

**GENERAL CONDITIONS FOR THE USE OF DISCRETIONARY GOVERNMENT TRANSFERS GRANTED BY THE
MINISTRY FOR FOREIGN AFFAIRS AND COMPLEMENTARY CONDITIONS FOR PROJECT SUPPORT
GENERAL CONDITIONS**

Amount of discretionary government transfers

Discretionary government transfers may not cover the full amount of expenses caused by an activity or project for which the transfer has been granted, unless otherwise provided for based on necessary and justified reasons to ensure that the objectives set for the discretionary government transfer are achieved.

The share of self-financing varies depending on the form of the transfer and will be informed in the Call for Proposals and in the discretionary government transfer decision.

Together with other forms of public funding, the amount of a discretionary government transfer may not exceed the maximum amount of discretionary government transfers or other public funding on which provisions are laid down in European Union legislation or Finnish legislation.

Granting of discretionary government transfers

Within the framework of the appropriations approved by Parliament, discretionary government transfers are granted for the intended use set forth in the discretionary government transfer decision for either the recipient's own activities or project, or for assisting in the activities or projects by a party other than the recipient that is putting into effect the intended purpose laid down in the discretionary government transfer decision.

If discretionary government transfers are granted for assisting the activities or projects of a party other than the recipient to implement the intended purpose of the discretionary government transfer decision, the recipient organisation must sign an agreement with the party implementing the activities or projects on the use of the discretionary government transfer in accordance with the discretionary government transfer decision, on the monitoring of its use and on the applicable conditions.

Payment of discretionary government transfers

The conditions for the disbursement of discretionary government transfers are defined in the discretionary government transfer decision.

The transfer is paid to the recipient in one or more instalments based on the timing of costs. The Ministry for Foreign Affairs (MFA) may decide to pay discretionary government transfers based on actual costs after an acceptable account on the use of the support has been provided to the Ministry.

An advance can be paid on discretionary government transfers if this is justified in terms of the use of the support and its monitoring. Recipients of the discretionary government transfers must provide the MFA with accurate and sufficient information necessary for the disbursement of the transfer.

The MFA will pay the transfer based on the disbursement requests sent by the recipient. If the transfer spans multiple years, after the first year of disbursements the transfer is payable without a separate decision as soon as the Budget for the year in question has been approved by Parliament and entered into force, provided that Parliament has granted the funds for the purpose in question. The disbursement requests must take into account the timing of the costs. The additional conditions concerning the staggering of the disbursements will be included in the discretionary government transfer decision.

The recipient organisation and the MFA can together agree in writing that funding be carried over to the following year or financing period. Funds that remain unused at the end of a calendar year must be taken into account in the first disbursement request of the following year.

Use of discretionary government transfers

Discretionary government transfers may only be used for the purpose set forth in the discretionary government transfer decision. When carrying out the project for which funding has been granted, the recipient organisation must adhere to the conditions and restrictions incorporated in the discretionary government transfer decision.

If discretionary government transfers have been granted for the procurement or basic improvement of property that is to be used for a specific purpose defined in the discretionary government transfer decision, the property may not be permanently used for purposes other than that specified in the discretionary government transfer decision, nor may the ownership or control of the property be transferred to another party during the period of use of the property defined in the discretionary government transfer decision.

The recipient organisation is fully responsible for any possible problems, claims and other consequences resulting from the use of the discretionary government transfer. The recipient organisation is fully accountable to the MFA for the appropriate use of the discretionary government transfer also insofar as the transfer has been used to assist in projects or activities of a party other than the recipient organisation. The legal relationship of the recipient organisation to the MFA is subject to public law. This means that the MFA may, for example, demand reports of the use of the transfer, conduct relevant audits and recover misused discretionary government transfer from the recipient organisation even in the event that the recipient organisation has, the discretionary government transfer decision permitting, allocated part of the transferred funds to the activities or projects of another party implementing the intended purpose defined in the discretionary government transfer decision. In other words, transferring discretionary government transfer to a third party does not in any way exempt the recipient organisation from its obligations/liabilities under public law. The recipient organisation must also clarify the use of the discretionary government transfer in respect of the part that it has been managed by another party.

