

Pursuant to Article 21, paragraph 5 of the Decree on Fostering Direct Investments (Official Gazette of Montenegro 8/15), the Secretariat for development projects prepared the following

GUIDANCE
ON THE SUBMISSION OF APPLICATION AND DETAILED MANNER OF EVALUATING
CRITERIA FOR AWARDING FUNDS FOR FOSTERING DIRECT INVESTMENTS

I INTRODUCTION

The Guidance on the submission of application and detailed manner of evaluating criteria for awarding funds for fostering direct investments contains information on how to complete and submit an application for participating in the procedure of awarding funds for fostering direct investments (hereinafter referred to as the **Application**), in accordance with the Public Announcement for participation in the procedure of awarding funds for fostering direct investments (hereinafter referred to as the **Public Announcement**) and the Decree on fostering direct investments (Official Gazette of Montenegro 8/15), as well as the manner of evaluating criteria for awarding funds for fostering direct investments.

Preparation of the Public Announcement and other activities in relation to the Public Announcement is performed by the Secretariat for development projects (hereinafter referred to as the **Secretariat**).

Evaluation of investment projects and report on evaluation with the proposal of the decision on awarding funds for fostering direct investments shall be made by the Commission for evaluation of applications appointed by the Government of Montenegro.

The Secretariat may amend this Guidance at any time, but no later than five days before the deadline for submission of applications. Amendments will be posted on the website of the Secretariat.

II SUBMISSION OF APPLICATION

2.1 Submission of application

2.1.1 Application is submitted to the Secretariat, within the period defined in the Public Announcement.

2.1.2 Application is submitted directly or by registered mail to the Secretariat.

2.1.3 Application and supporting documents are submitted in a properly sealed package (envelope, wrapper or the like).

2.1.4 Employee of the Secretariat is obliged to stamp each received package with the date and hour of receipt of the Application and issue a confirmation of receipt of the Application.

2.1.5 The Application is submitted in the original and copy of the original Application, in writing (hard copy) and electronic format (on CD/USB), in accordance with this Guidance.

2.1.6 Original of the Application must be typed or written in indelible ink.

2.1.7 Business entity submitting the Application (hereinafter referred to as the Applicant) or its authorized person is required to bind the Application and supporting documents and sign each page of the Application and supporting documents.

2.1.8 Application Bank Guarantee, as a means of financial collateral, must be preserved from damage during packaging as follows:

- packed in special PVC double blade foil which is perforated and sheathed with other evidence;
- plastic foil in which the application bank guarantee is placed must be signed by the business entity submitting the Application or its authorized person.

2.1.9 After returning the Application Bank Guarantee, a confirmation shall be archived at its place as a proof that the guarantee has been returned to the Applicant.

2.1.10 The front of the package in which the Application is submitted together with supporting documents, shall include the name and seat of the body publishing the Public Announcement, number, date and name of the Public Announcement and text with a note: "Do not open before the public opening of applications." The back of the package shall include title and seat, i.e. name and address of the Applicant.

2.1.11 The package shall contain two envelopes:

- (a) The envelope numbered 1 with the inscription "Original", which contains the Application in original, supporting documents in original or certified as defined in Item 2, sub-item 2.2 of this Guidance, in two copies, and two CDs/USBs with the burned Application and supporting documents;
- (b) The envelope numbered 2 with the inscription "Duplicate", which contains a duplicate of the original Application and supporting documents, in two copies.

2.1.12 The Application must be submitted within the period defined in the Public Announcement; otherwise it will not be considered and will be rejected as untimely.

2.1.13 The Secretariat shall determine the Application Form and publish it on its website.

2.2 Language of the Application and supporting documents

2.2.1 The Application is submitted in the Montenegrin language.

2.2.2 The supporting documents submitted by a foreign investor must be certified in accordance with the regulations of the country of their issue and translated into Montenegrin language by the certified court translator.

2.3 Currency

Elements of the Application and supporting documents, which are expressed in value, whether they are related to activities in Montenegro or outside, should be expressed in EUR.

2.4 Opening of Applications

2.4.1 Applications are opened at the time, in the place and manner specified in the Public Announcement.

2.4.2 The public opening of applications begins by determining the number of applications received in order of receipt, including withdrawals of applications, timely submission of applications and title, i.e. name of the Applicants.

