

CONSOLIDATED LEGISLATION

Royal Decree 1067/2015, of 27 November, creating the Spanish State Research Agency and approving its Statute.

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STATUTE OF THE SPANISH STATE RESEARCH AGENCY

CHAPTER I General Provisions

Article 1. *Nature, applicable law, attachment, seat and name*

1. The Spanish State Research Agency, hereinafter the Agency, is a public law entity among those governed by Law 28/2006, of 18 July, on National Agencies for the improvement of public services, with public legal status, its own equity and funding, with functional autonomy and separate administration.

2. Agency actions are subject to the provisions of Law 28/2006, of 18 July; of Law 14/2011, of 1 June, on Science, Technology and Innovation; to the provisions of this Statute and to implementing regulations and also, secondarily, to legislation applicable to public law entities forming part of or overseen by the Central State Government.

3. The Agency is subject to the tax system applicable to autonomous bodies as established in additional provision twelve of Law 14/2011, of 1 June, and is therefore exempt from payment of Corporation Tax, pursuant to Article 9.1 of Law 27/2014, of 27 November, Corporation Tax Act.

4. The Agency is attached to the Ministry for the Economy and Competition through the auspices of the Spanish Secretariat of State for Research, Development and Innovation.

5. The Agency seat is in Madrid.

6. This public law entity is known as the *Agencia Estatal de Investigación, M.P.*¹.

Article 2. *Purpose and objectives.*

1. The Agency purpose is to finance, evaluate, manage and track scientific and technical research activities intended to generate, exchange and exploit knowledge, as fostered by the Central State Government. The Agency may act on either its own initiative or together with other Spanish Administrations or entities, or with those of other countries and international bodies.

2. The Agency objectives comprise the fostering of scientific and technical research in all areas of knowledge through the efficient allocation of public resources, the promotion of excellence, duly encouraging cooperation between the System agents and providing support for generating high impact scientific and technical, economic and social knowledge, including knowledge aimed at resolving the most serious challenges facing society. The Agency is also responsible for tracking the financed activities and providing advice as required to improve the design and planning of actions or initiatives used to instrument the Central State Government R&D policies.

Article 3. *Administrative Powers.*

1. Pursuant to applicable law and to this Statute, the Agency may exercise its administrative powers as required to achieve the Agency purpose and objectives, other than legal authority to expropriate or regulatory power.

2. The Agency may issue internal operating rules implicit in exercising the Agency self-organisation authority.

Article 4. *Administrative collaboration.*

1. As part of the process of exercising its allocated powers to achieve its purpose and objectives, the Agency will collaborate with other Central State Government bodies and other Public Administrations, as well as with entities attached to or overseen by them and shall establish the

¹ Spanish State Research Agency

necessary relationships both with the aforesaid entities to ensure coordinated actions and, especially, with the Centre for Industrial Technological Development (CDTI²) as the latter is responsible for promoting innovation under Article 45 of Law 14/2011, of 1 June.

2. The Agency may enter into collaboration agreements with other public or private, national or foreign entities, and also with international bodies, within the implicit range of its purpose and objectives.

CHAPTER II Functions and Remit

Article 5. Functions.

The Agency will perform the following functions to achieve its purpose and objectives:

a) Administration of programmes, instruments and actions assigned to the Agency within the framework of State Scientific, Technical and Innovation Research Plans; any other function expressly assigned to the Agency by the Central State Government or as arising from collaboration agreements entered into with other entities or other actions, through the objective and impartial allocation of available resources.

b) The Agency will organise and manage scientific-technical evaluation of proposals, actions and initiatives, *ex ante* and *ex post*, whenever evaluation criteria used will be based on internationally recognised scientific and technical merit or on criteria established in the corresponding calls for competition.

c) Verify, track and subsequently evaluate activities financed by the Agency, and their scientific, technical and socio-economic impact, as well as monitor document evidence confirming fulfilment of conditions and achievement of purposes in relation to grants received.

d) Communicate and disseminate the outcomes of evaluations carried out.

e) Track administration, financing, documentation and results of all actions performed directly by the Agency, and provide advice in that regard.

f) Take part in meetings and national and international gatherings on the subjects comprising the Agency purpose and objectives, and act as representative when required to do so by the Ministry for the Economy and Competition at fora on R&D+i policies. Agency involvement at international fora will be coordinated with the Spanish Ministry of Foreign Affairs and Cooperation when necessary.

g) Dissemination and communication of the outcomes of the Agency activities and results of research financed by the Agency.

h) Manage actions intended to foster collaboration, exchange, circulation, dissemination and exploitation of scientific and technical knowledge among the System agents.

i) Perform activities or provide services as instructed by the Central State Administration or, subject to contracts, agreements and general legal transactions, through other entities.

j) Manage R&D actions financed from European funds and those arising from Spanish participation in international programmes.

k) Economic and budgetary administration and economic-financial control of instruments and actions corresponding to the Agency.

l) Any other function the Agency is instructed to perform.

CHAPTER III Action principles

Article 6. Basic action principles.

