

Orders and Decisions

Prime Ministry

Order 5183 of 2013, dated 18 November 2013, on controlling criteria, procedures and terms for public financing of associations.

The prime minister,

After reviewing the constitutive act number 6 of 2011, dated 16 December 2011 on the temporary regulation of public authorities,

And law number 8 of 1968 dated 8 March 1968 regulating the Audit Bureau and all provisions edited or complemented, especially constitutive act number 3 dated 29 January 2008,

And law number 33 of 1975 dated 14 May 1975 on the constitutive act on the municipalities and all provisions edited or complemented, especially constitutive act number 57 dated 2008, dated 4 August 2008,

And law number 35 of 1975 dated 14 May 1975 on the constitutive act for the budget of local popular groups as amended in the subsequent provisions,

And constitutive law number 11 of 1989 dated 4 February 1989 on popular councils, as complemented in the constitutive law number 119 of 1993 dated 27 December 1993,

And constitutive law number 11 of 1995 dated 6 February 1995 on sports structures as amended and complemented in subsequent provisions, especially decree number 66 of 2011, dated 14 July 2011,

And law number 9 dated 1989 dated 1 February 1989 on the public contributions, establishments and establishments, and all provisions that edited and complemented it, especially law number 36 of 2006 dated 12 June 2006,

And law number 83 of 2005 dated 15 August 2005 on the elevation and protection of disabled persons,

And decree number 88 of 2011 dated 24 September 2011 on the regulation of associations, especially article 36

And order number 1855 of 1990 dated 10 November 1990 on the regulations for delegation of heads of public majority establishments and all provisions amending or complementing them, especially order number 2564 of 2006 dated 2 October 2006,

And order number 3158 of 2002 dated 17 December 2002 on the regulations of public transactions and provisions amending or complementing them, especially order number 525 of 2012, dated 2 June 2012,

And order number 2369 of 2012 dated 16 October 2012 on the control of national employment fund programs and the terms and conditions for benefiting from them, as amended and complemented in order number 3766 of 2013 dated 18 September 2013,

And Republican order number 43 of 2013 dated 14 March 2013 on the appointment of Mr. Ali Larid as Prime Minister,

And order number 1372 of 2013 dated 15 March 2013 on the naming of the government members,

And the opinion of the Administrative Court,

And the deliberations of the Minister's Council and after notifying the President of the Republic,

The following order is issued:

Chapter One

General Provisions

Article 1:

This order aims to control the criteria for public financing of associations, as well as procedures and terms. It also controls the mechanisms of follow up for associations benefiting from public funding and their monitoring.

Article 2:

Public funding for associations refers to the financial amounts allocated within the state budget, or local community budgets, institutions of an administrative nature, public establishments and institutions, public shareholding companies at a rate exceeding 34% of their capital, or establishments with a public majority, in order to support associations and assist them in the accomplishment of projects and development of their activities, on the basis of efficiency and project and activity feasibility.

Article 3:

Public funding is allocated to associations:

- To support their activities and develop their methods of work according to direct requests submitted by the associations
- To implement projects that fall within the area of the general organization activities, aimed at achieving public interest, either through a call for tender issued by the relevant public structure or an agreement of partnership on the initiative of the association.

Article 4:

Each public structure shall handle, according to the provisions of Article 2 of this order, at the beginning of the year a register of projects that are the subject of the call for tender.

Article 5

Projects implemented by the associations in implementation of the provisions of this order shall not be subject to the instructions governing public transactions.

Chapter Two

Terms and procedures for securing public funding

Article 6:

The association wishing to secure public funding must:

- Respect in its composition and its activities the provisions of decree number 88 of the year 2011, dated 24 September 2011 on the organization of associations.
- Adopt the principles of transparency and democracy in its administrative and financial workings.
- Its financial position must be sound towards the collection of fees and social funds.