2.4.3 The Applicant may withdraw its application by the deadline for submission of applications.

2.4.4 A statement or other document by which the Applicant withdraws its application is submitted directly or by registered mail to the address of the Secretariat.

2.4.5 The submitted application cannot be changed or supplemented.

2.4.6 The Secretariat keeps a log on opening of applications, in which it enters particularly the following information:

- 1) place, date and hour of the start of opening of applications;
- 2) names of employees of the Secretariat who attend the opening of applications;
- 3) names of the present Applicants, their representatives or attorneys with the number and date of issue of their power of attorneys;
- 4) title, i.e. the name of the Applicant not attending the public opening of applications;
- 5) the subject of the Public Announcement;
- 6) the order of opening of applications and data from the applications and supporting documents, and
- 7) other data of importance to the procedure of opening of applications.

2.5 Clarification of applications

2.5.1 The Secretariat may, during the procedure of evaluation of applications validity, request clarification from the Applicant in order to eliminate doubts about the validity of applications.

2.5.2 The clarification of the Application may not be making changes and supplements to the Application.

2.5.3 The clarification referred to in sub-item 2.5.1 of this item shall be submitted within seven days from the submission of the request.

III MANNER OF EVALUATING CRITERIA FOR AWARDING FUNDS FOR FOSTERING DIRECT INVESTMENTS

3.1 Type and manner of evaluating criteria

Criteria for awarding funds for fostering direct investments (hereinafter referred to as the **Criteria**) in accordance with Article 11 of the Decree on fostering direct investments are:

- references of the investor;
- effects of investment project on the productivity of suppliers and other business entities from Montenegro which operate in the same industry sector;
- viability of investment project;
- effects of investment project in connection with research and development;
- effects of investment project on human resources;
- environmental impact assessment;
- international trade volume;
- effects of investment project on the development of less developed local government units, and
- Letter of intent of the local government where the investor intends to invest.

3.1.1 References of the investor

Based on the criterion References of the investor, the investor may be awarded maximum 35 points.

The references of the investor shall be evaluated in accordance with his business operations, as follows:

- 1) **if shares of the investor are listed on well-known international stock exchanges and if the investor has successfully implemented a large number of investment projects – 26 to 35 points will be awarded.**

The highest number of points (35) will be awarded to the investor whose shares are listed on a well-known international stock exchanges and who has successfully

implemented a large number of investment projects in the past five years compared to the other investors who have applied.

Other investors whose shares are listed on well-known international stock exchanges will be awarded points in relation to the largest number of successfully implemented investment projects in the past five years.

2) if the shares of the investor are listed on the stock exchange and the investor has a high credit rating – 16 to 25 points will be awarded.

The highest number of points (25) will be awarded to the investor whose shares are listed on the stock exchange and has the highest credit rating in relation to the other investors who have applied.

Other investors whose shares are listed on the stock exchange will be awarded points in proportion to the highest credit rating.

3) if the investor has an international reputation and experience which includes the investment project which is of similar scope and type to the project for which funds for fostering investments are awarded – from 11 to 15 points will be awarded.

The highest number of points (15) will be awarded to the investor who has an international reputation and experience which includes the highest number of investment projects which are of similar scope and type to the project for which funds for fostering investments are awarded in relation to the other investors who have applied.

Other investors who have an international reputation will be awarded points in proportion to the highest number of investment projects of similar scope and type to the project for which funds for fostering investments are awarded.

4) if the investor has already implemented the projects of similar scope and type to the project for which funds for fostering investments in the domestic market are awarded - 1 to 10 points will be awarded.

The highest number of points (10) will be awarded to the investor who has already implemented the highest number of projects of similar scope and type to the project for which funds for fostering investments in the domestic market are awarded in relation to the other investors who have applied.

Other investors will be awarded points in proportion to the highest number of projects of similar scope and type to the project for which funds for fostering investments in the domestic market.

