

III. OTHER PROVISIONS

MINISTRY FOR ECOLOGICAL TRANSITION

17706 *Orden TEC/1380/2018, de 20 de diciembre, por la que se establecen las bases reguladoras para la concesión de ayudas a la inversión en instalaciones de producción de energía eléctrica con tecnologías eólica y fotovoltaica situadas en los territorios no peninsulares cofinanciadas con Fondos Comunitarios FEDER.*

In accordance with the provisions of article 10 of Law 24/2013, of 26 December, on the Electricity Sector, the electricity systems of non-mainland territories are subject to a singular regulation that takes into account the specificities deriving from their territorial location.

The peculiarities of electricity systems in non-mainland territories with respect to the mainland system, deriving fundamentally from their isolated nature and small size, make it more difficult to integrate electricity production from renewable energy sources due to their characteristics.

Most of the electricity demand is covered by fossil-fuel thermal technologies, and the share of renewable energy sources is still modest. While in the peninsular system the percentage of electricity production from renewable energy sources stood at 40.2% in 2016, in the non-mainland territories this percentage was around 6%.

In order to make progress towards meeting the binding targets laid down in Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources, it is considered appropriate to set up wind and photovoltaic installations which contribute to the diversification of primary energy sources, the reduction of energy dependence and the reduction of _{CO2} emissions.

On the other hand, although the activity of producing electrical energy from sources of renewable energy generates income from the sale of energy on the market, these are not sufficient to recover their investment costs and avoid a financing deficit, so it is necessary to grant public aid.

For the reasons described above and in order to ensure the implementation of installations for the production of electricity using wind and photovoltaic technology in non-mainland territories, the present bases are established for the granting of aid for investment in the aforementioned installations.

This aid will take the form of a subsidy, in accordance with the provisions of General Subsidies Act 38/2003 of 17 November 2003. The ordinary procedure for granting subsidies on a competitive basis shall be used, in accordance with the provisions of article 22.1 of the aforementioned law.

The aid scheme governed by these bases is adapted to the specifications contained in the Communication from the European Commission (2014/C 200/01) concerning the Guidelines on State aid for environmental protection and energy 2014-2020, and in particular Chapter 3 concerning the assessment of compatibility under Article 107(3)(c) of the Treaty and the provisions of Regulation (EU) n.Commission Regulation (EC) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.

For its part, the General State Administration, through the General Directorate of European Funds of the then Ministry of Finance and Public Function, prepared the Operational Programme for Sustainable Growth for the period 2014-2020 (POCS), which has been approved by Commission Execution Decision C(2015) 5220, of 22 December 2006, which is the first of its kind to be adopted by the European Commission.

July 2015, and which has recently been incorporated into the Pluriregional Operational Programme of Spain (POPE). The MAGP allocates to the Transition Axis to a Low Carbon Economy a total of approximately EUR 2.1 billion in ERDF aid.

The POPE includes as an investment priority the promotion of the production and distribution of energy derived from renewable sources within the Transition Axis to a Low Carbon Economy. For this reason, part of the allocation for this axis for the 2014-2020 period will be earmarked for calls aimed at increasing the share of renewable electrical energy from wind and photovoltaic technologies in non-mainland territories.

Since the type of actions for which these bases are intended are eligible for co-financing with ERDF Community Funds, it is considered appropriate to lay down the precise additional conditions enabling the installations covered by the aid programme to be co-financed with Community funds.

Therefore, the full implementation of the management and control mechanisms included in the MAGP and in the regulations applicable to these funds is included. In particular, the management and control mechanisms set out in Regulation (EU) 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common rules for European Structural and Investment Funds (IEE Funds) and Regulation (EU) 1301/2013 will be fully applicable to them, of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union and amending Regulations (EU) n.1296/2013, (EU) No. 1301/2013, (EU) No. 1303/2013, (EU) No. 1304/2013, (EU) No. 1309/2013, (EU) No. 1316/2013, (EU) n.223/2014 and (EU) No 283/2014 and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012.

Article 5 of Regulation (EU) 1301/2013 of the European Parliament and of the Council of 17 December 2013 includes among its investment priorities the possibility of subsidising investments aimed at promoting the transition to a low-carbon economy in all sectors. Thus, the calls made and regulated by these bases will actively contribute to environmental sustainability by reducing the level of _{CO2} emissions, as well as to cohesion and improving the quality of life of citizens.

In compliance with Article 17.1 of Law 38/2003, of 17 November, which establishes that the bases shall be approved by ministerial order, as well as that established in the additional provisions of Law 3/2017, of 27 June, on the General State Budget for the year 2017 and of Law 6/2018, of 3 July, on the General State Budget for the year 2018, which establishes that the bases shall be approved by ministerial order, as well as that established in the additional provisions of Law 3/2017, of 27 June, on the General State Budget for the year 2017 and of Law 6/2018, of 3 July, on the General State Budget for the year 2018, empowering the current Minister for the Ecological Transition to lay down the necessary provisions for the implementation and monitoring of the system of investment aid for installations producing electricity from renewable sources, this ministerial order lays down the basis for regulating aid for installations producing electricity using wind and photovoltaic technologies located in non-mainland areas part-financed by Community funds from the ERDF.

In accordance with the agreement appointing the Directorate General of Community Funds of the then Ministry of Finance and Public Function, dated 10 May 2017, and accepted by the Institute for Energy Diversification and Saving (IDAE) on 16 May 2017, the IDAE has been designated as the Intermediate Body of the POCS, recently incorporated into the POPE, for initiatives co-financed by the ERDF, in accordance with the provisions of Article 123 of Regulation EU N.1303/2013 of the European Parliament and of the Council of 17 December 2013 and in the Management Authority's Description of Systems and Procedures.

In this way, the IDAE, in its capacity as Intermediate Body for the low-carbon economy actions of the POPE, will approve the calls for proposals for the following actions

to regulate the granting of aid within the framework established by these regulatory bases.

Likewise, the IDAE will be responsible for selecting the projects to co-finance, determining their eligible expenditure. It is also for the IDAE to examine the justifications for expenditure submitted by beneficiaries and to carry out the necessary verifications (including on-the-spot verifications) to certify such expenditure to the MAGP Managing Authority.

The management of this line of aid is carried out by the General State Administration to ensure the full effectiveness of the available budget and to use the technical and economic resources allocated to the IDAE, while avoiding exceeding the overall amount of funds allocated. In this respect, the IDAE may use financial mechanisms which, with a previously allocated financial envelope, allow it to facilitate the fulfilment of the objectives envisaged in each call and the financing of the projects to which the aid is granted, for example, by advancing to the beneficiaries of advances on the co-financing contribution from the ERDF Community Funds.

The centralised management of aid by the IDAE is based on the individualised nature of its scope, in this case in non-mainland territories, which entails a territorially specific scope, whose isolated electricity systems and small size make it more difficult to integrate electricity production from renewable energy sources. All this with the aim of boosting the production of electricity with technologies of renewable origin, which favour the transition to a low-carbon economy.

Consequently, the objective of the aid can be achieved more effectively, respecting in any event the block of competence established in the applicable sectoral legislation and following the criterion established in the legal basis 8.STC 13/1992, 6 February, to ensure the full effectiveness of the measures to be approved, if the management is coordinated by an agency such as the IDAE, taking into account the specific needs of the autonomous communities affected in the order of bases that approve these grants in non-mainland territories, and without prejudice to the technical expertise accredited by the IDAE in all stages of processing for co-financing of Community Funds ERDF.