Article 7:

The association wishing to secure public funding with the framework of direct requests or within a framework of participation in a call for tenders, or within the framework of a partnership to achieve projects must attach with its application the following documents:

- Association's articles of association and a copy of the declaration of the establishment of the association in a legal manner, and a list of its administrators and the documents proving their qualifications
- List of its branches and public offices, if any, and the names of their administrators
- Signed report of the account auditor or auditors for the year preceding the date of application for associations whose annual resources exceed 100,000 dinars
- A copy of the last report to the Audit Department for associations that have previously received public funding in implementation of the provisions of 44 of decree number 88 of 2011, referred to above
- Last narrative and financial report adopted by the general assembly
- A copy of the record of activities and projects and a record of assistance, donations, grants and gifts stipulated in Article 40 of decree number 88 of 2011 referred to above
- A copy of the last record of the elections for the association's administrative structures
- Documents proving the soundness of the association's position in terms of managing collections and social funds
- Documents proving the association abided by the requirements of article 41 of the decree number 88 of 2011 on the organization of association, in terms of collections of grants, donations or foreign assistance

- Commitment document from the general structure's administration, signed, regarding the returning of the public funding amounts in case of parallel funding from another public organization for the same project or same activity

Article 8:

Associations wishing to obtain public funding within the framework of direct requests must offer a detailed report on the association's resources and an audit on the facets of use where the required public funding will be allocated.

Public funding offered in response to direct requests must not exceed a ceiling set by the public organization based on the opinion of the committees stipulated in Article 10 of this order.

Article 9:

In addition to the documents stipulated in article 7 of this order, each association wishing to obtain public funding within the framework of participating in a tender or a partnership agreement to achieve specific projects must submit to the public organization the following:

- Economic study of the project, including the financial requirements for achievement
- Implementation calendar and cost of each phase
- Project financing structure including the volume of assistance required and percentage of funding offered by the association
- The procedures proposed to accomplish the project and the anticipated qualitative and quantitative results of the achievement
- The resumes of the members of the team who will supervise the project's implementation

Article 10:

A technical committee shall be formed at the level of every public organization subject to the provisions of this order that shall handle studying the requests for public funding, including direct requests, analyzing them, making decisions on them and then specifying the amount of public funding that may be offered

The technical committee shall consist of the head of the public organization or his delegate as chair, and representatives of the concerned administrations within the organizational structure, a representative of the supervising authority and a monitor of public banks as members.

The public banks monitor shall stand in place of the state monitor with regard to the technical committee formed at the level of the institutions so that it does not become administrative in its nature like that public establishments.

Regarding the companies that are public shareholding ones with a percentage exceeding 35% of its capital, the technical committee shall consists of the head of the organization or his delegate as chair, a representative of the board of directors and a representative of the authority mandated with social work at the company and a representative of the mother establishment.

As for public majority companies the technical committee shall consists of the head of the structure or his delegate as chair and a representative of the public establishment and a representative of the enterprise mandated with social work in the company.

The head of the public organization shall appoint the members of the committee as decided.

The committee shall meet on the invitation of its chair whenever necessary, and the quorum shall not be me without the majority of members in attendance.

The committee shall make it's a decision with a majority vote by the members in attendance, and in case of a draw in votes the vote of the chair shall sway the votes.

The chair of the committee may invite anyone he deems necessary to attend the work of the committee, and he shall have an advisory opinion.

Article 11:

The public funding of associations shall be granted through a call for tenders or through a partnership agreement. The selection methodology shall depend on the following criteria:

- Qualitative and quantitative results upon the achievement of the project.
- Proposed methodology for achievement of the project and the proposed timeline for implementation.
- Number of branches, staff and members.
- Efficiency and practical experience of the administrators of the association and the team supervising the project's implementation.
- The participation of the association in training seminars and workshops.

Priority shall be given to projects that submit within the framework of an association of networks.

Public funding shall be granted to associations within a framework of direct applications following the selection methodology based on the following criteria:

- Importance of activity, programs and interventions previously achieved by the association.
- Importance of the activities, programs and interventions planned for achievement in the future.

Article 12:

Public funding shall be paid according to a decision by the head of the concerned public organization based on a matching opinion of the technical committee established in article 10 of this order.

Regarding public funding offered in accordance to a call for tender, or a partnership agreement, the decision to grant public funds shall be attached to a contract signed by the head of the concerned public organization and the head of the association selected with the following provisions:

- The rights and obligations of each party.
- The project's phases of implementation and calendar of funding payments.
- The goals and anticipated results, and indicators of follow up and performance measurements.
- Methods of monitoring the method of implementing the contract's items, mechanisms of monitoring and evaluation, terms of annulling the contract and reducing public funds when necessary.

Chapter Three

Special Provisions on Public Funding through a Call for Tenders

Article 13:

The call for tender issued by the public organization to accomplish a certain project that is subject to the principles of equity, competitiveness and transparency

Article 14:

The call for tender will be published through the written media at least two days before the date of accepting tenders by the concerned public organization, and on the website, if any.