3.1.2 Effects of investment project on the productivity of suppliers and other business entities

As part of the criterion Effects of investment project on the productivity of suppliers and other business entities the investor may be awarded a total of 15 points on the basis of the following two sub-criteria:

1) according to the share of domestic suppliers in the investment project implementation maximum 10 points may be awarded, for:

- a) more than 75% - 10 points are awarded;
- b) more than 60%, and less than 75% - 8 points are awarded;
- c) more than 50%, and less than 60% - 6 points are awarded;
- d) more than 40%, and less than 50% - 4 points are awarded;
- e) more than 10%, and less than 40% - 2 points are awarded;

2) according to the effect of investment project on the productivity of other business entities maximum 5 points may be awarded, if the investment project:

- a) will make considerable contribution to the increased productivity - from 4 to 5 points will be awarded, as follows:
 - to the investor who will by purchasing components/parts from domestic suppliers affect domestic suppliers to increase production volume above 50% - 5 points are awarded;
 - to the investor who will by purchasing components/parts from domestic suppliers affect local suppliers to increase production volume by 40% to 50% - 4 points are awarded;
- b) contributes to productivity increase - 1 to 3 points will be awarded, as follows:
 - to the investor who will by purchasing components/parts from domestic suppliers affect domestic suppliers to increase production volume by 30% to 40% - 3 points are awarded;
 - to the investor who will by purchasing components/parts from domestic suppliers affect domestic suppliers to increase production volume by 20% to 30% - is awarded 2 points are awarded;
 - to the investor who will by purchasing components/parts from domestic suppliers affect domestic suppliers to increase production volume by 10% to 20% - 1 point is awarded.

3.1.3 Viability of investment project

Based on the criterion Viability of investment project, the investor may be awarded maximum 10 points.

The viability of investment project is evaluates as follows:

1) if investment project precludes the transfer of factory/machinery and equipment outside Montenegro – 6 to 10 points will be awarded, whereby:

- a) to the investor whose equipment is fully integrated into the plant and its dismantling requires total destruction of the facility covered by the investment project, provided that after its dismantling the equipment cannot be installed in another place - 10 points are awarded;
- b) to the investor whose equipment is integrated into the facility covered by the investment project and its dismantling requires demolition of the facility in larger scale, and re-mounting of equipment requires significant costs for construction of

separate structural elements and introduction of special installations (electrical, mechanical and technological installations), both in and out of the facility - 8 to 9 points are awarded;

c) to the investor whose equipment is integrated into the facility covered by the investment project and its dismantling requires demolition of the facility in larger scale, and re-mounting of equipment requires significant costs for construction of separate structural elements and introduction of special installations (electrical, mechanical and technological installations) in the facility itself - 6 to 7 points are awarded;

2) if the equipment, devices and plants may be moved outside Montenegro, but the moving entails high expenses and lasts for a longer period of time (three to five years) - 1 to 5 points will be awarded, as follows:

a) to the investor whose equipment is partially integrated into the facility covered by the investment project, its dismantling requires limited work on the facility itself, and re-mounting of equipment requires certain costs for reinforcement of structural elements and/or introduction of special installations (electrical, mechanical and technological installations) in the facility itself, provided that the moving of the equipment concerned takes more than four and a maximum of five years - 5 points are awarded;

b) to the investor whose equipment is portable, but its dismantling and re-mounting require certain costs, and in the new facility it is necessary to perform the installation works that do not require moderate costs, provided that the moving of the equipment concerned takes more than three and a maximum of four years - 3 to 4 points are awarded;

c) to the investor whose equipment is portable, but its re-mounting in another facility, of different uses compared to the facility covered by the investment project, requires some installation works that do not require a particularly high costs, provided that the moving of the equipment concerned takes three years - 1 to 2 points are awarded.

3.1.4 Effects of investment project in connection with research and development

As part of the criteria Effects of investment project in connection with research and development the investor may be awarded a total of 10 points on the basis of the following two sub-criteria:

1) according to high technology share in an investment project, maximum 5 points may be awarded, if:

a) investment project relates to the activities which are considered as new economics (telecommunications, microelectronics, information technology, biotechnology, new materials, etc.) - 5 points will be awarded;

b) investment project largely includes high technology - 3 to 4 points will be awarded;

The highest number of points (4) will be awarded to the investor for an investment project that includes the highest percentage of high technology in total operating costs compared to the other investors who have applied and other

investors will be awarded points in proportion to the highest percentage of high technology in total operating costs;

- c) investment project includes technology which is at the medium level of development - 1 to 2 points will be awarded;

The highest number of points (2) will be awarded to the investor for an investment project that includes the highest percentage of technology which is at the medium level of development in total operating costs compared to other investors who have applied and other investors will be awarded points in proportion to the highest percentage of participation of technology which is at the medium level of development in total operating costs.

