



NL Agency
Ministry of Foreign Affairs

Policy Rules for the ORIO Grant Facility

Policy Rules grant facility ORIO 2012

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1. What is ORIO?

The Infrastructure Development Facility (ORIO) is operated by the Ministry of Foreign Affairs under the responsibility of the Minister for European Affairs and International Cooperation. The Facility awards grants to central government authorities in developing countries for the partial funding of public infrastructure projects. The grants are classified as official development assistance (ODA), as defined in the DAC Guiding Principles of the Organisation for Economic Cooperation and Development (OECD).¹ Grants are awarded as untied aid, in accordance with the OECD-DAC agreements on untying aid.² The grants are not subsidies as defined in the General Administrative Law Act.

2. Definitions

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| Applicant: | The central government authority that submits a grant application. |
| Application period: | The period within which applications may be submitted. NL Agency will announce when it opens and closes. |
| Application: | A grant application submitted by a central government authority. |
| Beneficiary: | The central government authority designated as beneficiary of the grant in the grant arrangement. |
| Central government authority: | An administrative authority that is part of the recipient country's central government and is administratively and/or financially responsible for the application and/or public infrastructure in question. |
| Cofinancing: | ORIO funding that is linked to funding for the same project by another bilateral donor or a multilateral development bank. |
| Competent authority: | The administrative authority, public enterprise or special-purpose company that is authorised to manage the public infrastructure in question. The competent authority can differ from one phase of the project to the next and can also be the central government authority. |
| Contractor: | The party contracted by the competent authority to implement the project or parts of it. |
| Country list: | The list of countries eligible for a grant, indicating the status and maximum grant percentage for each country (see www.orio.nl). |
| CSR: | Corporate social responsibility. |
| Developing country: | Country included in the latest OECD-DAC list of aid recipient countries. |
| Development phase: | The period from the approval of the grant arrangement for the development phase to the notification of the applicant of the result of the project plan's assessment. |
| Development relevance: | In the context of ORIO, the extent to which infrastructure projects contribute to private sector development and/or human development. Well-functioning and accessible infrastructure is assumed to enhance a country's opportunities for growth and therefore its ability to reduce poverty. |
| Financing plan: | The plan describing the project's financing. |
| Grant percentage: | The maximum percentage of the eligible project costs (see section 15, point 4) that a grant can cover in a given phase of the project. |
| Grant portion: | The proportion of the eligible project costs (see section 15, point 4), equal to the grant percentage set by ORIO, that will be paid as a grant. |
| Grant: | A grant awarded under the ORIO programme to a central government authority in the recipient country to cover part of the costs of a project. |

¹ DAC Guiding Principles for Associated Financing and Tied and Partially Untied Official Development Assistance (adopted by DAC on 24 April 1987), OECD/DAC.

² DAC Recommendation on Untying Official Development Assistance to Least Developed Countries (2001), OECD/DAC.

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| Human development: | Increasing the opportunities for a long and healthy life (health), and acquiring knowledge (training) and access to resources necessary to improve the standard of living (income). |
| Implementation contract: | Contract between the competent authority and the contractor for the implementation of the project or parts of it. |
| Implementation phase: | The period from the approval of the grant arrangement for the implementation phase and the operation & maintenance phase by NL Agency and the applicant to the administrative finalisation of the project's delivery by NL Agency. |
| Infrastructure: | Structures and facilities in sectors such as water, environment, energy, transport and logistics, ICT, education, civil works and health care. |
| Initiative phase: | The period leading to an application by a central government authority in the developing country. |
| NL Agency: | The central government agency tasked with implementing the ORIO grant facility (P.O. Box 20105, 2500 EC The Hague). |
| Operation & maintenance phase: | The period from the final delivery of the project to the time when project operations definitively cease. |
| ORIO: | Grant facility for the development of infrastructure in developing countries. |
| ORIO Guidelines: | Document drawn up by NL Agency, setting out and explaining the administrative rules. |
| Project costs: | The cost of a project's development phase, implementation phase and the first 10 years of the operation & maintenance phase (see section 15, point 3). |
| Project plan: | A full and detailed description of a project, based on the project proposal, on the basis of which the project's implementation can begin. |
| Project proposal: | The description of a project, submitted by the applicant as part of the application. It describes the development of the project in detail and outlines its implementation and operation. |
| Project: | A combination of inputs and activities with added value that yield a specific, marketable output in the area of public infrastructure. The scope of a project is demarcated by the smallest, complete productive unit of public infrastructure, physically and technically integrated, that fully utilises the proposed investment and reaps all the financial benefits that can be attributed to the investment. A project must involve new construction work and/or renovation and/or expansion of public infrastructure and must include its development, implementation and operation. |
| Public infrastructure: | Structures and facilities that provide services of general interest and are not commercially viable, with the exception of defence infrastructure. |
| Recipient country: | A country where a project is implemented and the relevant infrastructure is operated. |
| Special-purpose company: | Company responsible for the temporary operation of an ORIO-cofinanced infrastructure project. |
| Untied aid: | Aid in the form of loans and/or grants for approved projects which are freely and fully available to pay for goods and services from almost all aid recipient countries and OECD countries. |