Eligible expenses

Discretionary government transfers and the self-financed contribution can only be used to cover reasonable costs necessary for implementing the supported operations and in accordance with what is set forth by the MFA in the discretionary government transfer decision.

Changes to the project plan

The recipient organisation must immediately notify the MFA of any changes that affect the implementation of a discretionary government transfer's intended use or any other changes that influence the use of the support. Should there be changes concerning the key activities or personnel costs, the recipient organisation must apply for permission to alter the plan for the use of funds with the MFA. Applications concerning changes to the project plan must be submitted in writing before the activities to be changed are initiated.

Procurement and prohibition of bribery

When using the government transfer, the recipient must take into account the obligations relating to competitive tendering under the Act on Public Procurement and Concession Contracts (1397/2016). Section 5(5) of the Act stipulates that, for the purposes of the Act, contracting authorities (actors that must arrange competitive tendering for their procurement in accordance with the Act on Public Contracts) mean any purchaser if it has received more than half of the value of the contract for awarding the contract from a governmental authority.

When procuring material or services, the invitations to tender and the procurement contracts must include a clause stating that the tender can be rejected and/or the contract terminated if the contract arrangements or the implementation of the contract involve bribery or similar unlawful activity (including bribing a foreign public official).

The recipient organisation assures that they or the persons exercising control or supervisory authority in the organisation nor its employees or local representatives, have committed corruption or unlawful activity comparable to corruption (including corruption of a foreign public official) and will not commit such activity during the period of use of the transfer. Furthermore, the recipient assures that neither the actors for whose activities the recipient transfers part of the transfer funds, in accord with their purpose of use, nor the persons exercising control or supervisory authority in these actors, nor their employees or local representatives, have committed corruption or unlawful activity comparable to corruption (including corruption of a foreign civil servant) and will not commit such activity during the period of use of the government transfer. A breach of the assurance may result in clawing back the paid government transfer or part of it on the basis of the Act on Discretionary Government Transfers (688/2001).

Should the recipient organisation discover that a person exercising control or supervisory authority in the organisation nor its employee or local representative has misused funds received as discretionary government transfer, the recipient organisation must take immediate action to minimise the resulting damage and notify the MFA of the matter. The recipient must act in the same manner if it notices that an actor for whose activities the recipient has transferred part of the transfer funds, in accord with their purpose of use, or a person exercising control or supervisory authority in this organisation or its employee or local representative has misappropriated funding granted in the form of government transfer. The provision of information to the MFA is without prejudice to the right or obligation of the Ministry to claw back the paid government transfer or part of it from the recipient on the basis of the Act on Discretionary Government Transfers(688/2001).

In all activities, it is important that the recipient has sound governance and financial management structures and takes into account the guidelines given in the Anti-Corruption Handbook for Development Practitioners published by the Ministry for Foreign Affairs (ISBN: 978-952-281-026-7).

Intellectual property rights

The MFA has a free and unlimited right to use all materials/results, produced in connection with activities supported by discretionary government transfers, for an indefinite period of time, including the right to use, copy, edit and commission changes to the materials and disclose them to third parties. The MFA is entitled to make results/materials, produced in connection with activities supported by discretionary government transfers, publicly available on the Ministry's website, for example.

Recipient organisation's obligation to inform

Provisions on the obligation to inform are laid down in the Act on Discretionary Government Transfers. Recipients of discretionary government transfers must provide the MFA with correct and sufficient information for the Ministry to be able to supervise compliance with the conditions set in the discretionary government transfer decision. The recipient organisation is obligated to report on the use of the transfer in accordance with the discretionary government transfer decision.

State aid authority's duty of supervision

The MFA has the right to receive and obtain information on the use and monitoring of discretionary government transfers, along with other information, and conduct audits where necessary.