In addition, the planned actions are part of the policies to promote the use of energy from renewable sources to which the Spanish State is obliged within the framework of Directive 2009/28/EC of the European Parliament and of the Council of 23 April on the promotion of the use of energy from renewable sources, which obliges the Member States to adopt binding targets for diversification of primary energy sources, reduction of energy dependence and reduction of CO_2 emissions, thus giving the actions referred to in the present order a supra-autonomous approach which makes centralised management of aid necessary, avoiding the fragmentation of access to it.

Finally, as indicated above, the aid corresponding to the call object of these bases are included within the Low Carbon Economy Axis 4 of the POPE, this being a multi-regional operational programme managed by the General State Administration and contemplated in the Association Agreement between the Spanish State and the European Union for the programming period 2014-2020. This agreement has been approved with the consensus of all the Autonomous Communities and the European Commission.

Consequently, there are relevant and singular reasons of public, social and economic interest for the Ministry for the Ecological Transition to implement this line of aid for electrical energy production facilities with wind and photovoltaic technologies, located in non-mainland territories, which favour the transition to a low-carbon economy, in order to shorten the time necessary for its implementation and thus comply with the financial path and absorption of the aid programmed in the framework of the ERDF Operational Programme for Growth.

Sustainable 2014-2020 by granting subsidies on a competitive basis.

The planned Ministerial Order is in line with the principles of good regulation established in Article 129 of Law 39/2015 of 1 October on Common Administrative Procedure for Public Administrations and, in particular, with the principles of necessity and efficiency, justified by the need to facilitate compliance with the binding objectives established in Directive 2009/28/EC of the European Parliament and of the Council, of 23 April 2009 on the promotion of the use of energy from renewable sources, with the start-up of wind and photovoltaic installations contributing to the diversification of primary energy sources, the reduction of energy dependence and the reduction of CO_2 emissions being considered appropriate.

It also conforms to the principle of proportionality, insofar as the standard contains the essential actions for the purpose pursued, establishing the regulatory bases to articulate the granting of aid under current legislation. In accordance with the principle of legal certainty, the rule is consistent with the rest of the national and international legal order.

It also complies with the principle of transparency, since all the processes of participation and audience established by the regulations have been followed in the preparation of the regulation, and the public participation procedure has been carried out through the publication of the project on the department's website.

Finally, with regard to the principle of effectiveness, the least possible burdens are imposed on citizens.

The order is issued under the protection of the exclusive powers of the State provided for in article 149.1.13.^a and 25.^a of the Constitution, in matters of bases and coordination of the general planning of economic activity and bases of the mining and energy regime, and is approved in accordance with the provisions of Law 38/2003, of 17 November, and Royal Decree 887/2006, of 21 July, approving the Regulation of Law 38/2003, of 17 November, General Subsidies.

In its processing, in compliance with the provisions of Article 17.1 of the aforementioned Law 38/2003, of 17 November, the order has been reported by the State Attorney's Office and by the Delegated Intervention in the Ministry for Ecological Transition.

By virtue thereof, with the prior approval of the Minister of Territorial Policy and Public Service, I have:

CHAPTER I

General provisions

Article 1. *Purpose.*

The object of the present order is to establish the regulatory bases for the concession, on a competitive basis, of aid for investment projects in installations for the production of electricity using wind and photovoltaic technologies in non-mainland territories, co-financed with ERDF Community Funds, included in the Low Carbon Economy Axis 4 of Spain's Multiregional Operational Programme (POPE) for the period 2014-2020.

Article 2. *Legal system*

1 In accordance with the provisions of the twenty-sixth additional provision of General Subsidies Act 38/2003 of 17 November, the legal system, specific applicable regulations, requirements and obligations of beneficiaries and award procedure will be that established in these bases, in Act 38/2003 of 17 November, and in Royal Decree 887/2006 of 21 July, approving the Regulation of General Subsidies Act 38/2003 of 17 November. Default

the rules of administrative law and, ultimately, private law, shall apply.

2 This aid is in any case subject to the fulfilment, execution and realisation of the objectives, activities and conditions established by these bases.

3 Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common rules and general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund shall also apply.

Article 3. Material and geographical scope.

1. The material scope of application of this base order is limited to the activities of construction and commissioning of electrical energy generation installations using wind and photovoltaic technologies, with the limits of installed power that, where applicable, are established in the corresponding calls for tenders.

2. The geographical scope of projects eligible for aid under these bases is that of non-mainland territories.

Article 4. Temporal scope.

The temporal scope of validity of this order shall be from the day following its publication in the "Official State Gazette" until December 31, 2020. However, the aid granted will continue to be governed by it and by the corresponding calls issued under it, until the completion and closure of the relevant files.

Article 5. Types of actions for which aid is granted.

1. Aid may be granted for investment projects in installations for the production of electricity from wind and photovoltaic energy sources located in non-mainland areas.

2. The following investment projects may not be supported, without prejudice to the fact that the calls may impose additional restrictions:

a) Projects whose implementation start date is prior to the date of registration of the aid application, so as to guarantee its incentive effect.

For these purposes, the earliest of the following two dates shall be considered as the starting date for the execution of the investment project: (1) the date of the work execution contract or (2) the date of the first firm commitment for the order of equipment or another commitment that makes the investment irreversible.

Preparatory work for obtaining permits and carrying out preliminary feasibility studies shall not influence the determination of the starting date for the implementation of the investment project.

b) Those who have received other aid granted for the same purpose, from any public administration or public or private, national, European Union or other international bodies.

Article 6. Beneficiaries.

1. Legal persons that comply with the requirements established in these bases and with what is regulated in Law 24/2013, of 26 December, on the Electricity Sector in relation to electricity producers may obtain the condition of beneficiary.

- 2 They will not be able to obtain the status of beneficiary:
- a) Legal entities in which there are some of the circumstances that prohibit access to this condition, as set out in Article 13 of Law 38/2003, of 17 November.
 - b) Legal persons who are subject to an outstanding recovery order as a result of a previous decision of the European Commission declaring aid to the beneficiary unlawful and incompatible with the common market.
 - c) Legal persons which are regarded as firms in difficulty within the meaning of the Community Guidelines on State aid for rescuing and restructuring non-financial firms in difficulty (2014/C 249/01).

Article 7. Essential obligations of beneficiaries.

1 Beneficiaries must comply with the obligations contained in Article 14 of Law 38/2003, of 17 November, as well as those contained in these bases, those determined in each call, those appearing in the decision granting the aid and in the specific instructions that, in application and compliance with these bases and each call, the IDAE communicates in matters of execution, monitoring, payment of aid, information and publicity, justification and control of expenditure.

2 Beneficiaries must be up to date with their tax and Social Security obligations, in accordance with articles 18 and 19 of Royal Decree 887/2006, of 21 July.

3 Beneficiaries shall be obliged to notify the IDAE immediately, including during the processing of the application, of any change in the conditions initially communicated with the documentation accompanying the application. Failure to communicate such amendments may be sufficient cause for revocation of the aid in accordance with Articles 35 and 36.

4 The following are also considered to be essential obligations of the beneficiary entities:

- a) Maintain a separate accounting system for all transactions relating to co-financed actions, with at least adequate accounting coding to clearly identify such transactions.
- b) To take into account the following in contracting processes that refer to bankable expenses:

1) In accordance with the provisions of article 31.3 of Law 38/2003, of 17 November, at least three offers from different suppliers must be available prior to contracting the commitment to carry out the installation, unless, due to their special characteristics, there is not enough entities in the market to carry out, provide or supply the contracted service. Pursuant to Article 83.2 of Royal Decree 887/2006, of 21 July, if the bids are not submitted or the award has been made, without adequate justification, to one that is not the most economically favourable, the awarding body may obtain an expert valuation of the good or service, the costs incurred being borne by the beneficiary. In such a case, the subsidy will be calculated by reference to the lower of the two values: the value declared by the beneficiary or the value resulting from the appraisal.