The Agency shall adhere to the principles of general interest applicable to all actions by all public Administrations and is additionally governed by the following basic principles when performing specific Agency functions:

a) Autonomy, in the sense of Agency capacity, pursuant to the terms set out in this Statute, to

² Centro para el Desarrollo Tecnológico Industrial (CDTI)

manage the resources made available to the Agency for achieving the objectives undertaken.

b) Technical independence, based on training, specialisation, professionalism and individual responsibility of personnel working for the Agency, who are expected to uphold the applicable values of competence, professional ethics and public liability.

c) Objectivity in assessing the scientific, technical or innovative merit of all Agency actions. Assessments will be made by applying previously established criteria, known to all and based on international and commonly accepted standards, such as evaluation by national and international pairs or scientific and technological panels of renowned prestige.

d) Transparency of all Agency administrative actions and its public officers duly meeting all good governance obligations; rendering of accounts and commitment to filing specific and complete data with regard to all results and procedures used for administration purposes.

e) The Agency must act effectively, committing all resources available to achieve the Agency purpose and objective as defined in this Statute.

f) Efficient allocation and use of public resources and continuous quality evaluation of management processes and action protocols, achieved whilst adhering to criteria of legality, rapidity, simplicity and electronic accessibility, without prejudice to necessary rigour.

g) Inter-institutional co-operation, referring to the principle of seeking synergies by collaborating with other Administrations, as well as with public and private, national and international agents and institutions, to promote knowledge across all areas.

h) Gender equality. The Agency must promote the gender perspective, with a balanced composition of men and women across the Agency bodies, boards, committees and activities pursuant to Organic Law 3/2007 of 22 March, for the effective equality of men and women, as well as additional provision thirteen of Law 14/2011, of 1 June.

CHAPTER IV Organic structure

Section 1. Governance bodies

Article 7. Governance bodies.

The Agency governance bodies comprise the Chairman and Executive Board.

Article 8. Chairman

1. The Agency is chaired by the incumbent minister at the Secretariat of State for Research, Development and Innovation.

2. The Agency chairman has the following functions:

a) Highest representative of the Agency at the institutional and legal levels; Chair of the Executive Board; responsible for ensuring fulfilment of the Agency purpose, objectives and functions.

b) Responsible for convening Executive Board meetings.

c) The Chairman will have the deciding vote if an outcome is tied, for adopting resolutions within the Executive Board.

d) Present the annual report on Agency activities to the Executive Board.

e) Update competent ministerial departments and other State institutions on the performance and fulfilment of Agency objectives established the management Agreement.

f) Enter into collaboration agreements, protocols of understanding, performance agreements and legal instruments of all kinds giving rise to undertakings and obligations for the Agency, without prejudice to delegating such responsibilities as appropriate.

g) The Chairman must seek authorisation from the Ministry of Finance and Public Administrations for any budget variations required.

h) Submit proposals to the Executive Board to appoint or dismiss the Agency director.

i) Propose the appointment of Monitoring Committee members to the Executive Board.

j) Exercise all other authority and functions assigned to the Chairman in this Statute, by the Executive Board and in accordance with current legislation in force.

3. The Chairman may delegate powers to represent the Agency before Central State Government bodies and before other Administrations and institutions or entities with which the Agency maintains a relationship, to be exercised by the Agency director and only when the powers may be delegated. The Chairman may also delegate his or her corresponding authority to sign agreements, contracts and legal transactions, subject to terms and conditions and limits to be established in each instance.

4. Pursuant to Article 39.3 and additional provision fifteen of Law 6/1997, of 14 April, on the Organisation and Operation of the Central State Administration, rulings handed down by the Chairman conclude administrative proceedings.

Article 9. Executive Board.

1. The Executive Board is the Agency collegiate governing body.
2. The Executive Board is comprised of:

The Agency Chairman, who will chair the Executive Board, and Committee Members as follows:

- a) Agency Director.
- b) Minister at the General Secretariat for Science and Innovation.
- c) One representative from the Ministry for the Economy and Competition, having at least the status of General Director, assigned by the Minister.
- d) General Director of the Centre for Industrial Technological Development (CDTI).
- e) Director of Carlos III Health Institute³.
- f) One representative from the Ministry of Finance and Public Administrations, having at least the status of General Director, assigned by the Minister.
- g) One representative from the Ministry for Education, Culture and Sport, having at least the status of General Director, as designated by the Minister.
- h) One representative from the Ministry for Industry, Energy and Tourism, having at least the status of General Director, assigned by the Minister.
- i) One representative from the Ministry for Health, Social Services and Equality, having at least the status of General Director, assigned by the Minister.
- j) Two scientists or technological experts of renowned prestige designated as proposed by the Agency President. The latter shall serve for a three year mandate, which may be renewed once.
- k) Two R&D+i experts appointed as proposed by the Advisory Council for Science, Technology and Innovation. They shall serve for a three-year mandate, which may be renewed once.
- l) One workers' representative appointed by the trade union organisations with the largest representation in the Central State Administration. He or she shall serve for a three-year mandate, which may be renewed once.

3. The Executive Board members will be appointed by the Ministry for Economy and Competition.

4. The Secretary will attend sessions with voice but without a vote.

5. The Executive Board will meet at least once every three months and extraordinary sessions may be held as decided by the Executive Board chair or if requested by at least half the Executive Board members.

6. Pursuant to Article 39.3 and to Article 2 of Law 28/2006, of 18 July, on National Agencies for the improvement of public services, resolutions of the Executive Board conclude the administrative process.

7. As for any matters not provided in Law 28/2006, of 18 July, or in this Statute, the Executive Board shall act, insofar as applicable, pursuant to the provisions established in Chapter II, Title II of Law 30/1992, of 26 November, on the Legal System applicable to Public Administrations and Common Administrative Procedure.

Article 10. Executive Board functions.

The Executive Board has the following functions:

