**Procedure: Energy Efficiency in Buildings**

**Appendix J**

**Checking of compliance with the applicable state aid regime**

1. **Regarding the Applicants**

**The project is implemented under the applicable regime „non aid” for the Applicant in case of answers “Yes” to the following questions:**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Necessary condition** | **YES** | **NO** |
| 1. | The applicant is administration under an executive power body in the Republic of Bulgaria according to Article 38, paragraph 1 or paragraph 2, item 1 of the Administration Act or a municipality on the territory of the Republic of Bulgaria in the meaning of Article 14 of the Law on Local Self-Governance and Local Administration |  |  |
| 2. | The Applicant is owner of the building (respectively each of the buildings included in the project) or the building (respectively each of the buildings included in the project) is granted for management in the meaning of Article 14, par. 3 of the State Property Act to the Applicant or to the body that governs it – when the Applicant is a legal person – administration under an executive power body in the Republic of Bulgaria according to Article 38, paragraph 1 or paragraph 2, item 1 of the Administration Act,  or  the Applicant is owner of the building (respectively each of the buildings included in the project) – when the Applicant is a municipality on the territory of the Republic of Bulgaria in the meaning of Article 14 of the Law on Local Self-Governance and Local Administration. |  |  |
| 3. | The main purpose of the building is related to the execution of the public functions of the Applicant and does not include any form of economic activity. |  |  |
| 4. | The project includes activities related to the execution of measures for energy efficiency in buildings aimed at achieving improvement of the energy performance of the buildings and their transformation into buildings with close-to-zero consumption |  |  |
| 5. | The Applicant has presented a Declaration that the funding will not be used for offering goods or services to the market during the implementation of the project as well as after its completion till the final depreciation of the assets acquired as a result of the financing under the project. |  |  |

1. **Regarding the Partner/s[[1]](#footnote-1)**

**II.1 The project is implemented under the applicable regime „de minimis” for the Partner/s, in compliance with Regulation (ЕС) 407/2013 of the European Commission, when the Partner/s are undertakings in the meaning of the competition rules, perform economic activity and plan to carry out economic activities for the purposes of the project and in case of answers “Yes” to questions 1, 2 ,3 and 11.**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Necessary condition** | **YES** | **NO** | **N/A** |
| 1. | А) The Partner/s does not represent an undertaking which performs activity in the sector of fishery and aquaculture products covered by Council Regulation (EC) No 104/2000, or  B) In case it performs activity in the mentioned sector and in a sector eligible under Regulation (ЕС) 1407/2013, the Applicant has separate accounting, which secures separation of the activities or differentiation of the costs, as well as that the activities in the exempted sectors do not avail of de minimis (are not financed by the granted financial assistance) |  |  |  |
| 2. | А) The Partner/s does not represent an undertaking which performs activity in the field of primary production of agricultural products, or  B) In case it performs activity in the mentioned sector and in a sector eligible under Regulation (ЕС) 1407/2013, the Applicant has separate accounting, which secures separation of the activities or differentiation of the costs, as well as that the activities in the exempted sectors do not avail of de minimis (are not financed by the granted financial assistance) |  |  |  |
| 3. | The Partner is not subject to an insolvency procedure, neither does the Partner meet the criteria of national law to be put into an insolvency procedure at the request of its creditors |  |  |  |
| 4. | Does the Partner form with other undertakings „a single undertaking", i.e. all undertakings that maintain among themselves at least one type of the following relations:  а) an undertaking has the majority of the votes of the shareholders or partners in another undertaking;  b) an undertaking has the right to appoint or dismiss the majority of the members of the administrative, management or supervisory board of another undertaking;  c) an undertaking has the right to exercise a dominant influence on another undertaking on the virtue of a contract concluded with that undertaking or a provision in its Articles of Association;  d) an undertaking that is a shareholder or a partner in another undertaking, controls independently, by virtue of an agreement with the remaining shareholders or partners in that undertaking, the majority of the votes of the shareholders or partners in that undertaking.  Undertakings, maintaining one of the relations enumerated in letters “a”- “d”, through one or several other undertakings, are also considered a single undertaking |  |  |  |
| 5. | Have the undertakings under item 4 and the Partner/s received de minimis aid during the current and the previous two budget years? |  |  |  |
| 6. | Are there undertakings that have merged to, merged with or have been acquired by any of the undertakings forming „a single undertaking" with the Applicant according to Article 3, paragraph 8 of Regulation (ЕС) № 1407/2013? |  |  |  |
| 7. | Have the undertakings under item 6 received de minimis aid during the current and the previous two budget years? |  |  |  |
| 8. | Are there cases of splits of separations of any of the undertakings forming „a single undertaking" according to Article 3, paragraph 9 от Regulation (ЕС) № 1407/2013? |  |  |  |
| 9. | Have the undertakings under item 8 received de minimis aid during the current and the previous two budget years? |  |  |  |
| 10. | Is there evidence that any of the undertakings forming „a single undertaking" has availed of the de minimis aid granted before the split/separation? |  |  |  |
| 11. | The sum of the de minimis aid received by the undertakings under items 4-6 during the current and the previous two budget years along with the gross equivalent of the financial assistance for which the Candidate applies does not exceed the leva equivalent of 200 000 EUR. |  |  |  |

**II.2 The project is implemented under the applicable regime „non aid“ for the Partner/s, that are not undertakings, do not have economic activity and for the purposes of the project will not perform economic activities in case of answers “Yes” to each\* of the following questions:**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Necessary condition** | **YES** | **NO** |
| 1. | The Partner is a public legal entity, with non-commercial activity, from the Republic of Bulgaria, from the donor countries, or a state outside the European Economic Area which has a common border with the Republic of Bulgaria, or is an international organization or body |  |  |
| 2. | The Partner/s is not an undertaking performing economic activity |  |  |
| 3. | The Partner/s will not perform economic activities for the purposes of the project |  |  |

**\*Note: In case of answer „No“ to any of the three questions, the regime “non aid” is not applicable**

1. item II.1 and item II.2 are alternative [↑](#footnote-ref-1)