3. The role of infrastructure

- Sustainable economic growth is a key factor in reducing poverty and increasing the welfare and prosperity of people in developing countries. Investing in sustainable growth enables developing countries to solve their own problems.

- The private sector is a driver of sustainable economic growth. Accessible and well-functioning infrastructure increases the scope for further development of the private sector. For instance, irrigation can increase crop yields and better port or transport facilities can boost exports.
- Accessible, well-functioning infrastructure also contributes to human development. Access to health care, education, drinking water or energy, for example, increases people's ability to raise themselves out of poverty.
- In developing countries, access to infrastructure varies widely for different sections of the population. Lack of infrastructure or poor access to it forms a particularly serious obstacle for the poorest people and poorest regions.
- The availability of infrastructure therefore has a direct impact on developing countries' opportunities for growth. That is why promoting access to and the use of development-related public infrastructure is part of a broader policy of supporting sustainable economic growth and private sector development in developing countries.
- The authorities in developing countries often lack suitable sources of finance for development-related infrastructure projects that cannot be funded and operated commercially. The ORIO programme offers these authorities an attractive and flexible source of finance. It focuses on the extent to which access to and use of infrastructure can be improved.
- Various public and private organisations and businesses contribute to preparing, developing, implementing and operating public infrastructure projects. The ORIO programme aims to promote cooperation so that the knowledge, expertise and development skills of the private sector (local and international) can be put to optimal use.
- Societal and environmental interests, as well as economic interests, are taken into account when assessing projects.

Infrastructure projects should have all kinds of guarantees in place, in order to protect the human and natural environment and promote transparency and efficiency. Companies involved in ORIO are required to comply with corporate social responsibility standards (see www.orio.nl for further details).

4. Implementation

The Minister for European Affairs and International Cooperation has tasked NL Agency with implementing ORIO. The Agency has drawn up guidelines for the application of these administrative rules. The guidelines may be amended periodically. The latest version can be found at www.orio.nl. By submitting an application, applicants accept all the conditions included in these administrative rules and in the ORIO Guidelines.

There is an Advisory Committee on Infrastructure Development (ACORIO). The committee's membership and procedures are decided by the Minister for European Affairs and International Cooperation. NL Agency asks ACORIO for advice on implementing projects.

5. Target group

Central government authorities in countries on the country list (see www.orio.nl) can apply for grants under the ORIO programme. The programme is designed to encourage the involvement of local and international businesses in developing and implementing infrastructure projects, so as to benefit from the private sector's knowledge, know-how and development skills. Central government authorities can therefore also ask a private party to draw up an application.

6. Formal requirements

There are two types of formal requirements: administrative and substantive.