³ Instituto de Salud Carlos III

- a) Track, oversee and monitor State Agency actions at the higher levels.
- b) Approve the Management Agreement proposal.
- c) Approve the annual and multiple year action plans drawn up by the Director; Agency strategic objectives and operations, as well as procedures, criteria and indicators for measuring compliance and the degree of effective management.
- d) Appoint and dismiss the Agency Director, upon proposal by the Chairman.
- e) Monitor management by the Director, requiring performance of the tasks for which the Director is responsible. The Executive Board may separate the Director from the position for serious negligence of the Director's functions.
- f) Approve the preliminary draft of annual budgets, contracting of any multiple year obligations within the limits established in the Management Agreement, as well as the annual audited accounts and, as the case may be, distribution of financial year results in accordance with legislated budget rules.
- g) Approve annual and multiple year activity reports and any extraordinary reports deemed necessary, evaluating results obtained and noting any defects observed.
- h) Appoint members to the Monitoring Committee.
- i) Appoint and dismiss members of the Scientific and Technical Board and suggest renewals in the terms laid down in Article 14.2.
- j) Approve planned personnel requirements, selection criteria and procedures in that regard, bearing in mind the provisions established in the Management Agreement.
- k) Approve the list of Agency positions, within the action framework for human resources established in the Management Agreement, and place on public record the proposal for the annual Agency employment figures, to be included as available civil service positions.
- l) Approve appointment and dismissal, as proposed by the Director, of Agency management personnel and of criteria for calculating performance-related remuneration incentives, pursuant to the provisions of the Management Agreement.
- m) Pass on proposals to amend the Agency organisational structure.
- n) Approve the general framework for assigning Agency competences for agreeing collaboration agreements with other public or private, national or foreign entities, and also with international bodies.
- o) Any other functions corresponding to the Executive Board under current legislation in force.

Article 11. Secretary.

The Executive Board will appoint a Secretary from among career civil servants in sub-group A1 bodies or grades. The Secretary will attend meetings with a voice but no vote. The Secretary will perform the functions established in Article 25 of Law 30/1992, of 26 November.

Section 2. Governing body

Article 12. Director.

1. The highest governing body of the Agency is the Agency Director. The Agency Director is appointed and may be separated by the Executive Board upon proposal by the Chairman, having duly heard the Scientific and Technical Board. The following criteria will be especially taken into account when selecting the Agency Director: renowned prestige and experience in scientific and technical research at both the national and international levels; experience in executive posts, and knowledge and experience of managing R&D policies. The Agency director is deemed a senior officer for the purposes of Law 3/2015, of 30 March, governing the exercise of senior officer positions in Central State Government, and implementing regulations, and also for remuneration purposes, pursuant to the relevant sections of legislation on General State Budgets. The Director will be initially mandated for a three-year period, renewable one time, without prejudice to the provisions established at Article 10. d).

2. The Director will carry out the following functions:

- a) Ordinary direction and management of the Agency, within the framework of the functions

designated in this section and any other expressly assigned functions.

- b) Prepare and put the Agency Management Agreement proposal to the Executive Board.
- c) Prepare and put the Agency strategic and operational objectives to the Executive Board together with procedures, criteria and indicators for measuring whether these are being met, measuring management effectiveness.
- d) Prepare and put the annual action plan to the Executive Board and direct and coordinate activities as required to develop the Agency functions.
- e) Prepare and put the preliminary Agency budget proposal to the Executive Board.
- f) Draw up the annual accounts for consideration by the Executive Board, together with the Auditor's Report.
- g) Agree any variations to the budget deemed necessary and not subject to authorisation by the Ministry of Finance and Public Administrations, and propose any variations that do require such authorisation to the Chairman.
- h) Authorise funds for disbursement of expenses, acknowledge obligations and order corresponding payments, with good reason, and rendering account of these to the Executive Board.
- i) Propose changes to limits on cost undertakings, to be charged against future financial years, with good reason, and give account of these to the Executive Board.
- j) Put the annual report on ordinary and extraordinary Agency activities to the Executive Board.
- k) Draw up and put a monthly report on budget performance status to the Monitoring Committee.
- l) Enter into contracts subject to such terms and conditions and limits as may be established in each instance, rendering account of this to the Executive Board.
- m) Propose the appointment and dismissal of Agency executives to the Executive Board.
- n) Calculate Agency staffing requirements; propose the list of jobs and criteria for selecting employees to the Executive Board. Decide calls to compete when offering civil service jobs and contract employees.
- o) Propose criteria for calculating Agency personnel performance incentives to the Executive Board.
- p) Appoint and dismiss the collaborators and experts referred to in Article 28.6 of this Statute.
- q) Represent the Agency as an institution and as legal representative, in instances not covered by the Chairman and when those functions are not expressly assigned to another.
- r) Seek reports from and consult the Scientific and Technical Board as necessary for the Agency to operate properly.
- s) Any other function assigned to the Agency Director by the Executive Board.

3. Competences corresponding to the Agency Director may be delegated to executive personnel and to other internal Agency bodies, except those referred to in sections a), b), c), e), f), g), h), l), m) and p) and any that may not be delegated by law or given their nature.

4. If the position of Agency Director is vacant, or if the Director is absent or ill, the director's tasks will be carried out by the Director of the Financial and Administrative Planning and Management Department who shall act as deputy; also, by default and in this order, by the Director of the Scientific and Technical Coordination, Evaluation and Monitoring Department or by the General Secretary.

5. Pursuant to Article 39.3 of this Statute and Article 2 of Law 28/2006, of 18 July, on State Agencies for the improvement of public services, resolutions of the Agency Director conclude the administrative process.

Section 3. Monitoring Committee

Article 13. Monitoring Committee.

1. The Agency Monitoring Committee comprises four Executive Board members, assigned by the Executive Board from among members without direct responsibilities for managing the Agency, having the necessary knowledge or experience in budget management and monitoring economic-financial activity in the public state sector.

2. The Executive Board will appoint the Monitoring Committee Chairman and the secretary to the Executive Board will act as secretary to the Monitoring Committee, duly attending meetings with voice

but no vote.

3. The Agency Delegated Auditor, a representative of the corresponding Services Inspectorate and the Agency General Secretariat minister will attend Monitoring Committee meetings, with voice but no vote.

4. The Monitoring Committee will meet at least once every two months and will hold an extraordinary session whenever the Monitoring Committee Chairman deems it appropriate or at the request of the Executive Board.

