against any applicant on any grounds, particularly residence, disability, race, religion, nationality, political opinions, trade union membership, ethnic origin, religion, sexual orientation or gender,
 - d) The order may be executed by a person who declares his/her readiness to perform the work within a specified period and submits the relevant Declarations of impartiality, confidentiality and lack of conflict of interest in accordance with the template provided by the FNP.

V. EXPERT CONTRACTS

- 1) After receiving an Order from the FNP to perform a specific task, the Expert performs it on the basis of an agreement concluded with the FNP, for which a template is attached as Appendix 1 to these Regulations.
- 2) The contract is handed over to the expert by a DP employee.
- 3) The organisational unit of the FNP responsible for contracts and payments shall keep a register of contracts concluded with the experts referred to in Paragraph 1.

- 4) The expert is obliged to notify the FNP of the following circumstances within 14 days of their occurrence:
- a) Loss of full civil/public rights,
 - b) Loss of full legal capacity,
 - c) Conviction by a final judgment for an intentional crime or an intentional fiscal crime,
 - d) A finding by a final decision of the Disciplinary Committee of the Expert's violation of ethics in science.

VI. RULES FOR COOPERATION WITH EXPERTS

- 1) The conditions for entrusting the Expert with the task referred to in Chapter II.1 of the Regulations are as follows:
- a) The Expert must confirm, every time, availability for the task and acceptance of the Order for execution of said task within the expected deadlines;
 - b) A Statement of impartiality, confidentiality and lack of conflict of interest must be signed, every time, by the Expert before the execution the Order begins. This constitutes an attachment to the relevant RPEC or the Rules of the Work of the Committee on Protests.

The declaration shall be submitted:

- in relation to all Applicants who have submitted an application for co-financing in a given call for proposals – in the case of tasks related to the selection of Projects for co-financing;
 - in relation to the Project to which the Order relates – in the case of Orders related to tasks carried out in the scope of implementation of IP rights and obligations under the Project Co-financing Agreement or decision on co-financing for the Project and within the scope of the appeal procedure.
- 2) The provisions of Article 24 §1 and 2 of the Act of 14 June 1960 shall apply accordingly to the Expert. Code of Administrative Procedure (hereinafter: CAP). If there are likely to be any circumstances other than those established under Article 24(1) and (2) of the Code of Civil Procedure, which may raise doubts as to the impartiality of the Expert, the FNP shall exclude the Expert from participation in the performance of the tasks referred to in Chapter II, Paragraph 1 of the Rules of Procedure, or disclose these circumstances.
- 3) The expert shall be obliged to inform the competent institution of circumstances known to him or her which may raise doubts as to his or her impartiality, including conflicts of interest.
- 4) In the event of a conflict of interest arising,¹ The expert undertakes to immediately notify the FNP of the conflict.
- 5) An expert may not undertake gainful activity related to the implementing a Project in whose selection he or she participated or gave opinions as part of the tasks referred to in Chapter II, Paragraph 1 of the Regulations, within a period of 12 months counted:

¹ A conflict of interest is a threat to neutrality and objectivity in the implementation of the tasks referred to in Chapter III sec. 1 of these Regulations, due to family, emotional, economic interest or any other direct or indirect personal interests interfering in relations between the Expert and the applicant/beneficiary or partner of the applicant/beneficiary or a member of the consortium that includes the Applicant/Beneficiary to whom the tasks relate, the Contractor indicated in the application for co-financing or the Contractor selected to provide services under the Project covered by the application for co-financing or the entity preparing applications for co-financing.

- a) from the date of approval of the list of proposals that received funding in a given call for proposals, under which the Project was subject to evaluation (in the case of tasks specified in the Regulations related to the selection of Projects);
 - b) from the date of receipt of the Order – in the case of tasks referred to in the Regulations related to the Project Co-financing Agreement.
- 6) At the request of the FNP, the Expert is obliged to submit a statement confirming that, during the period referred to in Paragraph 5, he or she was not employed in the implementation of a Project in whose selection he or she participated or gave an opinion (during or after its completion).
 - 7) Acceptance by the Expert of an Order for the implementing a given task as part of the Project to which it relates is a confirmation that the Expert has the knowledge, skills and experience necessary to carry out the Order.
 - 8) The Expert undertakes to participate in the meetings of the Project Evaluation Committee (hereinafter referred to as the "PEC") in which the Expert has been engaged and has been commissioned within the deadlines specified by the FNP. Meetings may be organised via electronic communication tools. The Expert shall be obliged to provide himself or herself with a computer with Internet access enabling him or her to participate in these meetings uninterrupted.
 - 9) If the subject of the Order concerns preparing a report on a visit to the Project Implementation Site (including inspections or mid-term evaluations), the Expert is obliged to participate in the visit to the Project Implementation Site in accordance with the detailed guidelines specified in the Order.
 - 10) In the case of any tasks other than those listed in Paragraphs 8 and 9, the detailed duties of the Expert will be specified in the Order.
 - 11) The execution of the Order by the Expert is documented in detail by:
 - a) Preparing and submitting the Application Improvement Cards or the Application Assessment Sheet as indicated by the FNP and signed or accepted by the FNP's IT system,
 - b) Preparing and sending opinions, signed or accepted by the FNP's IT system, regarding the Project at the stage of its implementation, in accordance with the FNP's requirements,
 - c) Preparing and sending an opinion signed or accepted in the FNP's IT system regarding a protest under consideration, in accordance with the FNP's requirements,
 - d) Preparing and submitting a report on a visit to the Project Implementation Site, signed or accepted by the FNP's IT system.
 - 12) The documentation referred to in Paragraph 11 should contain the contribution required in the Order to which it relates. The position should be logically consistent, specific and factual, expressed in a clear, unambiguous manner adequate to the content of the Order. The expert is obliged to provide justification for his position in accordance with the Order.
 - 13) In the event of deficiencies, obvious mistakes, ambiguities or doubts as to the level of detail, the documentation referred to in paragraph 11 shall be returned to the Expert with a request to complete or correct it. The Expert is obliged to cooperate with the FNP in making corrections and additions as indicated by FNP employees within the time limit set by them, after they have formally verified the Order performed by the Expert.
 - 14) If an expert fails to properly execute an Order, the FNP may resign from the Order, regardless of what stage it has reached, without paying any remuneration, and transfer it to another Expert.
 - 15) The FNP may verify all statements and commitments of the Expert made on the basis of the Regulations and the Agreement, particularly those referred to in Section 1(2).