Administrative requirements:

- 1) The application should be submitted by a central government authority in a country on the ORIO country list. The list valid at the start of the application period remains applicable to the projects submitted throughout that period unless the Minister for European Affairs and International Cooperation instructs NL Agency otherwise.
- 2) Applications must be received by NL Agency during the application period.
- 3) Eligible project costs (see section 15, point 4) must be at least €2 million and no more than €60 million per application. A project may not be divided over several applications to evade the upper limit. An application may, however, comprise several projects if there is a clear link between them in terms of approach and implementation.
- 4) Project applications must deal with the entire life cycle (or remaining life cycle) of the public infrastructure in question and must therefore describe its development, implementation and operation.
- 5) Applications must be written in English and submitted to NL Agency in writing using the most recent version of the application form and in accordance with the relevant requirements (available at www.orio.nl).
- 6) Applications must be complete, clear and concise, and make it possible for NL Agency to assess the merits and scope of applications and projects.

Substantive requirements:

- 7) A project must not be commercially viable, as defined in the ORIO Guidelines.
- 8) Goods, works and services for the project must be purchased in a transparent and efficient manner in accordance with legislation in the applicant's country and the OECD Good Procurement Practices for Official Development Assistance (see section 12, point 5).

7. Criteria

Proposed infrastructure projects should contribute to private sector development and human development with a view to improving the position of the poor in the country concerned. Project proposals will be evaluated on the basis of the following five OECD-DAC criteria. In addition, a societal cost-benefit analysis will be carried out to see whether the project delivers sufficient economic benefits. These criteria are set out in more detail for each phase (assessment of the application, assessment of the project plan and possibly an ex-post evaluation) in the ORIO Guidelines (see www.orio.nl).

- 1) **Relevance**: the extent to which the results of the project will help to solve the problem in question and meet the needs of the end users. This requires the problem, solution and project to be clearly defined.
- 2) **Effectiveness**: the extent to which the project increases access to infrastructure and its use by households and individuals and/or the private sector in the developing country concerned.
- 3) **Development impact**: the extent to which the increase in access to and use of the infrastructure demonstrably contributes to human development and/or private sector development in the country concerned.³ The extent to which these developments help increase scope for poverty reduction and therefore improve the position of the poor is also taken into account.

³ In addition to the above, the evaluation will also focus on other knock-on effects that can be attributed to the infrastructure.

- 4) Efficiency: the extent to which the benefits of the infrastructure, in qualitative and quantitative terms, outweigh the costs incurred.
- 5) Sustainability:
 - * the extent to which social and environmental factors are influenced by the project and vice versa;
 - * the extent to which the project's implementation is influenced by, e.g.:
 - financial viability,
 - the capacity of the parties involved,
 - the technology to be used,
 - the consistency of the project's objective with the policy of the country or region,
 - involvement of end users;
 - * the extent to which key institutional, administrative, economic and legal factors of relevance to the project have been arranged.
- 6) Economic benefits: a societal cost-benefit analysis will be carried out to determine whether the project's economic benefits outweigh its societal costs.

8. Phases

Projects funded by the ORIO programme go through various phases (for further details, see the guidelines at www.orio.nl):

- 1) The initiative phase, which results in an application by a central government authority in the developing country. The initiative phase is not funded by ORIO.
- 2) Assessment of the application. The application must meet all the formal requirements and will be assessed on the basis of the above criteria. After an application has been selected, an offer will be made to conclude a grant arrangement for the development phase. This arrangement will describe the development phase in detail and outline the subsequent implementation phase and the operation & maintenance phase.
- 3) The development phase, which results in a project plan. The costs of the development phase may be entirely or partly funded by ORIO.
- 4) Assessment of the project plan. This involves deciding whether to approve ORIO funding for the implementation phase. If a project is eligible for a grant for the implementation phase, a grant arrangement for the implementation phase and the operation & maintenance phase will be presented, which will take effect once it has been signed.
- 5) The implementation phase, whose costs can be partly funded by ORIO and in which procurement and the construction work or implementation of the project take place. This phase ends when NL Agency performs the administrative finalisation after the project's delivery.
- 6) The operation & maintenance phase, for which the eligible project costs can be partly funded by ORIO for up to 10 years.

9. Procedure for assessing applications

- 1) The ORIO Guidelines set out the procedure for submitting and assessing applications.
- 2) Applications received will be assessed in the light of the formal, administrative requirements listed in section 6. If an application does not meet these requirements, it will not be given further consideration and the applicant will be notified of this in writing. The applicant will then have the opportunity of rectifying and/or supplementing the applications so that it meets all the formal, administrative requirements.