5. The Monitoring Committee has the following functions:

a) Report to the Executive Board on performance of the Management Agreement and budget performance.

b) Present economic-financial, budget and accounting reports to the Executive Board that must be submitted to the Executive Board for consideration or approval.

c) Keep aware of information the Agency must draw up and forward to competent entities as prescribed in economic-financial, budget-related and accounting legislation, and monitor observance.

d) Analyse the outcomes of evaluation and monitoring activities carried on by any of the Agency monitoring bodies referred to in Article 37; analyse and propose corrections the Monitoring Committee deems necessary.

Section 4. Advisory body

Article 14. Scientific and Technical Board.

1. The Scientific and Technical Board is the permanent Agency collegiate consultation and advisory body.

This Board comprises twelve members, appointed and dismissed by Executive Board, as proposed by the Agency Chairman from among experts of renowned international prestige. Due consideration must be given when selecting Scientific and Technical Board members to provide a balance spanning all the major areas of knowledge. Board members will be appointed on the principle of a balanced presence of men and women unless there are good and objective reasons not to do so, in which case the grounds must be stated. The Scientific and Technical Board will select a chairperson by the procedure established in internal Board rules.

2. Scientific and Technical Board members will serve a six year mandate, with one third of board members renewed every two years. The first third of board members to be renewed will be decided by drawing of lots.

3. The Scientific and Technical Board will ordinarily meet every four months and extraordinarily whenever the Board Chairman deems necessary or at the request of the Executive Board Chairman. An Agency officer will act as secretary to the Scientific and Technical Board and will attend meetings with voice but no vote.

4. The Scientific and Technical Board may not imply any increase in public spending. Personnel resources technical resources and ordinary budget resources will be assigned by the Agency for the Scientific and Technical Board to operate.

Specifically, this Board may not give rise to any increases to endowments, remuneration or any other personnel costs.

Article 15. Scientific and Technical Board functions.

The Scientific and Technical Board has the following functions, in addition to those established at Article 12.1:

a) To provide advice on the Management Agreement and annual activities schedule, as well as Agency fostering and promotion activities.

b) To make recommendations on principles, methodologies and scientific and technical evaluation practices governing the Agency actions, incorporating international standards.

c) To advise the Agency Chairman, the Executive Board and the Agency Director on tracking, outcomes and impact of Agency actions.

- d) To advise the Agency Director when defining selection criteria for the collaborators and experts referred to in Article 28.6 of this Statute.
- e) To advise and provide support in relation to matters submitted to consideration of the Scientific and Technical Board by the Agency Chairman, Director and/or the Executive Board; also, to draw up reports at the request of those bodies.
- f) To be aware of and evaluate the annual report on Agency ordinary and extraordinary activities.
- g) Any other function allocated to the Scientific and Technical Board by the Executive Board.

Section 5. Organisational structure

Article 16. Basic structure.

1. The Agency structure, hierarchically below the Agency Director, comprises a Scientific and Technical Coordination, Evaluation and Monitoring Department, a Financial and Administrative Planning and Management Department, and a General Secretariat.
2. The Scientific and Technical Coordination, Evaluation and Monitoring Department is further sub-divided into scientific-technical divisions: the Sub-department for Coordination and Evaluation; a Sub-department for Scientific-Technical Based Programmes and the Sub-department for multi-disciplinary Scientific-Technical Programmes, Strengthening and Excellence.
3. The Financial and Administrative Planning and Management Department is further subdivided as follows: a Sub-department for Administrative Planning and Management; Sub-department for Financial and Budget Management; the Sub-department for Monitoring and Economic Justification for Grants and the Sub-department for Managing European Funding Grants.
4. Heads of the Agency General Secretariat, of Departments and of the Sub-departments, are deemed executives for the purposes of Article 30.

Article 17. Scientific and Technical Coordination, Evaluation and Monitoring Department.

1. The Scientific and Technical Coordination, Evaluation and Monitoring Department has the following functions:
 - a) Planning Agency activities, drawing up and monitoring the annual action plan.
 - b) Coordinating and drafting the Agency annual activity report.
 - c) Coordinating actions of the Spanish State Research Agency with the Centre for Industrial Technological Development and with all other financing bodies both in Spain and at the international level, within the scope of the functions assigned in this Article.
 - d) Dissemination of Agency results and activities across society.
 - e) Keeping statistical databases and providing support for responses to external queries regarding financial assistance provided.
 - f) Establishing scientific-technical criteria, principles, methodologies and evaluation procedures applicable across the various fields of Agency actions and, as the case may be, supported by advice from the Agency Scientific and Technical Board.
 - g) *Ex-ante* organisation, coordination and management of scientific-technical evaluation proposals using internationally recognised procedures as well as criteria established in the corresponding calls to competition.
 - h) Definition of content, modalities and requirements for calls to competition for corresponding financial assistance for national plan programs allocated to the Agency by legal instruments established as the system for allocation of resources.
 - i) The organisation, coordination, management and performance of scientific-technical monitoring and evaluation *ex post* of actions financed by the Agency. Also, the *ex ante* evaluation of calls to competition requiring scientific-technical evaluation by a panel.
 - j) Coordination and preparation of reports and studies on scientific-technical, social and economic impact of Agency actions.
 - k) Provision of information to citizens and relationships with end users of the managed proposals in accordance with procedures generally established by the Agency.
 - l) Management of actions intended to promote collaboration between the public sector and the

private sector, and all actions intended to promote the exchange of knowledge among agents in the Spanish Science, Technology and Innovation system.

m) Planning, coordination and scientific and technical monitoring of actions arising from collaboration agreements, joint scheduling activities and other national and international Agency agreements.