2) according to possibilities of technology transfer to the business entities in Montenegro who are suppliers or who achieve some other kind of cooperation maximum 5 points may be awarded, if the investment project includes:

- a) technology transfer to the business entities in Montenegro - 4 to 5 points will be awarded, as follows:

- to the investor who will provide transfer of the latest technologies currently non-existent in Montenegro and region of the Southeast Europe by implementing the investment project - 5 points are awarded;

- to the investor who will provide transfer of the latest technologies currently non-existent in Montenegro by implementing the investment project - 4 points are awarded;

- b) partial technology transfer to the business entities in Montenegro - 1 to 3 points will be awarded, as follows:

– to the investor who will provide partial transfer of advanced technologies currently non-existent in Montenegro and the region of Southeast Europe by implementing the investment project - 3 points are awarded;

– to the investor who will provide partial transfer of advanced technologies currently non-existent in Montenegro by implementing the investment project - 2 points are awarded;

– to the investor who will provide partial transfer of technology that already exists in the region of Southeast Europe by implementing the investment project - 1 point is awarded.

3.1.5 Effects of investment project on human resources

Based on the criterion Effects of investment project on human resources, the investor may be awarded maximum 10 points.

Effects of investment project on human resources are evaluated in connection with the level of knowledge and skills which are acquired by the rationalization of the investment project and the possibility to use such knowledge and skills in other entities in Montenegro, if:

- 1) these are general knowledge and skills for which special trainings are envisaged by the employer or which are carried out in cooperation with**

business entities and institutions, thus leading to increased competitiveness of employees on the labour market - 1 to 3 points are awarded.

The highest number of points (3) will be awarded to the investor who provided for the acquisition of general knowledge and skills leading to increased competitiveness of employees on the labour market to the highest percentage of employees out of the total number of employees, and to the other investors points will be awarded proportionally.

2) trainings are envisaged for acquiring of special knowledge and skills, thus leading to increased competitiveness of employees within a particular industry - 4 to 10 points are awarded.

The highest number of points (10) will be awarded to the investor who provided for the acquisition of specific knowledge and skills leading to increased competitiveness of employees within a particular industry to the highest percentage of employees out of the total number of employees, and to the other investors points will be awarded proportionally.

3.1.6 Environmental impact assessment

As part of the criterion Environmental impact assessment the investor may be awarded a total of 20 points on the basis of the following two sub-criteria:

1) according to impact of investments on the natural resources utilization, maximum 10 points may be awarded, if the investment project:

a) does not include the activities which affect the natural resources - 6 to 10 points are awarded, as follows:

- to the investor for a project which does not use in its technological process any natural resources, and which does not include the activities that may affect reduction or disappearance of certain types of natural resources - 10 points are awarded;
- to the investor for a project using in its technological process renewable or unlimited natural resources and which does not include the activities that may affect reduction or disappearance of certain types of natural resources - 9 points are awarded;
- to the investor for a project using in its technological process non-renewable and limited natural resources, and which does not include the activities that may affect reduction or disappearance of certain types of natural resources - 8 points are awarded;
- to the investor for a project using in its technological process any natural resources, and which does not include the activities that may affect reduction or disappearance of certain types of natural resources - 6 to 7 points are awarded;

b) includes the activities affecting natural resources but not threatening their sustainable development - 1 to 5 points are awarded, as follows:

- to the investor for a project which in its technological process does not use any natural resources and includes the activities that may affect reduction of certain types of natural resources - 5 points are awarded;
- to the investor for a project using in its technological process renewable or unlimited natural resources and which includes the activities that may affect reduction of certain types of natural resources - 4 points are awarded;
- to the investor for a project using in its technological process non-renewable and limited natural resources and which includes the activities that may affect reduction of certain types of natural resources - 3 points are awarded;
- to the investor for a project using in its technological process any natural resources and which includes the activities that may affect reduction of certain types of natural resources - 1 to 2 points are awarded.