2) Documentation of the contracting process, including justification of the selection of the most economically advantageous tender and communications with bidders, must be available.

3) The works, services or provision of the contracted service must be demonstrable and must be verified and accepted prior to the certification of payment, in accordance with the conditions established in the contract.

c) Accredited to the IDAE the performance of the activity, also facilitating the checks aimed at ensuring the proper implementation of the project or action.

(a) to provide as much documentation as required, as well as the values of the indicators required to report the results of the project within the framework of the Pluriregional Operational Programme of Spain (POPE).

d) To submit to any other actions of verification and financial control that may be carried out by the Directorate General of European Funds of the Ministry of Finance, the General Intervention of the State Administration, the Court of Auditors, the control bodies of the European Commission or other competent control bodies, both national and of the European Union, in accordance with the provisions of the regulations applicable to the management of aid co-financed with European Union funds, providing as much information as required.

e) Comply with the dissemination and publicity requirements established in these bases and in particular in article 37, pursuant to article 18.4 of Law 38/2003, of 17 November, and with the duties of information, communication and visibility corresponding to the beneficiary pursuant to article 115 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council, of 17 December 2013.

f) Accept its inclusion in a public list of operations, which shall be published electronically or by other means as provided for in Annex XII "Acceptance and communication on support from the Funds" of Article 115 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013.

g) To keep the original documents, justifying the action carried out and the application of the funds received, as long as they can be the object of the verification and control actions. The availability of documents shall comply with Article 140 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013.

5. Beneficiaries must have in place management and control procedures to ensure the proper use and implementation of the aid.

6. Beneficiaries shall provide the necessary *ex post* documentation containing the content set out in Annex II. They must also submit to the IDAE the information on the economic planning or financial path foreseen, derived from the execution of the actions contemplated in the actions to be co-financed, as well as their expected results, which will be quantified on the basis of the productivity indicators foreseen in the Pluriregional Operational Programme of Spain (POPE) and which are indicated below:

Code	Indicator	Unit of measurement
C030	Additional electrical renewable energy production capacity	MW
C034	Reduction of GHG emissions	tCO ₂ eq/year

The non-renewable energy to_{CO₂} conversion factor to be used is 0.521 kg_{CO₂/kWh} of final energy. The final energy will be calculated by reducing the energy generated at the border point by 4 %.

7. Beneficiaries shall ensure the sustainability of operations in accordance with Article 71(1) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013, by maintaining ownership of the subsidised installations in their possession for five (5) years following final payment to the beneficiary, and their use for the production of electricity using wind or photovoltaic technologies.

8. The IDAE shall transmit to the beneficiaries any instructions it receives from the ERDF Managing or Certifying Authority, the beneficiary being obliged to comply with the request.

9. Failure to comply with any of the obligations set out in the previous sections may result in the loss of the right to recovery or repayment of the aid granted according to the procedural stage in which the file is being processed.

CHAPTER II

Characteristics of the aid*Article 8. Modality of the aid and scheme for granting it.*

1. The projects selected in each of the calls governed by these bases will be co-financed with ERDF Community Funds, from the budget allocated to Axis 4 Transition to a Low Carbon Economy of the Plurirregional Operational Programme of Spain (POPE) according to the co-financing rates applicable to each area of action.

2. The aid to be granted shall take the form of a non-repayable grant which the IDAE may advance to the beneficiary in the form of an advance on the co-financing contribution from the Community ERDF Funds (ERDF advance) in order to facilitate the financing of projects.

3. The ERDF advance shall consist of the payment, by the granting body, of an advance on ERDF co-financing under the terms laid down in Article 15.

4. In the event of non-compliance attributable to the beneficiary which reduces the amount of aid laid down in the definitive certification of Article 29 in respect of the ERDF advance paid, partial or total repayment shall be made in accordance with Articles 35 and 36. The IDAE shall notify the beneficiary of the amounts to be reimbursed of the advance received.

5. The concession regime will be that of competitive concurrence, in accordance with article 22.1 of Law 38/2003, of 17 November, and in accordance with the admission, evaluation and selection criteria established in these bases and in the corresponding call.

6. The aid granted will be subject to the conditions and limits laid down in Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.

The competitive tendering procedure, for the purposes of the application of Article 41(10) of Commission Regulation (EU) No 651/2014 of 17 June 2014, is established as a non-discriminatory tendering procedure, which ensures the participation of a sufficient number of companies and whose granting of aid is based on the tender submitted by the applicant for the aid in which administrative, economic and technical requirements are assessed.

Article 9. Financing.

The budget and its financing will be those established in each of the calls.

Article 10. Incompatibility of aid.

The aid regulated in this order is incompatible with other aid granted for the same purpose, from any public administration or public or private, national, European Union or other international bodies. They are also incompatible with the specific remuneration system regulated by Royal Decree 413/2014, of 6 June, which regulates the production of electricity from renewable energy sources, cogeneration and waste.

Article 11. Eligible expenses.

1. Those expenses that satisfy the provisions of article 31 of Law 38/2003, of 17 November, and article 83 of Royal Decree 887/2006, of 21 July, shall be considered eligible expenses.

2 In order for expenses to be considered eligible, they must meet the following requirements:

- a) They must comply with the applicable local, regional, national and Community regulations and, in particular, those related to the Pluriregional ERDF Operational Programme of Spain for the 2014-2020 programming period.
- b) They must be clearly linked to the activity which is the subject of the aid, necessary for its implementation and carried out within the time limit laid down in Article 17 of this Order.
- c) Where deferred means of payment (cheque, promissory note, accepted bill of exchange, etc.) are used, only those amounts actually debited from the account through a financial institution before the end of that period will be subsidised.
- d) There must be documentary evidence and it must be verifiable.

3 Expenditure under the following headings shall not be considered eligible:

- a) The Value Added Tax or, as the case may be, the Canarian Indirect General Tax (IGIC) paid.
- b) Your own expenses, whether they are personnel, operating or general expenses.
- c) Elaboration and visa costs for technical projects, environmental impact studies, wind resource studies, geotechnical studies and health and safety plans.
- d) Any other promotional expenses incurred by the applicant to develop the project.
- e) Administrative authorizations, licenses, permits, cost of guarantees and/or bonds, fines, fees, taxes or tributes.
- f) Any expenses associated with formalities, contracts, consultations or administrative procedures, even if they are necessary to obtain permits or licenses.
- g) Cost of acquiring or leasing land used for both the investment project and the evacuation infrastructure.
- h) Insurance taken out by the applicant.
- i) Surveillance and security during the execution of the work until the date of commissioning.
- j) Adaptations, remodeling or executions of other electrical lines different from the exclusive ones for the evacuation of the installation.
- k) Adequacy of the accesses in the public highways and existing ways up to the installation.
- l) Financial costs.

4 The expenditure arising from the drawing up of the auditor's report referred to in Article 28 of this order shall be considered as eligible expenditure, without exceeding the amount of EUR 10 000 per project. This report may be drawn up and paid for during the period allowed for the submission of supporting documents.

5 Each call may include detailed instructions or guidance on the concepts which may be taken into account in determining eligible expenditure.

Article 12. Minimum and maximum bankable budgets of investment projects.