2. The Scientific and Technical Coordination, Evaluation and Monitoring Department is subdivided into the following scientific-technical departments:

a) Sub-department for Coordination and Evaluation, responsible for organising *ex ante* evaluation procedures and for applying standards, principles and criteria set out in the calls to compete and actions managed by the Agency. This Sub-department guarantees transparency, objectivity and impartiality of the selection procedure for applications, applying a process of review by pairs and/or panel. Specifically, this Sub-department will perform the functions set out in paragraphs f) and g) in the previous section.

b) The Sub-department for Scientific-Technical Based Programmes is responsible for managing grants allocated by the Agency and carrying out scientific-technical tracking in that regard as well as actions instructed as required in scientific-technical areas defined in the corresponding national plans, meeting the needs of the scientific community and the main social and economic challenges faced by Spain. Specifically, this Sub-department will perform the functions referred to at paragraphs h), i), j), k), l) and m) in the previous section, insofar as the corresponding scientific-technical areas.

c) The Sub-department for Transversal Scientific-Technical Programmes, Strengthening and Excellence is responsible for managing and carrying out scientific-technical monitoring of grants given and other actions as instructed by the Agency in scientific-technical fields which, given their characteristics, have no defined subject guideline and are intended to upgrade and transform the Spanish Science, Technology and Innovation System, promoting excellence and generating scientific-technical capabilities. Specifically, this Sub-department will perform the functions set out at paragraphs h), i), j), k), l) and m) in the previous section, insofar as the corresponding areas of action.

d) The Department head will assume coordination of sub-departments, as well as any functions referred to in the previous section not expressly allocated to any of them.

Article 18. Financial and Administrative Planning and Management Department.

1. The Financial and Administrative Planning and Management Department has the following functions:

a) Planning and financial management, organising and making payments deriving from Agency actions.

b) Agency actions arising from collaboration agreements and other agreements entered into with national and international bodies.

c) Monitoring application of national grants and subsidies.

d) Economic-financial monitoring and tracking of financed actions and grants provided by the Agency, as well as any for which the Agency is responsible, including tracking and monitoring loans and bank guarantees.

e) Planning, coordination, management and tracking of Agency actions co-financed from European funds.

f) Certifications from the European Regional Development Fund (ERDF) and the European Social Fund (ESF).

g) Operational management of administrative procedures for the provision of grants and subsidies and for preparing and requesting as many reports as deemed necessary to decide these as well as actions the Department considers are required.

2. The Financial and Administrative Planning and Management Department is sub-divided as follows:

a) The Financial Management Sub-department, which performs functions related to paragraphs a) and b) in the previous section, duly coordinating with the General Secretariat.

b) The Sub-department for monitoring and Economic Justification for Grants, which performs functions related to paragraph d) in the previous section.

c) The Sub-department for Managing European Funding Grants, which performs functions

related to paragraphs e) and f) in the previous section.

d) The Sub-department for Administrative Planning and Management, which performs functions related to paragraph g) in the previous section.

e) The Department Head is responsible for coordinating the Sub-departments and the functions related to paragraph c) in the previous section.

Article 19. General Secretariat.

1. The Agency Director is directly answerable to the General Secretariat.

2. The Secretariat functions are as follows:

a) Management and administration of human resources including selection of employees, managing social actions and human resources training, supervised by the Director and following criteria and guidelines established by the Executive Board.

b) Processing contract dossiers for purchasing goods and services, authorising materials and, especially, management and provision of software resources, as well as the analysis, design, implementation, maintenance and management of necessary software tools required for necessary processes implicit in Agency functions.

c) Budget management, including revenue and expenses, receiving and making payments and managing the Agency cash and banks.

d) Creating and keeping tangible and intangible asset inventories updated, both Agency owned and those assigned; safeguarding the aforesaid assets and processing dossiers on purchasing, lease, assignment and/or descriptions.

e) Security, internal rules and regulations, general affairs and coordinating and inspecting Agency units, facilities and services.

f) Investigating sanction proceedings within the scope of Agency competences and relations with the Courts of Justice.

g) Planning and executing the prevention of risks at work policy, including organising and supervising the prevention service.

h) Exercising administrative powers deriving from Agency functions, managing Agency resources and personnel, as well as managing horizontal matters not allocated as specific competences assigned to other Agency units, and all other powers assigned to the Agency under legal or statutory provisions.

i) Performing all functions delegated by the Director, subject to the limit established in Article 12.4.

3. Without prejudice to any responsibilities designated in this Statute to other Agency bodies, the General Secretariat is responsible for coordinating activities involved in drawing up the Management Agreement.

CHAPTER V

Management agreement and annual action plan

Section 1. Management agreement

Article 20. Nature and purpose.

1. The Management agreement governs the Agency activity and reciprocal relationships between Agency and the Central State Government insofar as funding the Agency activity, and is subject in all regards to the general and specific legislative framework in force during the Management agreement term.

2. Each Management agreement will remain in force for four years.

3. The Agency Director is responsible for drawing up the draft Management for submission to the Executive Board, which is responsible for the final proposal after due debate and possible amendment. The proposal must then be submitted to the Minister for the Economy and Competition and to the Minister of Finance and Public Administrations.

4. The Management Agreement must be approved on the joint instructions from the Minister

directly responsible for the Agency and the Minister for Finance and Public Administrations, who will issue their decision within a maximum period of three months calculated from the proposal submission date. If the Management agreement is not approved within that time period, the earlier Management agreement will continue in force.

Article 21. Management agreement content.

The Management agreement shall contain at least the following:

- a) Aims and objectives sought and plans necessary to achieve these, specifying the corresponding time frameworks.
- b) Desired outcomes, procedures, criteria and indicators for measuring when these have been met.
- c) Action framework for human resources management, including: ascertaining personnel requirements throughout the management agreement term, including planned provision of full-time staff; nature and characteristics of Agency jobs and personnel remuneration.
- d) Deciding personnel, material and budget resources to be provided by the Central State Government to achieve the Agency aims and objectives, established over a multi-year plan.
- e) Defining responsibility criteria required of the Agency director, management and executive staff, as well as mechanisms for ensuring those responsibilities are met.
- f) Effects associated with the extent of compliance with established aims and objectives, insofar as the following aspects: amount of salary provision allocated as productivity supplement or equivalent concept for employees, and liability with regard to the Agency director and executive management.
Notwithstanding the above, the Ministry for Finance and Public Administrations is responsible for annual authorisation of productivity supplement amounts or equivalent concept for employees, calculated using the procedure decided and approved in the Management agreement.
- g) The procedure to be followed to cover annual deficits that may arise due to insufficient actual revenue, with regard to estimated revenue, and the consequences of administration liability, to be applied in the event of any such deficit that may arise.
- h) The procedure to apply any applicable annual amendments or adjustments, as the case may be.