2) according to impact of investments on the generation of harmful waste maximum 10 points may be awarded, if the implementation of the investment project:

a) generates only municipal waste in accordance with the law - 6 to 10 points are awarded, as follows:

- to the investor for a project that does not generate municipal waste - 10 points are awarded;
- to the investor for a project that does not generate dangerous waste, and does generate non-hazardous municipal waste - 8-9 points are awarded;
- to the investor for a project that generates hazardous municipal waste - 6 to 7 points are awarded;

b) in addition to municipal waste, generates hazardous waste the keeping and disposal of which is defined by the investment project in accordance with the law - 1 to 5 points are awarded, as follows:

- to the investor for a project which in addition to municipal waste does not generate hazardous waste and the keeping and disposal of which is defined by the investment project in accordance with the law - 5 points are awarded;
- to the investor for a project which, in addition to municipal waste, generate hazardous waste as well, and the keeping and disposal of which is defined by the investment project in accordance with the law - 1 to 4 points are awarded.

3.1.7 International trade volume

Based on the criterion International trade volume, the investor may be awarded maximum 20 points.

International trade volume is evaluated in accordance with the scope of provided services or the quantity of products to be delivered in the market outside Montenegro, if:

1) service and/or product are marketed in the international market - 14 to 20 points are awarded.

The highest number of points (20) will be awarded to the investor who has the highest percentage of export of final services or products in the total international trade volume.

Other investors will be awarded points in proportion to the highest percentage of export of final services or products in the total international trade volume;

2) part of services and/or product is marketed in the international market - 1 to 13 points are awarded.

The highest number of points (13) will be awarded to the investor who has the highest percentage of export of part of services or product in the total international trade volume.

Other investors will be awarded points in proportion to the highest percentage of export of part of services or product in the total international trade volume.

3.1.8 Effects of investment project on the development of less developed local government units

Based on the criterion Effects of investment project on the development of less developed local government units, the investor may be awarded maximum 25 points.

The effects of investment project on the development of less developed local government units are evaluated according to the development level of local government where the investor intends to invest, if the Development Index value is:

1) from 30% to 50% of the average Development Index in Montenegro - 25 points are awarded;

2) from 50% to 75% of the average Development Index in Montenegro - 15 points are awarded;

3) above 75% of the average Development Index in Montenegro - 10 points are awarded.

3.1.9 Letter of intent of the local government where the investor intends to invest

If the investor has the Letter of intent of the local government to support the investment in accordance with development plans of the local government, 5 points will be awarded.

3.2 Commission for evaluation of applications

3.2.1 Evaluation of applications and report on evaluation with the proposal of the decision on the award of funds for fostering direct investments shall be made by the Commission for evaluation of applications (hereinafter referred to as the Commission).

3.2.2 The Commission shall, while evaluating proper applications and supporting documents apply only the criteria laid down in the Decree on fostering direct investments.

3.2.3 The Commission shall, while evaluating investment projects, award points according to the Criteria, whereby the total number of points cannot exceed 150.

3.2.4 Each member of the Commission shall perform individual evaluation of applications, i.e. award points according to the individual Criteria on the basis of data presented in the Application.

3.2.5 After the individual evaluation, the Commission shall:

3.2.5.1 determine the average number of awarded points based on each of the Criteria defined for each Applicant;

3.2.5.2 establish a ranking list of applications in the descending order;

3.2.5.3 prepare a report on evaluation with the proposal of the decision on the award of funds for fostering direct investments.

3.2.6 If the proposed investment project is not in line with the development priorities of Montenegro, the application shall be rejected in accordance with the Decree on fostering direct investments.

3.2.7 The report referred to in subsection 3.2.5.3, the Commission shall adopt by a majority vote of all members and submitted it to the Government of Montenegro for further proceedings in accordance with the Decree on fostering direct investments.

IV DATA PROTECTION

4.1 Treatment of data

The Secretariat shall treat the data contained in the Application as follows:

4.1.1 shall keep them as secret data contained in the Application, which are in accordance with the law determined as secret and which the Applicant marked in its Application as secret;

4.1.2 shall refuse to provide information which could be conducive to violations of confidentiality of information contained in the Application;

4.1.3 shall keep as confidential the data on the Applicants by the deadline set for the opening of applications.

No.: _____
Podgorica, _____ 2015

Acting Secretary
Biserka Dragičević

The following is documents are provided in the Annex to this Guidance:

- 1) Decree on fostering direct investments,

- 2) Form of the Application for participating in the procedure of awarding funds for fostering direct investments,
- 3) Draft agreement on the utilization of funds for fostering investments,
- 4) Application bank guarantee form, and
- 5) Performance bank guarantee form.