- 3) Budget allocations will be made in the order that applications are received. The date of receipt is the date on which an application that meets all the formal, administrative requirements is submitted (possibly after being rectified or supplemented).
- 4) Applications that meet the formal, administrative requirements will then be assessed in the light of the formal, substantive requirements listed in section 6. If an application meets all these formal requirements, it will be assessed on the basis of one or more of the criteria listed in section 7. Only applications that have received a positive assessment, as described in the ORIO Guidelines, are eligible for selection, provided there are sufficient budget funds left. ACORIO advises NL Agency on the assessment procedure.
- 5) If the cumulative amount applied for exceeds the available budget, NL Agency can close the application period.
- 6) If more than one application from the same country is eligible for selection in a particular year, the country ceiling applies. This means that the total grant amount that can be allocated to a single country each year is limited to 25% of the ORIO budget available for that year.
- 7) An applicant may be asked to provide further information during the assessment procedure. The applicant accepts that the parties involved in the application, such as financiers, credit insurers and suppliers, may be contacted directly. In addition, advice will be sought from the Dutch embassy for the recipient country, other relevant parties active in the sector concerned (e.g. development banks, other bilateral donors) and external experts.
- 8) NL Agency will assess and decide on the selection of applications within five months of receiving them.
- 9) NL Agency will then announce which applications have been selected. It will notify unsuccessful applicants in writing and explain why their applications were not selected.

10. Development phase

- 1) After an application has been selected, an offer will be made to conclude a grant arrangement for the development phase. The arrangement will describe this phase in detail and outline the subsequent implementation and operation & maintenance phases.
- 2) Together, NL Agency, the applicant and any private parties involved must work out the details of the development phase before a grant arrangement is concluded. They can decide whether the development phase should be split into several parts, depending on the type and complexity of the project, the outsourcing method and type of contract. They can also opt for a short development phase followed by a call for tenders and/or procurement of goods and services based on an integrated contract. The applicant and the party responsible for managing the development phase will set out the details in an action plan, known as the input and output plan. The activities and associated costs described in this plan will be assessed to see whether they are useful, necessary and in line with market criteria. Once it has been approved, it will be appended to the grant arrangement.
- 3) Advance payment of all or part of the grant for the development phase is only possible after the grant arrangement for the development phase has been signed. Prior to that, NL Agency can ask the contractor and/or beneficiary to provide security.

The grant arrangement for the development phase may also prescribe interim assessments of project components that are so crucial to its viability that they must first be approved by NL Agency before a decision is made on the grant for the other parts of the project's development.

- 4) The development phase results in a project plan. The grant arrangement and, as part of it, the input & output plan for the development phase will contain the requirements to be met by the detailed project plan, based on the information and estimates supplied by the applicant in the

project proposal. The project plan should confirm the information and estimates provided in the project proposal and show that the outcomes envisaged in the project proposal are still valid now that the details have been worked out. It must also give a detailed description of the activities of the implementation and operation & maintenance phases. The applicant is responsible for producing a high-quality project plan at the end of the development phase. This plan serves as the basis for deciding whether to approve ORIO funding for the start of the implementation phase and the subsequent operation & maintenance phase and should therefore contain all the information necessary for this purpose.

11. Assessment of the project plan

- 1) The detailed project plan will be assessed on the basis of formal requirements 2 to 8 in section 6 and the criteria in section 7 (see the ORIO Guidelines for further details). This assessment will be submitted to ACORIO for advice.
- 2) The assessment will involve a detailed evaluation of the project in the light of the criteria. If the project departs significantly from the basic selection criteria or receives a negative assessment on one or more points, it will not be eligible for a grant for the implementation and operation & maintenance phases. If the project does meet the formal requirements, receives a sufficiently high score on the criteria and does not depart substantially from the basic selection criteria, it will be eligible for a grant for the implementation and operation & maintenance phases.
- 3) After the project plan has been assessed, the applicant will be notified in writing of the outcome. If the project is not eligible for a grant for the implementation and operation & maintenance phases, the applicant will be informed of the reason.