Article 22. Annual amendments and adjustments.

If annual amendments or adjustments impact the results that will be obtained, or arise as a consequence of additional general action plans supplementing the current Management agreement in force, it will be agreed to amend the Management agreement as set out in Article 20.4.

Section 2. The annual action plan, activity report and annual accounts

Article 23. The annual action plan, activity report and annual accounts.

1. The Agency Director will draw up the annual action plan, general activity report and annual accounts, to be submitted for approval to the Executive Board within the deadlines established in Article 15 of Law 28/2006, of 18 July.
2. The following activities will be included, *inter alia*, into the annual action plan:
 - a) Activities related to training, methodology and for deciding Agency activities management indicators.
 - b) Activities related to management, tracking and monitoring actions for which the Agency is responsible in relation to scientific and technical research and innovation, according to the Agency purpose and functions.
 - c) Activities related to organising and managing scientific-technical evaluation of proposals requiring finance, to be charged to programs and legal instruments allocated to the Agency or as arising from collaboration conventions and agreements.
3. Information on the annual action plan, general activity report and annual accounts is displayed on the Agency website.

CHAPTER VI
Contracting and patrimonial legislation

Article 24. Contracting.

1. The Agency contracting regime is established in legislation applicable to public sector contracts.

2. The Agency is deemed a resource and technical service forming part of the Central State Government and its Public law bodies and institutions, and may be mandated to perform any tasks and work included into the Agency remit.

3. The Agency is obliged to carry out management tasks as instructed and defined, in each instance, in projects, memoranda and other technical documents duly evaluated in accordance with tariffs and remuneration established by the Ministry for the Economy and Competition. Tariffs calculated to represent performance costs.

Before instructing the Agency, the competent bodies have to approve the aforesaid documents and perform compulsory technical, juridical, budgetary, supervisory steps, as well as approve the cost. Each compulsory Agency instruction is formally notified by the instructing body, including the appropriate background information: instructing entity name, performance period, amount, corresponding budget item and, as the case may be, the number of financing years and the respective amounts; also, stating which Director is responsible for performance of the action. The Agency will also be given a document defining the action, together with a detailed budget.

A notice communicating instructions for Agency action amounts to an order to commence the action. The Agency will act in line with the defining document provided by the instructing body and will follow the indications of the designated director for each action.

When each action is concluded, it will be acknowledged and checked according to the legally established terms and the corresponding document issued. The Agency charge in that regard will be settled within a maximum further six months.

4. The Agency, as a proprietary resource of the Central State Government and its Public Law bodies and institutions, may not enter public bids for tender called by any of the latter, without prejudice to agreeing to provide the subject of such bids for tender in instances if no bids are submitted.

5. The Agency may, in carrying out the aforesaid compulsory actions, seek the collaboration of private businesses in the terms established in applicable public sector contracts law. The extent of private business collaboration may not amount to or exceed 50 percent of the total value of the project, supplier or service to be provided.

6. Legal provisions on public sector contracting will similarly apply to all matters not specifically referred to in this Article or expressly governed within the management instructions, to decide any considerations arising in relation to technical incidents arising during the Agency instruction performance period. Any aspects deemed incompatible with the instrumental nature of the relationship, given their characteristics, will not apply.

Article 25. Patrimonial Legislation.

1. For the fulfilment of its purposes, the Agency is provided with its own equity, separate to that of the Central State Administration, comprising the totality of assets and rights in which regard the Agency is the titleholder.

2. Management and administration of the Agency proprietary assets and rights, as well as any pertaining to the National Patrimony and allocated to the Agency for the fulfilment of its purposes, must adhere to the provisions established for public bodies in Law 33/2003, of 3 November, on the Patrimony of Public Administrations, and implementing regulations.

Article 26. Proprietary and allocated Assets.

1. The Agency may acquire all kinds of assets and rights in any manner permitted in law.
2. A prior favourable report is required from the Ministry of Finance and Public Administrations before any intangible assets or related rights can be purchased.
3. Management and administration of Agency proprietary assets and rights, as well as any pertaining to the National Patrimony and allocated to the Agency for the fulfilment of its purposes, must adhere to the provisions established for public bodies in Law 33/2003, of 3 November.

Article 27. Inventory.

The Agency must create and continually updated its inventory of proprietary and assigned assets and rights, except for any fungible commodities, as established in Law 33/2003, of 3 November. Annual review of Agency inventory will be drawn up, with reference to 31 December, and submitted to the Executive Board for approval.

CHAPTER VII Personnel Legal regime

Article 28. Personnel Legal regime.