1. For the purposes of the aid governed by this Order, the eligible budget of an investment project means the total amount of the eligible expenditure making up that project, as provided for in Article 11 and in the forecasts laid down in the relevant call for proposals.

2. The minimum and maximum bankable budgets per investment project for which aid is requested will be set out in the relevant call.

3. The maximum fundable budget per investment project for which aid is requested shall in any case be less than EUR 50 million.

Article 13. Aid limits in the grant resolution.

1. The maximum amount of unitary aid that may be granted to each investment project, expressed in €/MW, shall be set out in the relevant call for proposals.

2. The amount of the unit aid requested for each investment project, expressed in €/MW, must be less than or equal to the maximum amount mentioned in the previous section.

3. The decision to grant aid shall specify the amount of unit aid granted, expressed in €/MW, which in any case shall be equal to or less than the amount of unit aid requested, expressed in €/MW.

4. The decision to grant aid shall specify the total amount of aid granted, expressed in €, which may not exceed the limit of EUR 15 million per undertaking per project, pursuant to Article 4(1) and (2) of Commission Regulation (EU) No 651/2014 of 17 June 2014.

Article 14. Value of the maximum power to be installed for each location or by type of project.

The calls made under these bases may establish a value of the maximum power to be installed to which aid may be granted for each location or type of project.

Article 15. ERDF advance

1. In each call for proposals, the IDAE shall establish the allocation of ERDF advances to beneficiaries of aid who so request.

2. The ERDF advance shall be considered as payment on account of the aid provided for in Article 8 and shall correspond to the amount of the total aid granted in the resolution provided for in Article 27.

3. The ERDF advance must be used exclusively to cover expenditure on the project for which the grant is awarded.

4. The ERDF advance shall be deemed to have been granted upon acceptance by the beneficiary of the concession resolution, and shall be paid taking into consideration the associated guarantees regulated in accordance with the provisions of Article 31.

Article 16. Amount of aid.

1. The amount of unit aid granted for selected projects shall be established in accordance with the application submitted by the beneficiary, the limits laid down in Article 13 and the procedure described in Articles 24, 25 and 26.

2. The amount of total aid granted for the selected projects shall be calculated by multiplying the value of the amount of unit aid granted by the power of the assisted installation according to the data contained in the electronic questionnaire described in Article 24 of these bases. The total amount of aid granted may never exceed the value of the total amount of aid requested by the beneficiary and referred to in Article 24.

Article 17. Time-limit for completion of the proceedings

1. The subsidised actions must be carried out within the time limits indicated in the relevant call for proposals and may in no case begin before the date on which the beneficiary's application for aid is registered.

2. Facilities must be fully completed by 31 December 2022, unless another deadline is set by the relevant call.

3. For the purposes of the aid regulated in these bases, an installation is considered to be fully completed when the following conditions are met:

- a) That it has all the elements, equipment and infrastructures that are necessary to produce energy and pour it into the electrical system.
- b) That it has obtained the definitive inscription in the administrative registry of facilities of production of electrical energy dependent on the Ministry for the Ecological Transition.
- c) That he's started pouring electric power. The accreditation of the beginning of the discharge of electrical energy must be made by means of a certificate issued by the person in charge of the reading in which the measures and the dates of reading of the same are expressly indicated. For these purposes, in accordance with article 46.a) of Royal Decree 413/2014, of 6 June, the person in charge of the reading must read within a maximum period of 15 days from the notification by the owner of the installation of the start of the test spillage.

Article 18. *Maximum period for justifying the performance of the proceedings.*

The calls established under these bases must contemplate maximum periods for the justification of the expenditures that must in any case end before March 30, 2023.

CHAPTER III

Procedure

Article 19. *Call for applications and initiation of the procedure.*

1. The aid regulated in these bases will be articulated through the calls approved by resolution of the Board of Directors of the IDAE, as provided in sections e) and g) of Article 7.1 and in Article 7.6 of Royal Decree 18/2014 of 17 January, approving the Statute of the Institute for Energy Diversification and Saving (IDAE), in relation to the twenty-sixth additional provision of Law 38/2003 of 17 November.

2. The calls shall detail, at least, the minimum content provided for in Article 23 of Law 38/2003, of 17 November. They will be published in the National Subsidies Database (BDNS), on the IDAE website and an extract from them in the "Official State Gazette" as established in section b) of article 17.3 of Law 38/2003, of 17 November.

Article 20. *Bodies competent to convene, instruct and resolve the concession procedure and body responsible for monitoring.*

1. The Board of Directors of the IDAE shall be competent to convene the aid regulated in this order, without prejudice to any delegations in force on the matter that it may agree.

2. The IDAE's Director General, hereinafter referred to as the "investigating body", will be the body responsible for instructing the award procedures, as well as the person responsible for monitoring the subsidised actions. The investigating body may delegate the tasks of notification to the interested parties to the specialised departments of the IDAE. Likewise, specific computer platforms may be used for management that will be accessible through the IDAE Electronic Headquarters.

3. An assessment committee consisting of the following will be responsible for assessing the aid under the terms laid down in Article 22.1 of Law 38/2003, of 17 November, as a collegiate body:

- a) Subdirector General of Renewable Energies and Studies of the Ministry for the Ecological Transition.
- b) Director of Renewable Energies of the IDAE.
- c) Heads of relevant IDAE departments based on the technology of the requests under evaluation.

4. Once the applications have been evaluated, the Valuation Commission will issue a report, in the light of which, the investigating body will formulate the proposal for a concession resolution to the IDAE Board of Directors.

5. The Board of Directors of the IDAE shall be competent to issue the resolution granting the aid contemplated in these bases, and may delegate the notification of the resolution to the interested parties to the specialised departments of the IDAE.

Article 21. *Electronic processing.*

1. In accordance with articles 14.3 and 41.1 of Law 39/2015, of 1 October, of the Common Administrative Procedure of Public Administrations, electronic processing will be compulsory at all stages of the procedure, so that applications, communications and other required documentation relating to projects that compete for these grants will be submitted electronically.

2. The interested parties, duly identified, may consult the procedures notified to them and submit any additional documentation that may be required by the acting body.

3. The publication of the proposed provisional resolution, as well as the final resolution, will take place at the IDAE's electronic headquarters, and the effects of the notification will be published in accordance with article 45.1.b of Law 39/2015, of 1 October.

4. In those cases in which a refund procedure takes place, the notifications related to said procedure shall be made under the modality of notification by electronic appearance, in the terms established in article 43 of Law 39/2015, of October 1.

Article 22. *Deadline for submission of applications.*

1. The maximum period for submission of applications and the corresponding documentation will be 3 months from the date of publication of the extract from the call in the "Official State Gazette", without prejudice to the fact that the call may establish a more restrictive period.

2. Applications submitted after the time limit shall be inadmissible.

Article 23. *Representation.*

1. Intervention by means of a representative of the entities requesting or benefiting from aid requires the accreditation of the necessary representation for each action, in the terms established in Article 5 of Law 39/2015, of 1 October.

2. The signatory of the aid application must certify that he or she is sufficiently represented at the time the application is submitted. Failure to comply with this obligation, if not remedied, will result in the withdrawal of the application, in accordance with the provisions of Article 68 of Law 39/2015 of 1 October.

3. The instructing body may at any time require the signatories of the different documents that are presented, the accreditation of the representation they hold. The lack of sufficient representation will determine that the document in question is deemed not to have been submitted, with the effects that this will have for the continuation of the procedure.

Article 24. *Formalization and presentation of applications.*

1. Applications for grants will be addressed to the IDAE, and will be available for completion and presentation on the Grants Portal housed at the IDAE's website (<https://www.idae.es>), where the necessary electronic means of assistance will be available.