Right to audit

Provisions on the right of the State aid authority to audit are laid down in the Act on Discretionary Government Transfers. The MFA is entitled to conduct any such audits of the recipient organisation's finances and operations that are necessary for the payment of the discretionary government transfer and the monitoring of its use. If a discretionary government transfer has been granted pursuant section 7(3) for the project or activities of a party other than the recipient organisation but in accordance with the discretionary government transfer decision's purpose of use, the MFA has the right to audit the finances and activities of the party implementing the activities or project in question. By its decision, the MFA can authorise another authority or external auditor to conduct the aforementioned audits. An external expert can, at the request of the State aid authority, assist in the audit. The right of audit of the National Audit Office of Finland and the Parliamentary Audit Committee is laid down separately.

Auditing

Provisions on the conduct of the audit are laid down in the Act on Discretionary Government Transfers. The recipient organisation must provide the auditing official and/or auditor with all information, reports, documents, records and other material necessary for performing the audit and otherwise provide assistance during the audit. The official and/or auditor conducting the audit is entitled to seize the

material subject to audit if the auditing so requires. The materials will be returned without delay after they are no longer needed for the audit. To the extent required by the audit, the auditing official and/or auditor conducting the audit is entitled to access the business premises, storage facilities and other similar properties used for professional or business purposes as well as other areas that are relevant to the granting of the discretionary government transfer and the monitoring of its use.

Suspension of disbursements

Provisions on the suspension of disbursements are laid down in the Act on Discretionary Government Transfers. The MFA can decide to suspend the disbursement of a discretionary government transfer in the following cases:

- 1) There are reasonable grounds to suspect that the recipient of a discretionary government transfer is not complying with the conditions laid down in sections 12(4), 13 or 14 of the Act on Discretionary Government Transfers.
- 2) The grounds on which the transfer was granted have essentially changed; or
- 3) Suspension of disbursements is required by European Union law.

Repayment of discretionary government transfers

Provisions on the suspension of payment are laid down in the Act on Discretionary Government Transfers. The recipient organisation must immediately return any discretionary government transfer or part thereof if received erroneously, excessively or obviously without justification. The recipient organisation must also return the discretionary government transfer or part thereof if it cannot be use the transfer for the purpose stated in the discretionary government transfer decision. If the amount to be repaid is no more than EUR 100, returning it is not necessary. According to section 3(2) of the Finnish Interest Act (633/1982), an annual interest plus three percentage points must be paid on the amount to be repaid. The interest is calculated from the last date of disbursement to the date of return payment.

Duty to claw back discretionary government transfers

Provisions on claw-back are laid down in the Act on Discretionary Government Transfers. According to the Act on Discretionary Government Transfers, the MFA is obligated to order that the payment of a discretionary government transfer be discontinued and that the disbursed amount be clawed back, if the recipient organisation has:

- 1) failed to return a discretionary government transfer or part thereof that should be returned by virtue of section 20 of the Act on Discretionary Government Transfers
- 2) used the support for a purpose which is essentially different from the purpose for which it was granted
- 3) given false or misleading information on a matter that has essentially influenced the decision to grant the transfer or its amount or conditions, or concealed such a matter, or

4) in a manner comparable to paragraphs 1–3 above, otherwise substantially violated the provisions concerning the use of discretionary government transfers or the conditions included in the transfer decision.

Discretionary claw-back of discretionary government transfers

Pursuant to the Act on Discretionary Government Transfers, the MFA can order that the payment of a discretionary government transfer be discontinued and that the disbursed amount be clawed back fully or partly if the recipient organisation has:

- 1) violated section 12(4), 13 or 14 of the Act on Discretionary Government Transfers
- 2) has refused to provide material in accordance with paragraph 1 of Chapter 4, section 17 of the Act on Discretionary Government Transfers or refused to cooperate in accordance with said paragraph;
- 3) ceased the supported activities, reduced them significantly or transferred them to others
- 4) in violation of section 13 of the Act on Discretionary Government Transfers, transferred the ownership or control of property procured using a discretionary government transfer to another party
- 5) in violation of section 13, permanently changed the intended purpose of the property for which the discretionary government transfer was granted
- 6) become subject to a debt recovery procedure, been placed in liquidation, gone into bankruptcy or is subject to restructuring proceedings under the Restructuring of Enterprises Act (47/1993) or Act on the Adjustment of the Debts of a Private Individual (57/1993), unless otherwise required by the purpose of the discretionary government transfer, or
- 7) the transfer recipient takes action that is in practical terms comparable to what is laid down in subsections 1–6 above by giving a matter related to the granting, payment or use of the transfer a legal form that does not comply with its true nature or purpose.