1. Agency personnel are bound to the Agency by relationships subject either to administration law or employment law, as applicable, and always subject to the provisions of the recast wording of the Law governing the Public Employees Basic Statute, passed into law in Royal Legislative Decree 5/2015, 30 October.
2. Civil servants are subject to the same governing legislation as applies to civil servants working in the Central State Administration, including the special provisions referred to in Law 28/2006, of 18 July and this Statute.
3. Employees are governed by the recast wording of the Workers Statute, passed into law in Royal Legislative Decree 2/2015, of 23 October, and other employment law, as well as applicable contractual rules and the legal principles referred to both in Law 28/2006, of 18 July and in the recast wording of the Basic Statute on Public Employees.
4. Personnel employed according to the Agency Statute are governed by legal regime applicable to public employees of the Central State Administration, with the special provisions of Law 28/2006, of 18 July, and also by this Agency Statute.
5. Agency positions are generally filled by Central State Administration civil servants, and only posts expressly established as such on the list of available positions may be held by employees subject to Labour law, without prejudice to the matters set out in this Agency Statute applying to management positions. At all events, the Agency list of positions takes into account the provisions of Article 9.2 of the recast wording of the Public Employees' Statute.
6. The Agency may also provisionally engage full-time or part-time technical scientific collaborators pursuant to Article 19 of Law 14/2011, of 1 June.
7. The same restrictions and conditions generally established in legislation applicable to the Central State Administration and other administrations or public bodies for availability of work positions applies to mobility of civil servants in Agency positions. Performance requirements will also be established for each individual post in accordance with that legislation.
8. Agency personnel will work full-time and only for the Agency, with full autonomy and total objectivity. They are subject to task-related performance assessments, based on criteria of efficacy, efficiency, compliance with the law, responsibility for management and monitoring of results in relation to aims and objectives established in the management Agreement.

Article 29. Work positions organisation.

1. The Agency list of positions must establish basic elements for each post within the scope of the recast wording of the Public Employees' Statute.
2. The Agency Director is responsible for drawing up the list of available positions, for approval by the Executive Board as part of the human resources actions remit established in the Management

agreement. All positions listed must adhere to the principles set out in the recast wording of the Public Employees Statute, Julie establishing the conditions under which each work position will be provided.

Article 30. Professional managers.

1. The following are deemed Agency management positions, in view of their personal responsibilities, technical competence and importance of tasks assigned: Department managers, Sub-department managers and the General Secretariat.

2. Management personnel are appointed and dismissed by the Executive Board on the basis of proposals put by the Agency Director. Management personnel will be appointed bearing in mind criteria of professional competence and experience, from among career civil servants in sub-group A1 bodies or grades, using procedures that serve to guarantee the principles of equality, merit, capability, public notification and gender equality. In instances established in Agency internal operational rules, the job appointments procedure will be led by specialist selection bodies constituted for the purpose and the latter must submit a reasoned proposal putting forward three suitable candidates.

3. Management personnel are subject to assessment applying criteria of efficacy, responsibility for management and monitoring outcomes against aims and objectives established in the Management Agreement. Productivity and incentives for managers are linked to that assessment. The Executive Board is responsible for establishing criteria to act as the basis for distributing that remuneration.

4. Pursuant to Article 13.4 of the recast wording of the Public Employees' Statute, terms and conditions for employing managers are not deemed subject to collective bargaining arrangements.

Article 31. Remuneration regime.

1. Civil service personnel are paid in accordance with legislation governing the Central State Government civil servants, and their salaries established within the framework of the corresponding Management Agreement, in accordance with the aforesaid legislation and with annual General State Budget rules.

2. Employee pay terms and conditions will be as agreed in applicable collective bargaining agreements and in the respective employment contracts, with setting salaries within the framework of the Management Agreement, in accordance with legislation applicable to Central State Government employees and with annual General State Budget rules.

3. The sum available as salary payments for production incentives, or the equivalent employee concept, is bound in all instances to the extent to which the aims and objectives established in the Management agreement are met. At all events, all such amounts must be approved in advance by the Ministry of Finance and Public Administrations.

4. A work position assessment system is established as part of the human resources management framework, as an objective instrument for allocating the production incentives referred to in the previous point.

The assessment system will permit evaluation of the collective performance by units as a whole, as well as individual assessments of each employee.

CHAPTER VIII

Budgetary, economic-financial, accounting and monitoring regime.

Article 32. Finance.

1. The Agency is financed from the following resources:

- a) General State Budget amounts allocated for Agency purposes;
- b) Agency own funds received in consideration for Agency activities performed, through the auspices of contracts, agreements or legal provisions, on behalf of other public or private natural or legal entities;
- c) Disposal of assets and values forming part of Agency equity.
- d) Yields from Agency assets and securities.
- e) Voluntary contributions, donations, inheritances, legacies and other provisions without onerous

consideration from private entities and individuals.

- f) Revenue from natural and legal persons sponsoring Agency activities and facilities.
- g) Other public and private law revenue the Agency is authorised to receive.
- h) Any other resource allocated to the Agency.

2. Resources arising under b), e), f) and g) in the previous section, and not initially included into the Agency budget, may be used to finance increased costs, as decided by the Agency Director.

3. All other revenue received by the Agency for the provision of services or performance of Agency activities is deemed private income, if not considered as public rates or prices under general legislation.

Article 33. *Borrowing.*

The Agency may take out credit or loans as necessary to cover temporary cash flow difficulties, on condition that the active balance of such credit or loan arrangements never exceeds five percent of the Agency budget. Cash flow difficulties are deemed to refer, in this instance, to lack of liquidity that can arise from time to time and as an exception.

Article 34. *Budgetary regime.*

1. The Executive Board will approve a preliminary budget proposal put forward by the Agency Director, as provided in the Management Agreement or in accordance with the initial proposal contained in the Management Agreement, and structured according to the format used by the Ministry of Finance and Public Administrations. The proposal will then be forwarded to the Ministry for the Economy and Competition for review, and will be passed on by the latter to the Ministry of Finance and Public Administrations. Following analysis by the second Ministry department, the preliminary proposal will be included into the General State Budget for approval by the Council of Ministers and forwarded to the Spanish Parliament as part of the consolidated budget including all entities in the public state sector.

The Agency budget is limited as to the overall amount, and is an estimated budget for the purposes of allocation of credit available for items in the economic categories, except personnel expense costs which are nevertheless limited and bound as to the total amount; also, in relation to specifically allocated grants and Agency protocol and representational responsibilities, deemed limited and binding, irrespective of the economic classification level at which these are established. The Agency budget must balance.

