

Methodological indications for drawing up the EFP

1. Characteristics and purpose of EFP schemes

In the case of direct awards to any public service operator, included internal operators, the purpose of the simulated EFP is to determine public service compensations to be awarded and to verify the economic and financial equilibrium of the public service contract (PSC) throughout the contract period. In the case of contracts awarded by tendering procedure, the purpose of the simulated EFP is to determine the tender price, verify the economic and financial equilibrium of the PSC and allow for the comparison with the tenders submitted by each tender participant (TP). In the performance of the PSC, the simulated EFP provides the AE with a tool to monitor the management of the award, including the improvements in the efficiency and cost-effectiveness of the service. Through the tender EFP, that is drawn up in accordance with the instructions provided by the AE on the basis of these methodological indications, each TP proves the economic and financial sustainability of its tender, its financial strength in case of planned investments and provides an indication of the related financial structure.

Schemes 1 through 3 (“Regulatory income statement”, “Regulatory Balance Sheet”, “Simulated Regulatory Financial Plan”, respectively) are used by both the AE to determine the tender price and by the TP to calculate the economic offer; Scheme 4 (“Regulatory Financial Statement”) shall also apply for the purpose of this calculation. Schemes 1-3 make up the simulated EFP, while schemes 1-4 the tender EFP. These schemes are broken down for all the years of the award, for each awarding lot and for each mode of transport, in accordance with measure 22 (5)¹. Purpose of Scheme 1 is to calculate the share of costs of ordinary operations that are incurred to comply with PSO, which are not covered by the revenues arising from the fulfilment of PSO (including positive network effects²). Purpose of Scheme 2 is to determine the regulatory net invested capital (NIC) for the application of the WACC provided by the Authority, to calculate the reasonable profit. Purpose of Scheme 3 is to determine the net financial effect arising from expenses and income that are attributable to cost and revenue items. Scheme 4, to be filled in by the TP, is intended to assess the development of the financial position during the PSC period, in particular in the case of planned investments.

¹ Concerning rail services, where the non-competitive award includes the temporary operation of car services as an alternative/addition to rail services until these are awarded by public tendering procedures, in accordance with Article 34 (g) of Legislative Decree 179/2012, taking into account the principles of transparency and efficiency underlying Measure 14 and the entire Title II, including the regulatory accounting measures, it is also necessary to present a separate EFP.

² Cf. paragraph 2 (2) of the Annex to Regulation (EC) No 1370/2007 and its interpretative guidelines (§ § 2.4.1 and 2.4.2).

2. How to draw up the EFP

Step 1 — Cost items

Identification of the items of the cost of production needed to fulfil the obligations under the PSC on the basis of Article 4 (1) (c) of Regulation (EC) No 1370/2007. These items are specified as follows:

- costs of staff
- energy
- infrastructure charges
- maintenance and repair of public transport vehicles
- rolling stock and installations necessary for operating the passenger transport services
- fixed costs

The cost items shall relate to the corresponding nomenclature cost items of the income statement, as provided for in Article 2425 of the Civil Code (CC), namely:

- B6) for raw materials, consumables and goods (net of B11);
- B7) for services;
- B8) for use of third-party assets;
- B9) for personnel;
- B10) depreciation and impairment (only for depreciation, items B10) (a) and (b));
- B11) changes in inventories of raw materials, consumables and goods;
- B12) provisions for risks (only for the share of use of the relevant funds where relevant);
- B13) other provisions (only for the share of use of the relevant funds);
- B14) other operating costs.

Entities adopting the International Accounting Standards IAS/IAFR shall associate these with the similar items of the income statement that has been drafted in accordance with IAS 1:

- raw materials and consumables;
- cost of personnel;
- other operating costs (broken down by costs of services, costs for the use of third-party assets, other operating charges);
- depreciation;
- provisions and impairment.

The costs indicated must be strictly necessary and functional to the fulfilment of the PSO of the PSC and, in the case of costs relating to common functions, to the appropriate part of the shared costs as

allocated according to specific drivers³. By using (a) ranges of the cost items of “an average typical undertaking, that is efficiently run and adequately equipped with transport means so as to be able to meet the required public service requirements”⁴ or, in their absence, (b) appropriate values of national or international benchmarks, the costs are estimated throughout the period of the award so as to reflect a progressive efficiency improvement over time. With regard to the choice of benchmarks, the standard cost model referred to in ministerial decree 157/2018 may be used to derive many values of the cost items of the EFP, as indicated in Measures 14 and 15, which, in turn, refer to ministerial decree 157/2018. With regard to rail services only, the development of the EFP during the period of award and for the different regulatory periods shall take into account the provisions of Decision 120/2018 with reference to the efficiency improvement parameters only for the operating cost per train-kilometre⁵.