If either a recipient of a discretionary government transfer or the recipient's representative who, under the Criminal Code, has been imposed a final sentence for the employment of unauthorised foreign labour or, as an employer, for an offence concerning foreign labour, or if the recipient of a transfer has been issued a cash penalty, referred to in the Employment Contracts Act, the State aid authority may continue to pay the discretionary government transfer and refrain from recovering the paid amounts or part of it only for a particularly weighty reason.

If the property for which the discretionary government transfer was granted has been destroyed or damaged during the period of use specified in the discretionary government transfer decision and new equivalent property is not procured to replace this property, the MFA can issue a decision to terminate the disbursements and order an amount equivalent to the discretionary government transfer's share of the original acquisition cost of the property to be clawed back from the possible insurance compensation or other reimbursement.

The MFA can also issue a decision to terminate the payment of a discretionary government transfer and to claw back paid instalments if required by European Union law.

More detailed instructions from the State aid authority

The MFA can issue more specific instructions concerning the applicant's obligation to provide clarifying information, the recipient organisation's obligation to keep books, the payment of the discretionary government transfer, the use of the support and the implementation of the monitoring.

ADDITIONAL TERMS AND CONDITIONS FOR HEI ICI PROGRAMME SUPPORT

Amount of discretionary government transfers

The amount of support granted by the Ministry for Foreign Affairs is no more than 80 per cent of the total expenses approved by the ministry for each project. In order to be able to use the discretionary government transfer, the recipient must fulfil an annual self-financing requirement of at least 20 per cent with regard to the project. This self-financing requirement must be fulfilled mainly by means of Finnish sources of funding. Other special public support granted to the party implementing the project (from Finnish or EU sources) must not be used to fulfil the self-financing requirement for development cooperation projects. If necessary, funding collected by a project partner may be included in the self-financing requirement. With regard to funding, the country of origin and the operator must be specified in the project funding statement.

The fulfilment of the self-financing requirement must be monitored, and any problems must be reported to the Ministry for Foreign Affairs without delay. If the recipient is unable to fulfil the self-financing requirement, the scope of the project must be reduced accordingly, so that the self-financing requirement corresponds to the required annual minimum share of the total cost of the project.

Invoicing the discretionary government transfers

The recipient invoices available amount of the discretionary government transfer annually from EDUFI. The annual tranche of discretionary government transfer is defined in the Government Discretionary Transfer Decision. The recipient can invoice the first tranche as soon as Ministry for Foreign Affairs has signed the state aid decision and as soon as the recipient has submitted the letter of commitment. The following tranches are available for invoicing from the beginning of each year..

The final tranche is paid after the final report has been approved. The final tranche is the difference between the actual costs to be covered by the discretionary government transfer and the instalments already paid. If the difference is negative, the recipient must return the excess amount to EDUFI, which will return it to the Ministry for Foreign Affairs.

Use of discretionary government transfers

If a discretionary government transfer has been granted for the acquisition or refurbishment of fixed assets, a building or a flat in a building, the time of use for the assets subject to the transfer for their specified purpose is at least 15 years with regard to this form of support, by way of derogation from the general terms and conditions

Acceptable costs

The total cost model is applied to the HEI ICI programme with regard to preparing applications and preparing, making and implementing funding decisions. The model is also applied when recipients invoice the discretionary government transfer. The reporting is based on project accounting in accordance with business accounting principles. The project accounting concerns direct project costs. In addition, imputed general costs and indirect personnel expenses are allocated to projects. The general cost coefficient approved for the funding decision will be used throughout the funding period.