2. The application consists of the following elements:

a) Electronic questionnaire, through which applicants will provide all the information necessary to formalise the aid application, including the amount of the unit aid requested, in €/MW, the power of the installation subject to the aid, as defined in Article 3 of Royal Decree 413/2014 of 6 June, and the amount of the total aid requested, in €, which will correspond to the product of the amount of unit aid requested by the power of the installation subject to the aid.

b) Aid Application Form, generated from the electronic media specified in the corresponding call and which will be signed electronically by the applicant.

c) Project report, which must conform to the minimum content established in the corresponding call.

d) Environmental Impact Statement (EIS) or environmental figure applicable to it.

e) Available administrative documentation of the project that has been submitted and approved by the relevant administration, such as administrative authorization, approval of the execution project, building permit or equivalent document, etc.

f) Valid proof of the power of representation of the signatory of the application, as indicated in article 23.

g) Tax Identification Card, except in the case of individual entrepreneurs.

h) Receipt of a guarantee of participation and execution of the project before the Caja General del Depósitos, in accordance with the provisions of article 30 of this order, if so established in the corresponding call.

i) Responsible declarations accrediting compliance with the necessary requirements established to acquire the status of beneficiary, in accordance with the provisions of Articles 6 and 7:

- No concurrence of any of the circumstances that prohibit access to the condition of beneficiary, included in article 13 of Law 38/2003, of 17 November.

- not be subject to an outstanding recovery order following a previous decision of the European Commission declaring aid to the beneficiary unlawful and incompatible with the common market.

- Not have any pending obligations to repay subsidies or aid, or, where appropriate, to comply with them in accordance with the terms established in Article 21 of Royal Decree 887/2006, of 21 July.

- Not having received any other aid for the project.

- The firm is not in difficulty within the meaning of the Community Guidelines on State aid for rescuing and restructuring non-financial firms in difficulty (2014/C 249/01).

- Compliance with tax and Social Security obligations in accordance with articles 18 and 19 of Royal Decree 887/2006, of 21 July.

- have not started the implementation of the investment project before the date of submission of the aid application as laid down in Article 5 of these bases.

j) Acceptance of the terms and conditions of the call.

k) Other elements to be defined in the call for proposals.

3. As set out in Article 21, the documentation required in the previous point shall be submitted exclusively by electronic means.

Article 25. Evaluation and selection of applications.

1. The evaluation and selection of applications will be carried out on a competitive basis on the basis of the documentation provided by the applicant during the application acceptance phase.

2. Since these are concession procedures with competitive competition and, as such, initiated ex officio, voluntary improvements to the application will not be admitted. However, the investigating body may require clarification on aspects of the request that do not entail reformulation or improvement of the request.

3. The Assessment Board will determine, at an initial stage of eligibility, the eligible applications in accordance with the requirements laid down in the rules governing the call for proposals.

At this stage, if the application does not meet the aforementioned requirements, the Evaluation Commission will inform the instructing body, which will require the interested party to correct it within the maximum non-renewable period of 10 days, indicating that if it does not do so it will be deemed to have withdrawn its application, as established in Article 68 of Law 39/2015 of 1 October.

4. At the end of the rectification period, the applications that have been accepted will be evaluated according to objective criteria for awarding the grant.

The call for aid shall define which of the criteria listed in Annex I to these regulatory bases shall apply, as well as their scales. As a result of the application of the corresponding scales, the score obtained for each application will be obtained.

5. The methodology for selecting successful applications for aid is as follows:

a) Applications are ranked from highest to lowest score. In the event of a tie, applications with the same value are ordered according to the criteria established in the call.

b) The list is evaluated in descending order of score, eliminating those applications for which, if accepted, they cause the value of the maximum power to be installed for each location established in the call for applications in application of article 14 to be exceeded.

c) The list is then evaluated on a descending scoring basis, selecting those applications that, if accepted, do not exceed the budget limits established in the call.

6. The Assessment Commission may, at any time, request and collect any information it deems necessary for the determination, knowledge and verification of the data by virtue of which the proposal for a resolution granting the aid must be pronounced.

7. The body in charge of the instruction of the procedure, in view of the admitted applications, in order to determine aspects of complementarity and/or incidence with territorial planning, energy or electricity, which affect or could affect the same territory, as well as for any question that said body considers to be of interest, may request the Autonomous Community, or Autonomous City in which the projects presented are developed, a report. The report shall be issued, where appropriate, within ten days of receipt of the request and shall in no case be binding. If this period has elapsed without receiving the aforementioned report, the procedure will be continued.

Provisional motion for a resolution.

1 The investigating body, on the basis of the file and the report of the Assessment and Evaluation Commission, shall formulate the proposal for a provisional resolution, duly motivated, which shall be notified to the interested parties in accordance with the provisions of Article 21. The contents of the motion for a provisional resolution shall include at least the following information:

- a) The list of applications for which the aid is proposed to be granted, including:
 - The CIF of the beneficiary.
 - Location where the action will take place.
 - UTM coordinates representative of the location where the action will be carried out.
 - The power of the plant covered by the aid application, as defined in Article 3 of Royal Decree 413/2014 of 6 June.
 - Amount of unit aid granted, expressed in €/MW.
 - Total amount of aid granted, expressed in €.
 - Amount of the ERDF advance granted, expressed in €.
 - Score obtained.
- b) the list of successful applications for which it is not proposed to grant aid, including the reasons why they are not eligible and the score obtained.
- c) The list of inadmissible applications and the reasons for the inadmissibility.

2 In accordance with paragraph 4 of Article 24 of Law 38/2003, of 17 November, the draft provisional resolution will be notified to interested parties through its publication on the IDAE website. This proposal for a provisional resolution does not give rise to any rights in favour of the beneficiary vis-à-vis the Administration.

3 Within ten days from the date of publication on the IDAE website of the proposal for a provisional resolution, the applicant entities may submit the arguments to the IDAE that they deem appropriate.

4 The allegations and documentation presented will be examined by the Assessment Committee, reordering where appropriate the applications accepted and assessed, submitting, through the investigative body, the proposal for a final resolution to the IDAE Board of Directors. The proposal for a final resolution does not create any right in favour of the beneficiary vis-à-vis the Administration.

Article 27. Resolution.

1 Once the proposal for a definitive resolution mentioned in the previous article has been approved, the Board of Directors of the IDAE will resolve the procedure, adopting the resolution in accordance with the provisions of article 25 of Law 38/2003, of 17 November.

2 The resolution will be notified to interested parties through publication on the IDAE website. It will include, at least:

- a) The list of applications for which aid is granted, with at least the following information:
 - The CIF of the beneficiary.
 - Location where the action will take place.
 - UTM coordinates representative of the location where the action will be carried out.
 - The power of the plant covered by the aid, as defined in Article 3 of Royal Decree 413/2014 of 6 June.
 - Amount of unit aid granted, expressed in €/MW.

- Amount of total aid granted, expressed in €, which may be paid to the beneficiary as an ERDF advance in accordance with Article 15.
- Maximum unitary financing budget in €, which will be established in the corresponding call.
- Score obtained.
- Maximum deadline for completion of the action.

b) The list of applications that are not subsidised, including the reasons for rejection and, if they have been accepted for the assessment phase, the score obtained.

3. Within ten days from the date of publication on the IDAE website, applicants must communicate their acceptance of the final award decision to the IDAE's governing body. Failure by the beneficiary to expressly accept the aid, within the terms and time limits set out above, will result in the beneficiary renouncing the aid and forfeiting the right to it, and the IDAE Board of Directors will issue and notify a resolution to this effect.