The cost items are indicated by taking into account the consumer prices trend throughout the entire contract period as shown in the projections of the Economic and Financial Document (*Documento di Economia e Finanza*).

Although they are “pass-through” charges, the costs of access to the railway infrastructure are estimated by multiplying the kilometric cost, as may be inferred from the data provided by the infrastructure manager for the corresponding kilometres. In addition, the cost of access to rolling stock maintenance and storage facilities is estimated on the basis of appropriate market benchmarks or evidence in the company history.

The reasonable profit is calculated by applying the WACC to the regulatory NIC; this includes a component representing financial charges and taxes since it is calculated before tax.

Step 2 — Revenue items and network effects

For the purpose of the updated evaluation of the items of income in the EFP, the different revenues are assessed in relation to the structure of the tender and the object of the award. The revenue from passenger services (as referred to under item A1) of the income statement in Article 2425 of the Civil Code) shall be estimated based on the charging system approved by the entity (existing and prospective, on the basis of already known guidelines, if any) and on the demand forecast models applied, as well as the operator’s activities aimed at countering evasion/avoidance⁶. Therefore, the

³ Identification of drivers for the allocation of common costs in accordance with the Authority’s decisions. For rail services, reference is made to Decision 120/2018, and for road services to Measure 12 of this regulatory act.

⁴ This refers to the fourth criterion of “Altmark judgement” (Case C-80-00) of the EU Court of Justice.

⁵ The principle of cost-efficiency is also a necessary accounting legal reference of public authorities in the negotiations with third parties.

⁶ The AE may also provide a compensation for reduced tariffs and/or exemptions for specific user categories, to be included under item “1.a Revenue from passenger services” (Scheme 1).

assumed scenarios on which basis the number of passengers is expected to evolve over the entire period of the award shall be clearly expressed, as well as the revenue changes on the basis of the pricing assumptions applied. Furthermore, in addition to the items that may be attributed to activities such as, for example, the sale of advertising space and the sale of food and beverages (as in cost item A5) referred to in Article 2425 of the Civil Code), any *“positive financial effects arising from the fulfilment of public service obligations (PSO)”* should be also taken into consideration.

Step 3 — Assets and liabilities

By filling in Scheme 2 for the determination of the regulatory NIC, as an essential component for the calculation of the reasonable profit, a reasonable profit is added, that takes account *“of the risk, or absence of risk, incurred by the public service operator by virtue of public authority intervention”* (Annex to Regulation (EC) No 1370/2007). Relevant are the balance sheet items (art. 2424 of the Civil Code), such as, for Assets, items “BI), Intangible fixed assets”, “BII Tangible fixed assets”, “CI) Inventories”, and “CII Receivables”; and, for Liabilities, item “D) Payables”. Scheme 2 provides for the breakdown of the assets item “BII — Tangible fixed assets” into: “land and buildings (e.g. warehouses, workshops)” (item BII 1)), “plant and machinery (item BII 2)), and “industrial and commercial equipment” (item BII 3)). Likewise, for the Assets item “CII) Receivables”, two sub-items are also provided: “trade (item “CII” 1))⁷, and “other receivables (BCII) (5-c)). Finally, the Liabilities sub-item “D) Payables” corresponds to “payables to suppliers” under item D7).

Step 4 — Cash flows

The financial statements shall report *“amount and composition of cash [...] and financial flows of the year arising from operations, investments, financing, including operations with shareholders”* (Article 2425b of Civil Code), which, in the case of the tender EFP, shall be noted to highlight the changes throughout the contract period. On account of the purposes and methods of preparation of the tender EFP, with reference to the determination of the operating result through the WACC application, the “direct method” was chosen, that appears to be more appropriate for the assessments required to the TP for the submission of the tender (OIC⁸ accounting principle no. 10).