12. Implementation phase

If the project is found to be eligible for a grant for the implementation and operation & maintenance phases, an offer will be made to conclude a grant arrangement. A single grant arrangement will be concluded for both phases.

The grant arrangement will briefly cover the following in respect of the implementation phase (see the guidelines for further details):

- 1) Conditions for payment of the grant.
- 2) Prepayments. Advance payment of all or part of a grant is only possible if a deposit for the supply of goods and/or services has to be made owing (at least in part) to contractual obligations. The contractor and/or beneficiary may be asked to provide security.
- 3) Recovering the grant. The arrangement may stipulate that in cases where grant payments have wrongly been paid to the contractor, the beneficiary will transfer to NL Agency its right of recovery from the contractor under the implementation contract.
- 4) Financing commitments. See section 15, point 2.
- 5) Implementation of the procurement plan. Goods, works and services for the project should be purchased in a transparent and efficient manner in accordance with legislation in the applicant's country and the OECD Good Procurement Practices for Official Development Assistance. When selecting a supplier of goods and services, quality and sustainability will be taken into account. Compliance with CSR guidelines is a requirement (see www.orio.nl for an overview of applicable CSR legislation). Before a tendering procedure begins, the relevant draft contract must be submitted to NL Agency for a declaration of no objection.
- 6) Awarding the contract. If the tendering procedure results in a bid that is acceptable to the competent authority or if the contract negotiations result in an agreement between the competent authority and the contractor, the bid or agreement will be submitted to NL Agency

for a declaration of no objection. Any other financiers will also have to offer a definitive financing agreement and, where applicable, the credit insurer's policy must be submitted.

- 7) Execution of the implementation plan. Once the contract has been awarded, the approved implementation plan can be carried out. The plan will stipulate how implementation is to be supervised. In many cases, supervision based on the implementation contract will be outsourced to an independent engineer or employer's representative, who will report to the competent authority and NL Agency (and any other financiers).
- 8) Delivery of the project. Final delivery of the project concludes the implementation phase. Provided work completion statements issued in accordance with the implementation contract show that the project, or part of it, has been delivered as required by the implementation contract and the grant arrangement, NL Agency will issue a declaration of no objection for the final delivery. This declaration is one of the conditions for paying a grant in the operation & maintenance phase.

13. Operation & maintenance phase

- 1) Grant arrangement. The operation & maintenance phase will already have been described in the previous grant arrangement covering the implementation and operation & maintenance phases. It contains the conditions and provisions for paying the grant for a period of no more than the first 10 years of the operation & maintenance phase.
- 2) Start of the operation & maintenance phase. The operation & maintenance phase can begin once the project, or part of it, has been delivered and NL Agency has issued a declaration of no objection. An important condition for paying the successive grant instalments for this phase is adherence to a predetermined (and, if necessary, periodically adjusted) management and maintenance plan. It can include periodic checks, linked to periodic payments. As a rule, an independent engineer or employer's representative will perform these checks. NL Agency should issue a declaration of no objection regarding the appointment of this party.
- 3) Integrated contracts. Although the implementation and operation & maintenance phases are described in a single grant arrangement, this does not automatically mean that implementation has to be described in a single integrated contract for these two phases. Whether both phases are tendered or outsourced in an integrated contract will depend on the project's circumstances and the preference and capacity of the parties concerned. It must be substantiated in the procurement plan as part of the project plan.
- 4) Evaluation. The applicant and the competent authority will cooperate on the evaluations of the project and the ORIO programme, which will be carried out or outsourced by NL Agency. NL Agency will inform the applicant of the results of such evaluations.

14. Rejected applications

- 1) Applicants can submit any comments they may have on the assessment procedure to NL Agency in writing for up to two weeks after receiving written notification of the assessment's outcome or up to two weeks after NL Agency has provided a further explanation. NL Agency will respond in writing to any comments within four weeks of receiving them.
- 2) NL Agency is never obliged to award a grant.
- 3) Applications that have not been selected may be modified and resubmitted in the next application period, when they will go through the entire assessment procedure again.