Personnel expenses

As a rule, higher education institution staff or employees hired to implement the project must be used in projects. Discretionary government transfers may be used to cover salary costs necessary for project implementation and the statutory indirect costs related to such salary costs. The recipient must provide information about the employees they have hired by means of the discretionary government transfer and about the employees' job titles, and they must keep up-to-date records of such employees, the durations of their employment relationships and the grounds for and amounts of their salaries, so that such information is available to the discretionary government transfer authorities. The recipient is responsible for ensuring that the employees and experts have the necessary work permits.

With regard to all of the recipient's and their partners' employees, working hours must be monitored systematically to ensure good governance and the efficient use of resources. It must be possible to derive the working hours allocated to the project from the monitoring system.

Operating expenses and the cost of operation and maintenance

When government subsidies are used to make purchases, the provisions of the Act on Public Contracts with regard to public procurement, as well as the related Government Decrees, must be taken into account.

Investments, such as construction, renovation and the acquisition of equipment, can be supported only if they are an essential part of project implementation. Discretionary government transfers cannot be used

to acquire land. If it is justifiable to send supplies from Finland or another country outside the partner country, discretionary government transfers may be used to cover freight costs.

The recipient must ensure that its local partner keeps up-to-date records of fixed assets acquired by means of development cooperation support and the self-financing requirement, and of changes in their value. Maintenance costs include costs arising from servicing and maintenance.

Travel and accommodation expenses

The travel and accommodation expenses allocated to the project will be covered using the most inexpensive options and in accordance with the State Travel Regulations.

Communication

A communication plan must be prepared for the project for its entire duration. Audiences in Finland must be provided with information about the project. In this context, communication refers to all of the means of communication that the recipient uses to provide Finnish audiences with information about the development cooperation project. This excludes the provision of information about the recipient: discretionary government transfers for projects cannot be used to cover such communication.

The recipient must ensure that its website and any other communication channels provide up-to-date information about the development cooperation project implementation carried out by the recipient and about project funding.

Changes in usage plans

If key project operations or the number of project employees change or cause a change of at least 15 per cent with regard to cost categories, the recipient must request permission in writing from the ministry for a change to purpose of use *before* starting the operations subject to the change. Requests for a change to the usage plan must be submitted to EDUFI, which will submit them to the ministry.

Recipient's disclosure obligation

Reporting

The recipient must provide the Ministry for Foreign Affairs with an annual report on project operations and the use of funds in line with the instructions provided by the ministry and EDUFI. The annual report is submitted via EDUFI's electronic application and reporting system in accordance with the instructions pertaining to reporting provided by EDUFI

The annual report must be submitted by the end of March of the following year for each year for which support was granted and/or during which support was used. The annual report must be submitted regardless of whether the project progressed or funds were used. In addition, in their final annual report, the recipient must discuss the results achieved during the entire project period and the effectiveness of

the results, as well as the experiences gained during the project period and their applicability. The Ministry for Foreign Affairs may also request the recipient to provide other reports that it deems necessary.

The final report must be accompanied by an inspection report that includes a statement by the auditor (a template is provided with the inspection guidelines), with the auditor confirming that the discretionary government transfer was used in line with the related terms and conditions and the provisions pertaining to discretionary government transfers. The final report must also be accompanied by a possible local inspection report from project partner.

The recipient must have professional accounting and financial statement practices, as well as statutory auditing or operational inspection practices, in place in accordance with the Auditing Act and the Accounting Ordinance.

Statutory obligation to monitor

The Ministry for Foreign Affairs or its designated representative, the National Audit Office of Finland and the Audit Committee of the Finnish Parliament have the right to inspect, in the recipient's facilities or otherwise, all of the recipient's accounting and assets and other information, reports, documents, records and other material necessary for inspection purposes, and otherwise inspect project implementation. The recipient is obligated to provide the ministry with accurate and sufficient information for the purpose of monitoring compliance with the terms and conditions and with the material necessary for inspection purposes, and to otherwise provide assistance with carrying out an inspection. If necessary, to an extent necessary for the project, the ministry has the right to audit the finances and operations of the recipient's partners involved in project implementation.