The call for tender must be containing in particular the following:

- The subject of the project that the association or associations will be mandated with achieving
- The documents that must be submitted in addition to those stipulated in article 7 and 9 of this order
- The dates of opening and closing opportunities for submitted tenders
- Selection criteria

Article 15:

The technical committee, stipulated in article 10 of this order, shall look into the requests for public funding submitted within the call for tender within fifteen (15) days from the date of closing for tenders, and shall specifically:

- Look into the reports on the basis of the criteria stipulated in article 11 of this order
- Set the public funding amount allocated for the project and how it is divided among the beneficiary associations when necessary, as well as the calendar of payment according to the project achievement progress.

The concerned public organization shall publish the results of the work of the technical committee at its headquarters and popular and local structures, in addition to contacting the association selected to complete the measures of a contract with it.

Chapter Four

Special Provisions on Public Funding Provided in Accordance with a Partnership Agreement

Article 16:

The partnership agreement is signed for a period that will not exceed three years, and links a public organization or more with an association or more, at the initiative of an association or more, to accomplish public interest projects that fall within the priorities of the public organization

Article 17:

The committee shall study the requested submitted within the framework of partnership agreements and will assess them then make decision on allocating a public funding amount that can be given the associations that respond to the criteria stipulated in Article 11 of this order, within a timeline that will not exceed two months form the date of receiving the request.

Article 18:

The public organization shall sign a partnership agreement with the association or associations that issued the initiative based on the opinion of the technical committee stipulated in chapter two of this order.

Chapter Five

Follow-up and Monitoring

Article 19:

The concerned public organization shall submit to the supervising ministry the secretariat of the government, the Ministry of Finance and the Audit Bureau an annual report with the volume of public funding allocated to each association, a list of the benefiting associations and the means of allocation.

Article 20:

The associations benefiting from public funding, within the framework of a call for tenders or a partnership agreement, shall submit to the concerned public organization and the Ministry of Finance an annual report on the use of the public funds used and the progress in the achievement of the projects in which it benefited from public funding.

Article 21:

In addition to the commitments stipulated in decree number 88 of 2011 referred to above, especially chapter 44, the associations benefiting from public funding shall be subject to field monitoring by the aides of inspectorates and the technical interests that will report back to the supervising ministry.

These shall also be subject to monitoring and inspection by the public monitoring organizations in according to the hierarchy in place with regards to methods of disposal of public funding allocated.

Article 22:

The association that does not respect completely or partially the provisions of the contract towards the public organizations must return all or the remaining amount of the public funding unless there is a settlement of its situation within three months from the date of its notification.

Article 23:

The association that does not respect the provisions of the contract, with regard to the achievement of the project the benefited from public funding, or that does not submit the periodic reports indicated in article 20 of this order, may not benefit once again from public funding until its situation is rectified in accordance to the provisions of this order.

Chapter Six

Various Provisions

Article 24:

The provisions on the call for tender and the partnership agreements stipulated in this order apply to the National Employment Fund programs with the exception of the articles 20 and 20 repeated of order number 2369 of 2012 dated 16 October 2012, referred to above.

Article 25:

The wages paid by the state within the framework of special agreements which are paid to the aides of associations that look after disabled persons at special education centers shall be exempted from the provisions of this order.

Article 26:

Associations that benefited from public funding before this order came into effect must respect **Chapter Five** of this order.

Article 27:

The provisions of order number 599 of 2000 dated 13 March 2000 on the list of associations and institutions benefiting from the grants and aid that is tax deductible for income of natural persons and tax on companies.

Article 28:

Ministers, heads of local groups and heads of institutions, public establishments and public shareholding companies are mandated, each in their area of specialization, with implementing this order that is public in the Official Gazette of the Tunisian Republic.

Tunisia, 18 November 2013

Prime Minister

Ali Larid

Decision of the Prime Minister dated 17 December 2013 on creating an equal administrative committee mandated with reviewing the advisers to public interests.

The prime minister,

After reviewing the constitutive act number 6 of 2011 dated 16 December 2011 on temporary organization of public authorities,

And law number 112 of the year 1983 dated 12 December 1983 on drafting the general statute for the state aides, local groups and public institutions of an administrative nature, and all provisions amending or complementing it, especially law number 20 of the year 2003 dated 17 March 2003 and law number 69 of the year 2007 dated 27 December 2007, and decree number 89 of the year 2011 dated 23 September 2011,