

NEEDS OF ADAPTING THE COMMITMENTS' ACCOUNTING SYSTEM OF PUBLIC INSTITUTIONS

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Throughout this work, the stages mentioned in Omfp (Order of the Ministry of Public Finance) 1792/2002 are presented. The attempt is to bring clarifications with respect to delicate aspects: delegating competencies, delegation incompatibility, specialty compartment, manner of processing the annexes to the financial situations, individual/global commitment, proper determination of the available resources before making the payments, calculation of the available resources in case of payments made in currency, the need of a budget for commitment credits.

Key words: Global commitment, Budget for commitment credits, Processing undertakings in the annexes to the financial situations, Green stamp fee.

Responsibilities on the organization of commitments' accounting

All public institutions, irrespective of the subordination and the manner of financing the expenditures, have the obligation to:

- - organize the accountancy of the legal and budgetary commitments;
- - observe the procedures for going through all the 4 stages of the expenditures' budgetary execution, respectively the commitment, clearance, authorization and expenditures' payment.
- - organize, run the accountancy and the report of budgetary and legal commitments starting with the budgetary year 2003, based on the normative act of the Order of the Ministry of Public Finance no. 1792/2002 for approving the Methodology norms on the commitment, clearance, authorization and expenditures' payment of public institutions, as well as the organization, clearance and report of budgetary and legal commitments.

The budgetary execution is based on the principle of *separating the attributions* of the people that have the capacity of credit release authority from the attributions of the people that have the capacity of accountants.

Credit release authorities for the budgets mentioned in art.1 para.(22) in Law no.500/2002 are authorized to commit, clear and authorize expenditures throughout the budgetary exercise, within the limit of the approved budgetary credit, while the payment of the expenditures is carried out by the people that, according to the law, bear the general title of accountant.

The specific operations of commitment, clearance and authorization of the expenditures fall in the competence of the credit release authority and are carried out based on the specialty compartments' permits of the public institution according to art. 53 para.(3) in Law no. 500/2002 regarding public finances.

According to the legal frame, the unit leaders/managers may delegate competencies to the people with whom they collaborate, may designate people within the respective unit to carry out certain tasks, with the observance of the legislation in force, of the organization and functioning regulations.

The need to have a clearer definition of certain aspects can be notices, especially regarding:

- *delegation of competence*
this represents the transfer of competence to people in the organizational structure that may, based on the delegation act, commit the institution by legal acts with patrimonial consequences or may order the elimination of the obligations undertaken by the respective public institution by means of these legal acts.
- *the empowered/ designated persons , incompatibility situation;*
the manager of the "economic directorate" cannot enter the category of "other empowered persons" because it is the leader of an operational organizational structure which in the process of the budgetary execution fulfills the attributions and competencies of a "specialty

compartment" leader; the structure involved in certifying reality, regularity and legality of the created or asserted patrimonial operations, depending on the pertaining tasks from the Organization and Functioning Regulation

– *defining the specialty compartment:*

“represents the organizational structure of the public institution where payment obligations based on public funds are created (in case of administrative acts or contracts) or are asserted (in case of laws, Government decisions, agreements, court orders)”.

In case of salary, benefits or corresponding contributions expenditures, the specialty compartment is the one that has attributions in calculating the salary rights and the corresponding contributions that draft the clearance documents (collective or individual payrolls), as well as Payment credit release.

Applicable in practice when the human resources service is divided in compartments/ offices/ designated to draft payrolls/personnel recruiting, filling out labor registers, etc., or this is carried out in crossed combination in case of small units).

It is necessary to have the involvement of the legal specialty compartment in controlling, in a preventive manner, the legal aspect of the administrative acts, by the prior consulting notice, both exclusively for certain administrative documents and before exercising the preventive financial control visa. The consulting notice is part of the category of documents prior to adopting the legal deed, whose request is obligatory, but it does not involve the obligation to comply.

With respect to the specification on the preventive financial control part, it is necessary within the Omfp.1792/2002 to replace the phrase “person empowered to perform the preventive financial control” with "the person designated to perform the proper preventive financial control" and to replace the phrase "preventive financial control visa" with "proper preventive financial control visa".

The budgetary authorization is not global. This requires a **specialty** of the credit based on expenditures' categories.

Credit specialty is regulated by art.12 and art.2 in Law no.500/2002, according to which: "...budgetary expenditures are registered and approved in the budget by expenditures' categories, grouped according to their economic nature and their end use, according to the budgetary classification", provision harmonized with the Financial Regulation no.1605/2002 of the Council “the credits are specialized on titles and chapters, the chapters are subdivided in articles and positions.

The more detailed the budgetary specialty and the credit transfers are conditioned by prior authorizations of budgetary bodies, the more rigid the budget organization is and the resource oriented management.

