

Pursuant to Article 22 paragraph 6 of the Decree on direct investment incentives (*Official Gazette of Montenegro*, no. 80/15), the Secretariat for Development Projects issues

**INSTRUCTIONS  
ON SUBMISSION OF APPLICATIONS FOR THE AWARD OF FINANCIAL INCENTIVES  
FOR DIRECT INVESTMENT**

**I INTRODUCTION**

Instructions on submission of applications for the award of financial incentives for encouraging direct investment (hereinafter: the **Instructions**) contain information about the preparation and submission of applications for participation in the process of awarding incentives for encouraging direct investment and the supporting documentation (hereinafter: the **Application**), in accordance with the Public Notice for participation in the process of awarding financial incentives for direct investment (hereinafter: the **Public Notice**) and the Decree on direct investment incentives (*Official Gazette of Montenegro*, no. 80/15), (hereinafter: the **Decree**).

**II SUBMISSION OF APPLICATIONS**

**2.1 Method of submission of Applications**

2.1.1 Applications shall be submitted to the Secretariat for Development Projects (hereinafter: the **Secretariat**) within the time specified in the Public Notice; otherwise, they will not be considered.

2.1.2 Applications shall be submitted in person or by registered mail to the address of the Secretariat.

2.1.3 Applications shall be submitted in a sealed package (envelope, wrapping or the like).

2.1.4 The front side of the Application package shall bear the name and head-office of the authority issuing the Public Notice, number, date and title of the Public Notice and the text indicating: "Do not open before the public opening of Applications" ("Ne otvarati prije javnog otvaranja Prijava"). The rear side of the package shall bear the name and head-office of the business entity submitting the Application (hereinafter: the **Applicant**).

2.1.5 Relevant employee of the Secretariat shall mark each received package with the date and hour of receipt of the Application and issue confirmation of the receipt.

2.1.6 The Application shall be presented in three printed copies (one original and two copies of the original Application) and in electronic format (scanned original Application on a CD/USB), in accordance with these Instructions. The Application must be tied with a

single red tape and sealed tightly by sealing wax, with an imprint of a stamp, seal or similar mark of the Applicant on the wax.

2.1.7 Original Application must be typed or written in non-erasable ink.

2.1.8 Authorized officer of the Applicant shall sign (initial) each page of the Application.

2.1.9 The Bank Guarantee for the Application, as financial security instrument, must be protected from damage during the packaging in the following way:

- It shall be packed in a special hole punched PVC sleeve that is bound with other evidence;
- PVC sleeve holding the bank guarantee for the Application must be signed by authorized officer of the Applicant by gluing a piece of paper with the signature and stamp of the authorized officer of the Applicant on the bottom right side of the plastic sleeve.

2.1.10 The package should contain two envelopes:

- (a) Envelope marked as number 1, with the indication „Original“, including the original Application, supporting documentation in original or certified in the way specified in point 2.2.2 of these Instructions, in one copy, and a CD/USB with scanned original Application and supporting documentation, and
- (b) Envelope marked as number 2, with the indication „Copies“, including a copy of original Application and supporting documentation, in two copies.

2.1.11 The Application Form shall be defined and published by the Secretariat on their website.

## **2.2 Language of the Application and supporting documentation**

2.2.1 The Application shall be submitted in Montenegrin.

2.2.2 The supporting documentation submitted by a foreign business entity must be certified in accordance with the regulations of the issuing country and translated into Montenegrin by a certified translator.

## **2.3 Currency**

The elements of the Application and the supporting documentation that are expressed in amounts, whether related to activities in or outside Montenegro, must be expressed in EUR.

## **2.4 Opening of Applications**

2.4.1 The Applications shall be opened in the premises of the Secretariat at the time specified in the Public Notice.

2.4.2 The opening of Applications shall be public, except when otherwise specified in the Public Notice.

2.4.3 The opening of Applications shall start by identifying the number of received Applications, following the order of receipt thereof and including withdrawals from Applications, the timeliness of Applications and the names of Applicants.

2.4.4 Applicants may withdraw their Applications until the expiry of the deadline for submission of Applications.

2.4.5 A statement or other act whereby Applicants withdraw their Applications shall be delivered in person or by registered mail to the address of the Secretariat.

2.4.6 The delivered Applications may not be modified or supplemented.

2.4.7 The Secretariat shall take minutes of the opening of Applications, including but not limited to the following information:

- 1) place, date and hour of the start of the opening of Applications;
- 2) names of employees of the Secretariat attending the opening of Applications;
- 3) names and head-offices of the Applicants;
- 4) names of the authorized officers of the Applicants, or names of their representatives or attorneys who attend the opening, and the number and date of issue of their letter of authorization;
- 5) names of the Applicants whose authorized officers, representatives or attorneys are not present at the opening of Applications;
- 6) subject-matter of the Public Notice;
- 7) the order of the opening of Applications;
- 8) data from Applications and a list of submitted supporting documents and
- 9) other data relevant to the proceedings of the opening session.

## **2.5 Clarification of Applications**

2.5.1 During the process of assessment of the correctness of Applications, the Secretariat may require clarification from Applicants in order to eliminate doubts about the correctness of Applications.