VII. REMUNERATION FOR EXPERTS

- 1) The various amounts of remuneration paid to Experts for individual Orders are specified in Appendix No. 2 to these Regulations.
- 2) The FNP may revise the remuneration rates for Experts during the period of validity of these Regulations. Any change in rates will depend on the availability of funds for this purpose in the IB.

VIII. MONITORING THE WORK OF EXPERTS

- 1) The FNP monitors and verifies the quality of the Expert's work on an ongoing basis.
- 2) An assessment of the quality of the Expert's work is made, every time, within 10 days after the Expert completes the Order for the IB. The assessment of the quality of the Expert's work is made by an IB employee on the basis of a sheet, for which a template is attached as Annex 3 to these Regulations and is approved by the Director of the PD. The evaluation sheet may be accepted and validated with an electronic signature. Appendix 3 may be used for evaluating the work of Experts on any type of Order, including Experts participating in visits to the Project Implementation Site (including control).
- 3) To receive a positive assessment, the Expert's work must attain a minimum of 70%; otherwise, the assessment is negative. If an Expert receives a negative assessment (i.e., less than 70%) twice within a period of two years, it is possible to terminate the Framework Agreement with the Expert and delete him or her from the List of Experts
- 4) The expert is informed every time he or she receives a negative assessment.
- 5) An expert may not appeal against an assessment of his/her work by the FNP.

IX. TERMINATION OF THE CONTRACT AND EXCLUSION FROM THE LIST OF EXPERTS

- 1) The FNP terminates the Agreement with the Expert with immediate effect and removes him or her from the List of Experts if at least one of the following circumstances arises:
 - a) The Expert has lost all public rights,
 - b) The Expert has lost full legal capacity,
 - c) The Expert has been convicted by a final judgement for an intentional crime or for an intentional fiscal offence,
 - d) The Expert has lost the required rights in the field covered by the programme, according to the role of the Expert in selecting Projects for co-financing or performing the FNP's tasks under the Project Grant Agreement.
 - e) The Expert has made a false statement of impartiality and confidentiality in relation to the Applicant Contractor of the Project or other type of statement/declaration that the expert received in connection with the execution of the Order,
 - f) The Expert has taken up employment in the Managing Authority or Intermediate Body of FENG,
 - g) The Expert has refused to execute the Order three times without giving any justified reason,
 - h) A violation of ethics in science by the Expert has been found by a final decision of the Disciplinary Committee,
 - i) The Management Board, on the basis of an opinion from the FNP Ethics Committee, has found that the Expert has violated the FNP Code of Ethics,

- j) The FNP has been made aware of other circumstances not listed in points a-i, which have made it impossible for the Expert to perform his or her duties in an impartial and reliable manner,
 - k) The Expert has submitted a written or electronic request to be removed from the List of Experts,
 - l) The expert has withdrawn his or her consent to his or her personal data being included in the List of Experts.
- 2) The FNP shall immediately notify the Expert of his or her removal from the List of Experts.
 - 3) Notification of the removal of an Expert from the List of Experts is sent electronically. The notification shall contain, in particular, an indication of the letter in Paragraph 1 on the basis of which the Expert is removed from the List of Experts.
 - 4) Removal of an Expert from the List of Experts results in the FNP terminating the Expert's Agreement with immediate effect.

X. CHANGES TO THE REGULATIONS

- 1) The FNP reserves the right to amend the Regulations. The amended Regulations are published on the FNP website.
- 2) The FNP undertakes to inform the Expert by post or e-mail of any changes to the Regulations no later than the time of placing the Order following the introduction of the change.

XI. APPENDICES

- 1) Appendix 1 – Model Framework Agreement on Cooperation with Experts.
- 2) Appendix 2 – Remuneration Rates for Experts (for Individual Orders).
- 3) Appendix 3 – Model of the Expert's Work Evaluation Sheet.