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MINISTRY FOR EUROPEAN AFFAIRS AND  
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PARLIAMENTARY SECRETARIAT FOR EU  
FUNDS AND SOCIAL DIALOGUE

*Id-Divizjoni għall-Fondi u Programmi*

*Funds and Programmes Division*

## MA Circular 02/2019

**To: RDP Beneficiaries**

**From: Managing Authority, EAFRD**

**Date: 10<sup>th</sup> September, 2019**

**Subject: Timely Release of Retention Money**

This circular sets out the guidance on procedures which are to be followed and applied by beneficiaries, mainly public entities, but not only, in connection with the procurement of works co-financed by the *2014-2020 Rural Development Programme for Malta*, more specifically procedures on retention money.

Retention of money is allowed throughout the term of the contract (such conditions are also to be included at tender dossier stage and shall be respected during the implementation of the project), however it is crucial to remind all beneficiaries that upon completion of contract obligations on the part of the contractor, EU funds beneficiaries are not to retain money (retention money) but 'release' these upon satisfactory provisional acceptance of the contract works; instead, these are to be replaced with a bank guarantee of an equivalent value. This will ensure that the beneficiary utilises all funds committed to them upon completion of the project (the Paying Agency would not be in a position to reimburse payments which have not been passed on to the contractor but retained by the beneficiary, and hence retention money risk being excluded from such reimbursement). Failure on the part of the beneficiary to submit reimbursement claims covering 100% of project eligible cost would result in the beneficiary not claiming 100% of the grant value originally awarded to them.

Therefore, in such instances, the EU funds beneficiary is to release the retention money and request a bank guarantee (of equivalent value) from the contractor to cover for any obligations following the provisional acceptance of works.

In cases of EU co-financed projects, if the beneficiary opts to adopt a system of money retention, the switching of the retention money into a bank guarantee is not optional and therefore, said

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beneficiary is to include such as a condition (of both the retention and the switching of retention money into a bank guarantee, ensuring full payment upon provisional acceptance of works) within the special conditions section of the tender document.

The guarantee replacing the value of the retention money is to be invariably kept valid (i.e. renewed as necessary) until the final acceptance of works.

VAT must not be covered by bank guarantees even in cases where VAT is an eligible project cost.



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