Mutually, the more globalized the credit, and the interventions of a budgetary authority throughout an execution are more reduced, the more flexible the budget organization is and the more objective-oriented the management.

Committing expenditures

Commitment represents the stage in which the institution creates legal obligations to third persons (legal commitment) and reserves the necessary budgetary credits for covering these obligations (budgetary commitments). Committing any expenditure has two aspects: legal commitment and budgetary commitment.

- a) The legal commitment represents, according to the definition included in Law no.500/2002 at art.2 para.(3), "...any legal deed resulting into or that could result into an obligation based on public funds"
- b) The budgetary commitment represents the deed by means of which necessary amounts for covering certain expenditures are reserved from the budgetary credits. Consequently, the approved budgetary commitments cannot exceed the approved levels of budgetary credits.

The budgetary commitments may be:

- individual budgetary commitments;
- global budgetary commitments.

For compliance with the approved annual credit limit, it is mandatory to reserve the committed budgetary credits for the payments that will be carried out in that budgetary year. The budgetary commitment by

means of which the public funds were reserved for a certain use, within the limit of the approved budgetary credits, precedes the legal commitment. Thus, the value of the legal commitments **cannot** exceed the value of the budgetary commitments and that of the approved budgetary credits by the incomes and expenditures budget.

The *individual budgetary* commitment represents the operation of reserving the budgetary credits necessary to cover the expenditures generated by **new** operations that are to be performed during the budgetary exercise, which were not initially included in the provisional budget, and do not have a repetitive nature.

Salaries of the personnel included in the payroll positions annexed to the approved budget and their corresponding obligations, pensions and social assistance benefits established according to the laws in force, as well as expenditures with interests and other expenditures pertaining to the public debt are considered to be *individual* legal and budgetary commitments *at a global level* starting with the 1st of January of each year with the entire amount of the approved budgetary credits.

Reporting commitments of this nature is done each year, even from the first quarterly report.

The global budgetary commitment is used in case of operations that occur again during the same budgetary year and generate current administrative expenditures (repetitive operations).

Thus, in title II "Goods and services" commitment is carried out individually when the beneficiary or the exact amount are unknown.

- in case of utilities where there is **no** contract with a definite amount, the commitment is carried out individually, invoice per invoice,
- when the beneficiary of the contract is known, the amount, the commitments is carried out at the level of the contract.
- in case of direct acquisitions mentioned in the procurement plan, the order represents the basis for the budgetary and legal commitment,

The budgetary credit represents a payment authorization, and the commitment credit represents a commitment authorization which, in part, may generate payments in the future exercises as well.

It is necessary that the budget ceases to be a planning act strictly limited to a budgetary exercise, and to allow it to become of the commitment credits due to the existence of specific activity sectors, so as not to be in contradiction with the principles of commitments' accounting.

Thus, the specific activity sectors are envisaged, such as: the sanitary sector where, considering the provisions of art.250 para.(2) in the Law regarding the health reform no.95/2002 according to which "deducting the medical services and medical equipments pertaining to the month of December of the current year is done in January of the next year, estimating that the medical services and equipments cannot be considered expenditures in December unless these are made and, implicitly, committed before January in the next year (contracts for paying hospitalization days, medical analyses, etc.).

Because the law specifically states that payment of services and equipments pertaining to December are carried out in January of the following year, in the current year, practically, no budgetary credits can be estimated in order to cover the payments made in January for the medical services and equipments used in December.

Similarly, in December, salary commitments and the corresponding contributions can only be highlighted within the limit of the budgetary credits. These are registered in the corresponding expenditures accounts in view of observing the basic principles of the commitments' accounting, which leads to differences.

Clearing expenditures

Clearing expenditures is the phase in the process of the budgetary execution where the existence of the commitments is checked, the reality of the due amount is determined or checked, the contingent liabilities of the legal commitment is checked based on justifiable documents attesting the respective operations. The operations of clearing expenditures are carried out by the credit release authority.

A special aspect that occurs in case of clearing the global service provision contracts is that the invoice is issued for a global service without detailing it on types of activities, case in which there can no longer be an exact assertion of the strict observance of the contract, complying per budgetary articles. As a

conclusion, it is necessary to draft an invoice offering the necessary information requested in art. 155 in Law no.571/2003 regarding the Fiscal Code.

In case of drafting the deduction for plane travels, in case of issuing it electronically, it is necessary to present documents established by internal procedures (boarding tickets, activity reports, especially when accommodation is not provided by the unit).

Authorizing payment expenditures

Authorizing expenditures represents the phase within the process of the budgetary execution when there is a confirmation that the delivery of goods existed or that other accounts receivable were checked and payment can be carried out.