4. The maximum time limit for resolving and notifying the resolution of the procedure may not exceed six months from the date of publication of the call for proposals. Once this period has elapsed without the express resolution having been notified, the applications may be understood to have been rejected, in accordance with the provisions of Article 25.5 of Law 38/2003, of 17 November.

5. Against the resolution, which will put an end to the administrative route as established in article 114 of Law 39/2015, of 1 October, an optional appeal for reinstatement may be filed under the terms and deadlines provided for in articles 123 and 124 of the aforementioned law, or a contentious-administrative appeal before the contentious-administrative jurisdiction.

6. Beneficiaries of aid shall be included in the list of beneficiaries published in accordance with Article 115(2) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013.

7. The aid granted will be published in the National Subsidies Database in accordance with Article 20 of Law 38/2003 of 17 November.

CHAPTER IV

Justification and guarantees

Justification of the realization of the project.

1. The justification by the beneficiaries of the performance of the actions that make up the project must be made, before the instructing body, within a period of three months from the date on which the maximum term for completion of the action established in the concession resolution or its possible extension expires.

2. The documentary justification will be made through the computer application that will be available at the IDAE's Electronic Headquarters, by means of a written document addressed to the instructing body, with which the following documentation will be provided in general:

a) Documentary justification of the execution of the project with the content that appears in Annex II, with the format and models that will be available for this purpose on the IDAE website, including the documents justifying the values of the productivity indicators, the justified bankable budget and the actual installed power of the installation, according to the definition of article 3 of Royal Decree 413/2014, of 6 June.

b) Copy of the certificate issued by the person in charge of the reading in which it is accredited the beginning of the discharge of electrical energy.

c) Definitive inscription of the installation in the administrative register of installations for the production of electrical energy dependent on the Ministry for the Ecological Transition.

d) Permission from the beneficiary to the instructing body for access to the electricity production data (for five years from the start of operation) of the project, so that it can be verified that the installation is maintained in operation.

e) Certified list and copy of orders and/or contracts related to the actions carried out. In the case of turnkey supplies, the contract between the applicant and the contractor must specifically state the scope and amount of the contract, sufficiently detailed to enable the investment associated with the concepts eligible and not eligible for aid to be determined, where these are included in the scope of the supply.

f) Certified statement and copy of the invoices and their corresponding bank receipts for payment, corresponding to the expenditures that can be financed and that correspond to the budget and contracts presented.

Invoices must be itemised and include, sufficiently identified, the items and amounts corresponding to the actions to be supported. The items that appear in the invoices must correspond to those that appear in the budget presented in the request for help within the descriptive Report, and that will have served to carry out the evaluation of the requests as well as to formulate the corresponding resolutions.

In addition, proof of payment must be clearly identifiable and linked to the invoices provided. The IDAE will not accept invoices or payments that do not meet these requirements as justification for the actions carried out.

As a general rule, the corresponding payment or expenditure shall be deemed to have been made if it has actually been paid before the end of the period of justification defined in paragraph 1 of this Article, and cash payments shall not be accepted. If the form of payment is a bank transfer, this will be justified by a copy of the receipt of the charge of the same, must appear in the concept of the transfer the invoice number or, in the absence of this, the concept paid. In all payment vouchers provided, the payee must appear as the issuer of the payment. In the event that the issuer of the payment does not appear on the receipt, proof shall be provided from the bank containing information on the issuer of the payment, recipient of the payment, date and amount.

g) In addition, an auditor's report provided for in article 74 of Royal Decree 887/2006, of 21 July, must be submitted.

h) Documentation justifying that the beneficiary or beneficiaries are holders of the account number or numbers indicated in the application, as well as those from which invoices have been paid and, where appropriate, the payment of aid.

i) Certificates issued by the Treasury and the Social Security proving that the beneficiary complies with his tax and Social Security obligations, in accordance with Article 22 of Royal Decree 887/2006, of 21 July.

j) Responsible declaration accrediting that no other aid has been received for the same purpose.

k) Photographic report of the final equipment and installations which are the object of the aid, identifying the equipment and/or installations as well as their nameplates, and where the advertising poster of the action is shown. Information and link to the beneficiary's Internet site, if available, where the beneficiary informs the public of the support obtained from the ERDF Community Funds by giving a brief description of the operation, in a manner proportionate to the level of support provided, with its objectives and results, and highlighting the financial support of the European Union.

l) Supporting documentation on the process of contracting the actions by the beneficiary and responsible declaration guaranteeing this process.

m) Supporting documentation of the existence of separate or differentiated accounting for all related transactions (receipts and payments, including, where appropriate, receipts of aid, payments to suppliers) and responsible declaration ensuring such compliance.

n) Responsible statement ensuring compliance with national and Community rules on equal opportunities and non-discrimination requirements applicable to such actions, in particular those related to the accessibility of the affected buildings or infrastructure and, where appropriate, supporting documentation.

o) Responsible statement ensuring compliance with national and Community environmental rules and on sustainable development and, where appropriate, supporting documentation. Documentation must be provided to prove correct compliance with the Environmental Impact Statement or environmental figure provided during the application for aid and its corrective measures.

p) Responsible statement ensuring the application of effective and proportionate anti-fraud measures in the field of management of the aided project and, where appropriate, supporting documentation.

3. Notwithstanding the foregoing, the investigating body may draw up additional accreditation and justification instructions in cases where the complexity of the action or the high amount of aid so requires.

4. Failure by the beneficiaries of the aid to justify their failure to do so within the time limit laid down in the preceding paragraphs shall result in the revocation and reimbursement of the aid by the beneficiaries under the terms laid down in Articles 35 and 36.

5. The instructing body may require the beneficiary to provide any supporting documentation additional to that set out above, in order to verify the effective adequacy of the action carried out to which it was the object of aid, the beneficiary being obliged to deliver it within a maximum period of fifteen working days from receipt of the communication made by the said body.

6. The IDAE may carry out on-the-spot verifications of specific operations.

7. The investigating body may either designate the staff it deems appropriate or use the services of independent specialised firms to monitor, control and verify the approved actions, not only at the final stage of verification, but also at intermediate stages, where the purposes for which the aid is granted can be verified.

8. The IDAE or any national or Community audit body may at any time, during the period provided for in Article 140 of Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013, and for at least five years from the date of expiry of the period of justification laid down in Article 28(1), request the beneficiary to produce any of the original documents used to grant the aid or to justify carrying out the action (including invoices and proofs of payment thereof).

If the beneficiary does not provide the original documents requested within 30 working days of the day following the day on which they were requested to do so, this shall be regarded as a failure to comply with the obligation to justify the destination of the aid granted. To this end, the aid shall be revoked and reimbursed by the beneficiary in accordance with the terms laid down in Articles 35 and 36.

Article 29. *Provisional and definitive certification.*

1. Once the actions of verification and verification of the justification described in the previous article have been carried out, the investigating body shall issue a provisional certificate accrediting the degree of compliance with the obligations established in the resolution granting the aid, with the modifications of said resolution that, where appropriate, have been approved. Such provisional certification shall be notified to the beneficiary.

2. The interim certification shall include at least the following information:

- CIF of the beneficiary.
- Location of the action.
- The power of the installation established in the decision granting the aid.