3. Modular reading of EFP schemes

In the preparation of Scheme 1 in accordance with Steps 1 and 2, §3 of the methodological indications, the cost items of the ordinary operations for the fulfilment of PSO correspond to the total amount of *“3: Total operating costs”* and *“5: Total depreciation”*. In order to determine the reasonable profit, following the completion of Scheme 2 under Step 3, §3, the NIC is identified by item *“4: Regulatory*

⁷ In line with the Authority’s regulatory practice, these receivables are allowed up to 30 % of the eligible regulatory costs referred to under items 3, 5 and 7 of Scheme 1.

⁸ OIC (*Organismo Italiano Contabilità*) is the Italian accounting board (TN).

Net Invested Capital". Compensation is determined in accordance with Scheme 3, on account of the relevance of the financial features of the items calculated by using Schemes 1 and 2, with reference to the following items: "(a) share of operating costs that are not covered by the revenues for fulfilment of PSO (*"D: Expenditure related to costs incurred for the fulfilment of PSO*"), corresponding to the total amount of *"3: Total operating costs"* and *"5: Total depreciation"*; (b) share of revenue generated by the fulfilment of PSO (*"1: Total revenue from fulfilment of PSOs*) and *"2: positive network effects"*, if any; and (C) Regulatory NIC (*"4: Regulatory Net Invested Capital"*), which, multiplied by the WACC, determines the reasonable profit (*"G: Return on invested capital"*). In order to ensure the economic and financial equilibrium of the PSC, taking into account the risk allocation and with a view to pursuing efficiency and reduction of public expenditure, the items of Scheme 3 determine the compensation for the fulfilment of PSOs as referred to under item *"I: Net Financial Effect"*, in case of determination of a variable annual compensation; or *"P: Constant compensation"*, in case of fixed annual compensation⁹, also by verifying that the cost-effectiveness of the tender price complies with the conditions of economic equilibrium set out in the notes to Scheme 3. In addition, when determining the tender price, the AE takes into account additional charges that are not related to the fulfilment of PSO¹⁰.

4. **Values of EFP, standard cost (ministerial decree 157/2018) and efficiency parameters (ART Decision 120/2018)**

Article 27 (8-bis) of Decree-Law No 50/2017 provides that *"standard costs [...] shall be used by the entities awarding local and regional public transport services as a reference to quantify economic compensations and tender prices, [...], as may be adjusted to take into account the specific service and the objectives of the local authorities in terms of service planning and promotion of efficiency in the sector"* (emphasis added). It follows that the standard cost should not be simply applied by the AE, but should be adapted, on the basis of substantiated and objective evidence, to the specific services to be awarded, and to the efficiency objectives pursued by the entity, as also noted in the judgment of the Regional Administrative Court of Lazio No 2732/2019 of 1 March 2019.

It should be considered that this approach is in line with the Preliminary Report of Decision 120/2018: when comparing the standard cost methodology with that of the efficient cost (although it is referred to a sector other than road), it is stated that, while the former applies a linear regression methodology to estimate an average cost, the efficient operating cost applies a more sophisticated benchmarking

⁹ The AE may opt for the use of a compensation at a fixed or variable rate.

¹⁰ E.g. the compensation for reduced charges granted to the CC if not already provided for under item *"Revenue from charges"*.

methodology that identifies the cost by the so-called efficient cost frontier, which is more functional to the identification of “dynamic” objectives of efficiency over time (cf. Step 2 of § 2).

The AE determines the public service compensation or tender price through the simulated EFP. The compensation thus calculated is compared, through the reclassification of the EFP items, with the value obtained from the application of the standard cost for the specific mode, in order to highlight and justify any difference between the two quantities (cf. Step 2 of § 2).

In order to compare, for rail services, the value of the efficient operating cost resulting from the EFP schemes, with the similar value referred to under Decision 120/2018, the following steps shall apply: (1) subtract from item “3: *Total operating costs*”, the costs of access to the infrastructure¹¹; (2) divide the value referred to under (1) by the train-kilometers that are covered by the contract; (3) calculate the efficient cost taking into account the percentage value of the efficiency improvement referred to in Decision 120/2018. The comparison shall be made by comparing (2) with the results under (3).

In order to compare, for both rail and road services, the standard cost value, with the comparable value set out in the EFP schemes, the following steps shall apply: (1) add “G: *Return on invested capital*” to “6: *Net operating income (EBIT)*”; (2) divide the above figure by the bus-km or train-kilometers which are covered by the contract. The comparison shall be made by comparing the value of the standard cost with the results under (2).

¹¹ For this purpose, the item mentioned above shall be explained in Scheme 1 as a sub-item of “3.c: *Cost for use of third-party assets*”.