Authorizing payment is the internal documents by means of which the credit release authority orders the manager of the Financial-Accounting Compartment to draft the expenditures' payment instruments. This operation does not reflect in accounting, being strictly a managerial action.

On filling out the available resources in column 1 at the moment Annex no.3 "Payment Authorization" is drafted, it is recommended for the specificity of the data to take into account the budgetary commitments highlighted in account 8066 "Banking commitments" (former 950) but also the payment made in account 770 "Budget financing" (former 700) or in other available resources' accounts as the case may be; but also the expenditures that were committed, cleared and authorized before that did not appear as deducted in the bank statement at the moment of the draft, the amounts erroneously entering the account, the amounts undergoing clarification.

If the Payment authorization is drafted for buying currency necessary to make external payments, the amount in lei or the equivalent in lei of the currency payment obligation is calculated at the exchange rate set by the National Bank of Romania valid on the date of the transfer of the amount for buying currency, with an additional insurance margin covering possible exchange rate differences for the period starting from the day of the transfer and the date of the external payment to the suppliers and to the other creditors, as well as possible commissions and other due costs.

Expenditures' payment

Expenditures' payment is the final phase of the budgetary execution by means of which the public institution is free of its obligations to third parties-creditors.

The unit manager does not have attributions in this phase, it no longer grants the first signature unless in small units, only those financed from the local budgets [art. 54 para.(7) in Law 273/2006 regarding local public finances] No payments regarding several subdivisions of the budget approved in one payment can be included, even if it is made for a sole supplier.

The accountancy of the available resources before making the payment shall be affected by the provisions of Art.8 (1) in the GEO 37/2008 for regulating certain financial measures in the budgetary domain "The amounts coming from the budgetary financing of the previous years which is reimbursed under the provisions of the budgets' law they were granted from is highlighted in execution at a position other than budgetary expenditures".

Up to now – the amounts representing payments in advance that cannot be justified by delivered goods, works performed and services provided by the end of the year *were recovered* by the public institution that granted the deposits and were given back to the budget they were granted from, with the corresponding *interests and delay penalties*, according to the law. This aspect shall be clarified on entering into force of the application norms of GEO no.37/2008.

It is necessary to correlate the amount paid in lei with the committed amount, because it was made as the equivalent in lei of a currency, for exemplifying the application of Law 315/2006, regarding the incentive of books or electronic educational programs' procurement, necessary for improving the quality of the didactic activity, in the pre-university educational system.

Reporting Commitments

It is necessary to revoke annex no.4 in Omfp 1792/2003 because it is found entirely in annex 7 "Execution account of the public institutions' budget - expenditures" in Omfp 616/2006.

In view of eliminating confusions on filling out the expenditures' execution accounts (i.e., annex 7), the title was changed from "Initial budgetary credits" to "Updated budgetary credits" for quarterly reports, in view of accurately filling out with the last *approved* budget at the end of each quarter.

Highlighting and the legal multi-annual expenditures' commitments with the "environmental fee" which will be paid in full according to the Government decision no.448/2005 regarding the electric and electronic equipments waste with the subsequent completions, for the assets that will be removed from use in the following future, the correlation of these amounts with the registration in ct.1518 "Other provisions" completing the function of account 151 "Provisions"

Presently, the green tax paid one purchasing inventory objects, bought fixes assets, representing a non-recoverable tax is included in their costs.

It is recommended to perform a continuous analysis of the available resources that can be committed and to carry out the necessary remedies.

Draft for Check list in view of applying Omfp 912/2004 for amending and completing the General methodology norms in reference to the execution of the preventive financial control, approved by Omfp 522/2003 with the subsequent amendments.

CHECK -LIST OF PAYMENT AUTHORIZATION GRANTED TO THIRD PARTIES

Crt. No.	Objects of the check	Check at the level of the specialty compartment	Check at the level of the financial office	CFPP	CFPD	Check at the level of BBCI
1	Existence of justification acts					
1.1	- Global/ individual budgetary commitment					
1.2	- Fundamental note					
1.3	- Supply/services/ works Contract					
1.4	- Request for granting the deposit					
1.5	- Document asserting the legal nature of the warranty					
2	- Existence of the visas, certifications, approvals, other legal signatures, as the case may be, for:					
2.1	- Justification acts in point 1					
2.2	- Payment authorization for the deposit	X				
3	- Accurately setting the amount to be paid					
4	- Compliance with the amount suggested to be paid in:					
4.1	- The level of the budgetary commitment	X				
4.2	- The level of the legal commitment					
4.3	- The available resources in the account					
5	Correspondence between the data in the deposit's payment authorization with the justification acts for:					
5.1	- The nature of the payment					

5.2	- The beneficiary of the amount	X				
5.3	- The bank of the amounts' beneficiary					
	Signature of the people performing the check					

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