- The total amount of aid granted as laid down in the decision granting the aid.
- Actual installed power of the installation, as defined in article 3 of Royal Decree 413/2014 of 6 June.
- Justified bankable budget, limited by the maximum unit bankable budget multiplied by the actual installed power of the installation.
- Amount of the total aid to be received by the beneficiary on the basis of the justification provided and in accordance with Article 32.
- Total amount of the ERDF advance paid to the beneficiary as laid down in Article 15.

3. The IDAE will request the payment of co-financing from ERDF Community Funds, corresponding to each project, to the Management Authority of the Pluriregional Operational Programme of Spain 2014-2020.

4. Once the request for co-financing payment is accepted by the Managing Authority, the provisional certification will automatically become final and will be notified to the interested party.

5. The final certification shall indicate the final amount of aid granted.

6. If the request for payment of co-financing from ERDF Community Funds is not accepted, or if there is a reduction in the value requested, the investigating body will assess the reasons for the non-acceptance, bearing in mind that if these are attributable to the beneficiary, it will lead to the revocation and repayment of the aid for the corresponding amount, in accordance with the provisions of Articles 35 and 36 of these bases. After this assessment, it will issue the definitive certificate that will indicate the definitive amount of the aid granted, as well as the amount that must be returned and the deadline for its return, which in no case may be more than three months from the notification of the definitive certificate.

7. The final certification shall include at least the following information:

- CIF of the beneficiary.
- Location of the action.
- The power of the installation established in the decision granting the aid.
- Actual installed power of the installation, as defined in article 3 of Royal Decree 413/2014 of 6 June.
- Justified bankable budget, which in any case shall be less than the maximum unit bankable budget multiplied by the power of the installation.
- Definitive amount of aid granted.
- Amount of aid in the form of co-financing with ERDF Community Funds.
- In its case, amount to return in case of proceeding partial or total reimbursement, by noncompliance, and term of return.
- If applicable, reason for non-compliance.

Article 30. Guarantees for participation in the call and execution of the project.

1. The application must be accompanied by a receipt from the Caja General de Depósitos accrediting the deposit of an economic guarantee in favour of the IDAE, in the amount of 20,000 €/MW, the value of which may be modified by the corresponding summons.

2. The description of the secured obligation shall include the text set out in the relevant convocation.

3. The guarantee shall be constituted in the form of a guarantee or surety insurance.

4. The minimum period of validity of the guarantee provided must be expressed with reference to the maximum period of completion of the action established in the corresponding call under article 17.2, plus a period of six months which may be modified by the call itself.

5. Once the granting decision has been published on the IDAE's website, the IDAE will proceed ex officio to cancel the guarantee of those applications that have not benefited from grants.

6. Once the beneficiary of the aid has demonstrated that the installation is fully completed within the time limit, as defined in Article 17, that provisional certification has been issued under Article 29, and that its installed capacity exceeds 50 % of the capacity laid down in the concession resolution, the IDAE will automatically cancel the guarantee.

7. Once the time limit for carrying out the action provided for in Article 18 has been exceeded, when the installed power is less than 50 % of the power established in the concession resolution, the IDAE will ex officio initiate the procedure for seizing the guarantee.

8. The seizure will be made by resolution of the IDAE's General Management, which will be notified to the Beneficiary and the Caja General de Depósitos.

Article 31. Guarantees relating to the ERDF advance.

1. The payment of the ERDF advance shall be covered by a guarantee in accordance with Articles 42 et seq. of Royal Decree 887/2006 of 21 July 2006.

2. Prior to the payment of the advance, in the terms established in the corresponding call, a receipt will be required from the Caja General de Depósitos accrediting the deposit of said guarantee in favour of the IDAE.

3. The description of the secured obligation shall include the text set out in the relevant convocation.

4. The guarantee shall be constituted in the form of a guarantee or surety insurance.

5. The minimum period of validity of the guarantee provided must be expressed with reference to the maximum period of completion of the facilities established in the corresponding call pursuant to article 17.2, plus a period of eighteen months that may be modified by the call itself.

6. The amount to be guaranteed shall be equal to the amount of the ERDF advance plus interest calculated at the legal interest rate for the duration of the guarantee.

7. Once the beneficiary of the aid has demonstrated that the installation has been fully completed within the time limit and the definitive certificate has been issued under Article 29, the IDAE will automatically cancel the guarantee.

8. In the event that the installation is not carried out within the established maximum period, the IDAE will proceed to the total seizure of the guarantee.

9. If the amount of the total aid to be received, as stated in the provisional certificate under Article 29, is lower than the ERDF advance granted, the IDAE shall confiscate part of the guarantee corresponding to the difference between the two values if the beneficiary does not reimburse voluntarily.

10. The seizure will be made by resolution of the IDAE's General Management, which will be notified to the Beneficiary and to the Caja General de Depósitos.

Article 32. Payment of aid.

1. For the purposes of Article 29(2), the amount of the unit aid to be received by the beneficiary after proper justification shall be calculated as follows:

$$\text{Importe de la ayuda unitaria} = \left(\frac{P_j}{PotR} \right) - Im$$

where:

Pj: Fundable budget justified by the aid applicant (€) as established in the provisional certification of Article 29.

PotR: Actual installed power (MW). The value of PotR will be the one that appears in the administrative inscription of the installation, according to the definition of article 3 of Royal Decree 413/2014, of 6 June.

Im: Net income term to be deducted (€/MW) established in the corresponding call.

If, when applying the above formula, a negative value is obtained, the aid shall be considered to be zero.

2. The amount of total aid to be received by the beneficiary shall be calculated as follows:

$$\text{Total aid amount} = \text{Unit aid amount} - \text{Pot}$$

where:

Pot: The minimum value between the actual installed power (PotR) and the power of the installation included in the concession resolution.

3. The total amount of aid to be received by the beneficiary may not exceed the total amount of aid granted as set out in the decision granting the aid.

4. In order to receive the final grant, all the requirements of these rules and the corresponding call for proposals must be met. In the event of non-compliance, the provisions of Articles 35 and 36 shall be taken into account.

5. The amount of the total aid to be received by the beneficiary will be paid once it has been demonstrated by the beneficiary that the installation is fully completed by the deadline and the final certification has been issued in accordance with Article 29. The ERDF advance which he could have received will now be regularised.

CHAPTER V

Monitoring and recovery of aid

Article 33. Management, monitoring and control.

1. The IDAE will act as an Intermediate Body, guaranteeing adequate management, interpretation and resolution of all aspects relating to the grant applications, as well as their monitoring, evaluation and control.

2. The IDAE will request reimbursement of co-financing from the ERDF Community Funds on the basis of justified expenditure. To this end, the beneficiaries will provide the IDAE with the information required, sending it the documentary justification determined in the corresponding Instructions and will facilitate the *on-site* verifications determined for the correct certification of expenditure.

3. The designated Intermediate Body, in accordance with the financial management system provided for in Chapter 1 of Title I of Part Four of Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 and having completed the control verifications referred to in Article 125 of that Regulation, shall justify to the Managing Authority the expenditure on operations duly certified by the beneficiaries in order to request reimbursement from the European Commission of the assistance corresponding thereto.

In order to comply with the control obligations referred to above, the IDAE shall carry out administrative and on-the-spot verifications to verify and inspect the development of the subsidised actions and the eligibility of the certified expenditure. Beneficiaries are required to provide the necessary elements for verification and financial control by the IDAE and other competent bodies at national or European Union level.

4. The justification of expenditure on operations carried out by beneficiaries shall be based on accounting records kept by the beneficiaries, taking into account all the provisions applicable to the Structural Funds concerning eligibility, management and control, as well as the management and control systems established by the Managing Authority, the Intermediate Body and, where appropriate, those approved by the European Commission relating to the assistance.