2.5.2 The clarification of an Application may not be making changes of or additions to the Application.

2.5.3 The clarification referred to in sub-point 2.5.1 above should be given within five days from the date of receipt of the request.

## **III SUPPORTING DOCUMENTATION**

3.1 Along with the Application, the Applicant shall submit the supporting documentation, which includes:

- 1) investment project for the funding of which incentives for direct investment are being sought (textual and graphical representation with the data necessary for evaluation of the criteria listed in Article 11 of the Decree);
- 2) business plan with projected balance sheet, income statement and cash flow for a period of six years from the beginning of the investment project implementation, which must include indicators of cost-effectiveness, net profit ratio and payback period (established pursuant to Article 19 of the Decree);
- 3) balance sheet and income statement for the previous three years of operation, or for the period from business entity registration to the submission of the Application in accordance with the Public Notice, together with the audit report issued by an authorized auditor, in accordance with the law governing accounting and auditing;
- 4) extract from the Central Registry of Business Entities (hereinafter: **CRBE**) or a certificate from the relevant registry of the state of domicile of the business entity, which may not be older than 60 days before the date of submission of Application;
- 5) evidence of settlement of all liabilities arising from taxes and contributions up to and including the month preceding the month in which the Application is submitted (in the case of applicants - foreign business entities);
- 6) certificate stating that the business entity is not under bankruptcy or liquidation, except for reorganization procedure under the law governing the insolvency of business entities (a certificate from the Commercial Court of Montenegro or a relevant authority of the state of domicile of foreign business entity);
- 7) certificate confirming that the business entity has not been convicted by a final and binding decision of a criminal offence prosecuted *ex officio* (a certificate from the CRBE or a relevant authority in the state of domicile of the foreign business entity);
- 8) certificate confirming that the authorized officer in the business entity has not been convicted by a final and binding decision of criminal offence prosecuted *ex officio* (a certificate from the Ministry of Justice or a relevant authority in the state in which the authorized officer has a permanent or temporary residence);
- 9) the bank guarantee for the Application;
- 10) statement given under criminal and financial liability that the business entity is not in distress under state aid rules and
- 11) other evidence confirming compliance with the requirements laid down by the Decree.

3.2 The form of the business plan referred to in point 3.1 sub-point 2) above and the form of the statement referred to in point 3.1 sub-point 10) above shall be defined by the Secretariat and published on their website.

3.3 If the Applicant intends to carry out the investment project via another business entity, the Applicant is required, prior to submission of the Application, to establish a business entity based in Montenegro, majority owned by the Applicant, and, together

with the Application, to supply the evidence of compliance with requirements for the award of direct investment incentives, as follows:

- 1) extract from the CRBE that may not be older than 60 days before the date of submission of Application;
- 2) certificate stating that the business entity is not under bankruptcy or liquidation, except for reorganization procedure under the law governing the insolvency of business entities (a certificate from the Commercial Court of Montenegro);
- 3) certificate stating that the business entity and/or the authorized officer of the business entity has not been convicted by a final and binding decision of criminal offence prosecuted *ex officio* (a certificate from the Ministry of Justice for the authorized officer of the business entity and a certificate from the CRBE for the business entity);
- 4) statement given under criminal and financial liability that the newly established company is not in distress under state aid rules.

3.4 For the business entities registered in Montenegro, the Secretariat for Development Projects will obtain, *ex officio*, the following evidence of compliance with requirements for the award of direct investment incentives from the relevant authorities:

- evidence of settlement of liabilities arising from taxes and contributions up to and including the month preceding the month in which the Application is submitted (Tax Administration of Montenegro)
- evidence that the Applicant has not reduced the number of employees in Montenegro in the previous 12 months before the submission of Application by 10% or more (Tax Administration of Montenegro);
- evidence that the Applicant has not used any state aid for the same investment project (State Aid Control Committee of Montenegro);
- evidence that the Applicant is not under obligation to return illegally received state aid (State Aid Control Committee of Montenegro).

3.5 Evidence of compliance with requirements for participation in the process of awarding direct investment incentives may not be older than six months before the public opening of the Applications, except for the extract from CRBE or from a relevant authority in the state of domicile of the foreign business entity, which may not be older than 60 days before the date of submission of the Application.

## **IV DATA PROTECTION**

### **4.1 Treatment of data from the Application**

The Secretariat shall treat the data from the Application in the following way:

- 1) it shall treat as confidential the data contained in the Application that are defined as confidential under law and that the Applicant designated as confidential in the Application;
- 2) it shall refuse to reveal information that might infringe the confidentiality of data contained in the Application;

- 3) it shall keep the details of Applicants confidential until the expiry of the deadline for opening of Applications.

#### **4.2 Retention of documentation**

Applications, signed agreements on the use of financial incentives for encouraging direct investment, performance guarantees and other documents from the procedure conducted under the Public Notice shall be retained by the Secretariat, in their file room, for at least ten years from the signing of such direct investment incentive agreements.

#### **V AMENDMENT OF INSTRUCTIONS**

The Secretariat may amend these Instructions at any time, but not later than five days before the expiry of the deadline for submission of Applications. Amendments shall be published on the website of the Secretariat.

**No: \_\_\_\_\_**  
**Podgorica, \_\_/\_\_/2016**

**Acting Secretary**  
**Biserka Dragicevic**