Project accounting and auditing

Project accounting must comply with the Accounting Act, the Accounting Ordinance and good accounting practices. Project accounting must be arranged in a manner that enables the total project funds (the discretionary government transfer and the self-financing requirement) to be derived from the accounting and audited based on the accounting without difficulty. Project accounting must be allocated to specific cost centres, and the chart of accounts must allow for the itemisation of the types of expense approved and budgeted for the project for accounting and annual reporting purposes. The receipts must include all of the information necessary for accounting purposes, and they must be stored in a manner that enables the ministry and EDUFI to audit them in Finland. The recipient must keep an inventory of the assets acquired by means of discretionary government transfers granted by the ministry. Receipts must be stored for a minimum period of six years in Finland after the end of the projects and in accordance with local laws in other countries but for a minimum period of six years after the end of the project. When the project is audited in Finland, all of the receipts are stored in Finland. If the receipts are in a language other than Finnish, Swedish or English, they must be accompanied by explanations in one of these three languages.

The auditing of project accounting and clearing for the annual report must be organised appropriately. The accounting and clearing will be audited by auditors selected by the recipient, and one of the auditors must be an Authorised Public Accountant (KHT), a Chartered Public Finance Auditor (JHTT) or an auditor authorised by a local Chamber of Commerce (HTM), or an auditing firm with the same qualifications. The Finnish higher education institution is responsible for auditing with regard to the entire project.

If local expenses are recorded as part of the project partner's accounting in their country, these expenses must be audited locally. The local auditor must meet the statutory qualification requirements in their country.

If the local costs of the partner higher education institution are smaller than EUR 20,000, the audit can be carried by the institution's own auditor, who will send the auditing report to the auditor in charge in Finland, or the institution's own accountant, who will send copies of the receipts and an explanation in English of which expenses are in question. The project auditor in Finland will decide whether the explanations provided by the partner higher education institutions are sufficient and request additional information, if needed.

If the ministry so requests, the higher education institution must provide the local auditing report and the necessary attachments to an auditor specified by the ministry within three months of receiving the request.

Ethical Code of Conduct

The recipient must carry out development cooperation work in a manner that enhances democratic systems and is in line with the laws and human rights policies of Finland, and with the human rights and non-discrimination policies of the current Government Report on Development Policy, as well as the sector-specific guidelines supplementing the report. The significance of compliance with guidelines is particularly important in operations that involve people representing different cultures, religions and ideologies.

The Ethical Code of Conduct consists of conditions set by the Ministry for the use of discretionary government transfers. When receiving development cooperation funds from the Ministry for Foreign Affairs, the recipient organisation commits to applying and adhering to this Ethical Code of Conduct in its development cooperation in the recipient country. In case an organisation fails to meet these conditions for the use of the transfer granted to it, the Ministry can set a date by which the conditions must be fulfilled, suspend the disbursement, or demand a refund of paid instalments.

1. All those participating in development cooperation are guaranteed respect for their human dignity, human rights, culture, religion and ideology, free from all forms of discrimination. Development cooperation supported by the Government must be free from all kinds of discrimination. The most common forms of discrimination are associated with religion, political or other ideology/opinion, conviction, gender, ethnic origin, caste, language, health situation, disability, sexual orientation, sexual identity, age or other personal characteristic.

2. Development cooperation focuses on helping people who face discrimination from society and communities. Development cooperation activities tackle the causes of poverty, injustice and discrimination. The aim is to change prevailing discriminatory attitudes and structures.

3. People's ideologies, religions, political positions or changing them must not set conditions for the availability of assistance or participation in development cooperation. This principle is particularly important in work with minors and young persons. Propagating ideologies, religions or political positions by development cooperation funds is not permitted.

4. Development cooperation supports peaceful dialogue and serves to promote peace and partnership in communities. The activities create and implement processes to promote accessibility and equal participation of all.

5. Good governance promotes sustainable development. Corruption and related poor governance reinforce unequal distribution of development and consequently undermine the realisation of KEO-30 / 31.01.2020 13 human rights. Measures to prevent corruption and to address suspicions are conscious actions to improve development results.

6. Development cooperation must be based on zero tolerance when it comes to sexual abuse, violence and sexual harassment, as well as discrimination and abuse of power. Any suspicion of these should be addressed by appropriate measures.