Article 34. *Compliance Instructions.*

The IDAE will issue as many instructions as necessary to comply with the requirements of the corresponding call and to carry out the subsidised operations.

Article 35. *Breaches, Reimbursements and Sanctions.*

1. Non-compliance with the requirements set out in these bases, in the corresponding calls, in Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013, in Regulation (EU) No.1301/2013 of the European Parliament and of the Council of 17 December 2013 and in the other applicable rules, as well as failure to comply with the conditions, if any, laid down in the relevant granting resolution, shall result in the loss of the right to the recovery of the aid and, where appropriate, subject to the appropriate refund procedure, the obligation to return the sums received plus the corresponding interest for late payment at the time of detection of the non-compliance, in accordance with the provisions of Title II, Chapter I of Law 38/2003 of 17 November and Title III of Royal Decree 887/2006 of 21 July.

In particular, the refund procedure shall be initiated in the event of an unfavourable audit report from any of the Administrations empowered to carry it out.

2. The loss of the right to recovery of the aid, in addition to that referred to in the previous paragraph, shall result in the seizure of the securities provided for in Articles 30 and 31.

3. The processing of refund procedures shall be governed by the principle of proportionality, and by the extent of the financial consequences, as provided for in both national and Community legislation, as set out in the following Article.

4. The provisions of Title IV of Law 38/2003, of 17 November, shall apply if there are cases of administrative infringements in the area of subsidies and public aid.

5. Infringements may be classified as minor, serious or very serious, in accordance with articles 56, 57 and 58 of Law 38/2003, of 17 November. The sanctioning power for non-compliance is established in article 66 of the same.

Criteria for graduation of possible non-compliances.

1. When compliance by the beneficiary comes significantly closer to full compliance, and the beneficiary demonstrates unequivocally that it is acting to meet its commitments and the conditions under which the aid is granted, the following criterion shall be taken into account:

– In the event that the actual installed power of the installation is less than the power for which the aid was granted, and which is included in the decision granting the aid, the total aid received shall be reduced in proportion to the unbuilt power, the amount of the unit aid granted, expressed in €/MW, shall remain constant, in accordance with the methodology in Article 32.

2. For the purposes of the preceding paragraph, total non-compliance shall be deemed to be the case where the actual installed power is less than 50 % of the power for which aid was requested.

3. Failure to meet the deadline for completion of the installation, as laid down in Article 17, shall result in the total loss of the aid granted, giving rise to the repayment of the advance payment plus interest on arrears from the time of payment until the date on which repayment is agreed, except as provided for in the following paragraph.

If the installation is completed after the deadline mentioned in the previous paragraph, but within the deadline for justifying the completion of the project, as defined in Article 28, provisional certification may be carried out taking into account only the eligible expenditure incurred prior to the maximum completion date established.

The possibility of payment of the aid described in the previous subparagraph shall in no case increase the time limits for justification laid down in Article 28.

4. In any case, the extent of non-compliance shall be total in the following cases:

- a) Distortion, inaccuracy or omission in the data supplied by the beneficiary on the basis of which the concession was granted.
- b) Failure to fulfil the purpose for which the funding was granted.
- c) Non-registration in the official registers required by law for the development of the financed activity.

Article 37. Information, communication and visibility. Advertising.

1. Any reference in any media to the subsidised project must comply with the requirements contained in the Image Manual that will be available on the IDAE website.

2. A poster must be installed and maintained in a place visible to the general public, of sufficient size to be perfectly visible and legible, clearly stating the title of the project and the name and image of the Programme, and mentioning the economic aid granted by the ERDF, including the EU logo and the slogan "A way to make Europe", whose poster must be installed at least until the end of 2023, the date on which Spain's Pluriregional Operational Programme comes to an end, all as provided for in Article 18.4 of Law 38/2003, of 17 November. The graphic design of the poster and diffusion supports that will be carried out will comply with the requirements established by the IDAE, which will be available in the Programme Image Manual at the IDAE Internet address (www.idae.es).

The beneficiary shall inform the public of the support obtained from the funds by making a brief description on its Internet site, if available, of the operation, in a manner proportionate to the level of support provided, with its objectives and results, and highlighting the Union's financial support.

3. Acceptance of aid implies acceptance of Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 and Regulation (EU) No 1301/2013 of the European Parliament and of the Council of 17 December 2013 on information and publicity activities to be carried out by the Member States concerning the European Union Funds. In particular, the responsibilities of beneficiaries for information and communication measures addressed to the public are set out in paragraph 2.2 of Annex XII to Regulation (EU) No 1303/2013.

First additional provision. Protection of personal data.

In accordance with Organic Law 3/2018, of 5 December, on the Protection of Personal Data and guarantee of digital rights, the information and personal data provided by any applicant or beneficiary will be collected by the IDAE to be incorporated into the automated file of ownership and responsibility of the same called "Energy and public aid", in order to verify compliance, control and monitoring of the obligations established by these bases. Interested parties may personally exercise their rights of access, rectification, cancellation or opposition by writing to the instructing body at the following address: calle Madera, número 8, 28004 Madrid.

First final provision. *Jurisdictional title.*

This order is issued under the protection of Rules 13 and 25 of Article 149.1 of the Spanish Constitution, which grant the State exclusive competence over the bases and coordination of the general planning of economic activity and the bases of the mining and energy regime, respectively.

Second final provision. *Development and application.*

The Minister for Ecological Transition, the competent bodies of the Secretariat of State for Energy and the IDAE, using their respective competencies, shall adopt the necessary measures for the implementation of this Order and its development and implementation provisions.

Third final provision. *Entry into force.*

This Order shall enter into force on the day following that of its publication in the "Official State Gazette".

The Minister for Ecological Transition, Teresa Ribera Rodríguez.

ANNEX I

Valuation criteria

The valuation criteria

1. Amount of unit aid applied for (€/MW): The lower the aid applied for, the higher the score.
2. Resource: The greater the available resource, the higher the score.
3. Administrative viability: The more viable the administrative processing of the project, the higher the score will be, for which, where appropriate, the degree of administrative development of the project will be weighed.
4. Location criterion: The better the location signal, the higher the score.

The choice of the criteria adopted, detailed description, weighting and form of objective assessment, will be established in each of the calls according to the technology and geographical area to which it is addressed.

ANNEX II

Documentary justification of the execution of the project (*ex post*)

The justification will be made by means of the presentation of the documentation that, generally speaking, is established in article 28 of this order or the provisions of the corresponding call, including the following documents:

- a) Final technical draft of the installation signed by a qualified technician.
- b) The power of the installation established in the decision granting the aid.
- c) Real power finally executed in the project and justified by the final technical project included in section a).
- d) Definitive location of the investment project.
- e) Document justifying the values reached for the indicators that apply to the performance among those included in the Low Carbon Economy Axis of the POPE, signed by a qualified technician:
 - C034 GHG emission reduction [tCO₂ eq/year].
 - C030 Additional renewable electricity production capacity [MW].

The non-renewable energy to CO_2 conversion factor to be used is $0.521 \text{ kg}_{\text{CO}_2/\text{kWh}}$ of final energy. For the conversion of the energy generated at the border point to final energy, the loss coefficient of 4 % shall be used. The value of the power reflected in the additional renewable energy production capacity will be that corresponding to the actual power finally executed and must coincide with that reflected in the administrative inscription of the installation.

Source: <https://www.boe.es/eli/es/o/2018/12/20/tec1380/dof/spa/pdf>

This is an automated translation. Any discrepancies or differences created in the translation are not binding.