2. Variations to the Agency budget must be authorised as follows:

a) The Minister of Finance and Public Administrations is responsible for approving any variations to the overall Agency budget amount, as well as variations affecting personnel costs, subject to the initiative of the Director and proposed by the Executive Board, and except for the instances set out under b) below.

Likewise, the Minister of Finance and Public Administrations is responsible for agreeing or refusing changes to the budget coming within the remit of the Agency Director, if the Delegated Audit office issued a negative report in that regard and if the discrepancy was then referred to the Ministry of Finance and Public Administrations.

b) The Agency Director is responsible for all other variations, even to the overall financing amount, when financed from resources under sections b), e), f), and g) of Article 32.1, exceeding the initial budgeted amounts and as long as personnel costs are not affected and sufficient guarantees of effectiveness exist. The Agency Director shall immediately account for any such variation to the Monitoring Committee.

3. The amount remaining in cash and banks following liquidation of the budget financial year will not be used to finance the budget for the following year, but may be applied to the revenue budget and allocated for financing any increased costs, as agreed by the Agency Director, who will account for this to the Monitoring Committee. Deficits arising from failure to meet the annual estimated revenue

will be offset as established in the Management Agreement.

4. The Agency Director is responsible for executing the budget and will provide the Monitoring Committee with a monthly budget performance statement.

5. The Agency may accept cost undertaking spread over several years following the year the cost is authorised, subject to the limits and provisions established in Article 27.5 of Law 28/2006, of 18 July.

6. Account must be given to the General Directorate for Budgets, so that the Ministry of Finance and Public Administrations is aware of any variations adopted by the Agency Director in exercising his remit as designated in section 2.

Article 35. Accounting.

1. The Agency is subject to the public accounting principles established in Article 122 of Law 47/2003, of 26 November, General Budgetary Law, and must also implement the principles and rules established in the Public Accounting General Plan and will be provided with an economic-financial data system intended to produce an accurate image from statements and reports of Agency patrimony, financial position, results, and budget performance. The system provides sufficiently accurate information on the Agency activity costs to permit correct and efficient decisions to be taken.

2. The Agency is endowed with a management accounting system for tracking fulfilment of commitments set down in the Management Contract.

3. The State Administration General Auditors office will establish functional requirements and, as the case may be, software procedures that must be followed to meet the provisions of the two previous sections. Specifically, for accounts management purposes the Agency will use the accounting information system (SIC3) used by the Central State Government and its public bodies. The Agency will furthermore enter into the corresponding agreement with the State Administration General Auditors office to use the support system for managing administrative public entities (SOROLLA2), as well as the standardised analytical accounting system for administrative organisations (CANOA). Agency use of the loans and grants control system will be analysed overall on the (PRESYA2) provided by the General Auditors' office for monitoring loans and grants, duly adapted as necessary, and the corresponding agreement signed in that regard.

Article 36. Annual accounts.

1. The Agency Director must prepare the annual accounts with three months calculated from the financial year end date. Once audited by the State Administration General Auditors, the annual accounts will be submitted to the Executive Board for approval within the first six months of the year following the accounts year of reference.

2. The Chairman will forward the annual accounts to the Spanish Court of Audit, through the State Administration General Auditors, within seven months following the end of the financial year of reference, duly approved by the Executive Board.

Article 37. Monitoring of economic-financial management.

1. The Spanish Court of Audit will externally monitor Agency economic-financial management, subject to the relevant specific legislation.

2. Internal control of economic-financial management lies with the State Administration General Auditors, carried out as permanent financial monitoring and public auditing, subject to the terms and conditions established in Law 47/2003, of 26 November. Agency Delegated Auditors, allocated to the Director, are responsible for permanent financial monitoring, without prejudice to the Director being answerable both functionally and organically to the State Administration General Auditors' office. The associated Agency positions form part of the State Administration General Auditors' list of positions.

3. Each year, the State Administration General Auditors will carry out one public operational audit and another audit on compliance with the conditions imposed in relation to grants and loans the Agency provides.

Article 38. *Monitoring efficacy and oversight.*

1. Agency efficacy and supervision is monitored, to ascertain the extent to which Agency aims and objectives are being met, tracking the Management Agreement and annual action plan and ensuring publicly assigned resources are properly managed.

2. The Ministry for the Economy and Competition is responsible for monitoring efficacy and will inspect any services provided by Ministry. The end purpose is to assess whether the Agency is meeting the aims and objectives established for its specific activities, compared to Management Agreement provisions, annual action plan and without prejudice to monitoring as described in Article 37.

3. The Agency is equally overseen by the Ministry of Finance and Public Administrations, which verifies whether the circumstances that led to the creation of the Agency still exist and whether the Agency fulfils its purposes, examining the extent to which the aims and objectives assessed by the efficacy monitoring are met, as well as the Agency financial sustainability.

CHAPTER IX
Administrative provisions and acts and juridical assistance

Article 39. *Administrative Acts.*

1. The Agency will issue internal rules as necessary to fulfil the Agency purpose and for operational purposes. Internal rules may be adopted in the form of:

- a) Executive Board rulings, which must be signed off by the Chairman.
- b) Agency Director Rulings, Instructions and Circulars.

2. Agency bodies may issue administrative acts and rulings exercising Agency administrative powers.

3. Acts and resolutions issued by the Chairman, the Executive Board and by the Agency Director conclude the administrative process and may be challenged in contentious-administrative proceedings, without prejudice to bringing an optional appeal for reconsideration.

Article 40. *Juridical assistance, representation and defence in legal proceedings.*

Pursuant to Additional Provision Four of Law 28/2006, of 18 July, the Government Attorneys' office within the Ministry for the Economy and Competition is responsible for legally advising the Agency, without prejudice to signing a juridical assistance agreement in view of Agency requirements, subject to the terms of Article 14 of the State Legal Service Regulation, passed into law under Royal Decree 997/2003, of 25 July, and within the framework of the Management Agreement..

This Consolidated text has no juridical value.
For further information please consult: info@boe.es