15. Financing

- 1) Grants. ORIO funding takes the form of a grant. An ORIO grant may cover a different percentage of the overall costs in the development phase (or different parts of it), the implementation phase and the operation & maintenance phase. Grant details are recorded in a

grant arrangement for the development phase and a grant arrangement for the implementation and operation & maintenance phases. The maximum grant percentages for the various phases can be found at www.orio.nl.

- 2) Additional financing. The central government authority or competent authority is responsible for arranging additional financing for the project, i.e. the financing needed on top of the grant. A condition for awarding an ORIO grant is the submission (in the development phase) of a concise but credible financing plan for the entire project or the submission of a detailed plan, forming part of the project plan, with sufficient prospect of committed financing before the start of the implementation and operation & maintenance phases.
- 3) Project costs. Project costs consist of the total costs for the development phase, the implementation phase and for a subsequent period not exceeding the first 10 years of the operation & maintenance phase.
- 4) Not all project costs are eligible for a grant. Project costs that are listed in the applicable document ('eligible project costs') qualify for a grant. NL Agency will assess whether eligible project costs are in line with market prices. It will also assess the need for and usefulness of the activities, goods and services underlying the project costs.
- 5) The grant will be paid in Euros. If a different currency is chosen for the implementation contract, use will be made of the exchange rate on the date that the grant arrangement applicable to the implementation contract is offered or on the date on which it is signed by NL Agency, if this is later.
- 6) Payments. ORIO grants for a given project are made available successively. In general, ORIO grant payments will coincide (pro rata) with payments by the other project financiers. Payments will be made directly to suppliers of works, goods or services. NL Agency sets conditions that must be met before each payment can be made.
- 7) A grant can be withdrawn, stopped or recovered in the cases indicated in the grant arrangement and certainly when there is any question of i) the involvement of candidates eligible for a contract for all or part of a project in corrupt or fraudulent practices, intimidation or forbidden price-fixing agreements, child labour or forced labour, and/or ii) involvement of a representative of the competent authority or central government authority in corrupt or fraudulent practices, intimidation or forbidden price-fixing agreements, child labour or forced labour relating to procurement or the implementation of all or part of the project without, according to NL Agency, timely and adequate action from the competent authority or central government authority to remedy the situation.
- 8) If a recipient country's status is altered after the deadline for submitting applications is announced but before NL Agency offers the applicant a grant arrangement for the implementation and operation & maintenance phases, NL Agency can decide that the application, project proposal or project plan must be amended to bring it into line with the recipient country's new status.

16. Liability

- 1) NL Agency or the Dutch State accepts under the ORIO grant facility no liability for direct or indirect damage resulting from faulty quality, insufficient progress or the failure of the project or parts of it.
- 2) NL Agency does not approve activities or documents; it may only, when appropriate, issue a declaration of no objection. Its acceptance of activities and documents relating to the project implied by any such declaration is only of relevance to the allocation of the grant. Neither NL Agency nor the Dutch State accepts any liability for direct or indirect damage resulting from the faulty quality of the activities or documents that NL Agency has accepted as part of the implementation of ORIO.

17. Disputes

If a dispute arises between NL Agency and the central government authority regarding the interpretation, application or implementation of the ORIO grant facility, a grant arrangement or any other arrangement that may proceed from it that cannot be settled amicably and that cannot be interpreted as a comment on the assessment procedure referred to in section 14, either party may invite the other party to settle the dispute under the Permanent Court of Arbitration Optional Conciliation Rules applicable on the date of the application or the grant arrangement in question. The number of mediators will be set at three.

18. Confidentiality

NL Agency and the applicant will treat as strictly confidential all information relating to the application, its assessment and any grant award whose confidential character is known or can reasonably be assumed unless its communication results from a statutory regulation or administrative obligation in the Netherlands or in the recipient country or from the normal performance of duties.

19. Validity and precedence of documents

If these administrative rules refer to documents containing international agreements and if one or more newer versions of these documents are adopted after these rules take effect, the most recent version will in principle apply to ORIO, once the Dutch State has ratified it. A list of the most recent versions applicable to ORIO can be found at www.orio.nl.

In the event of a conflict between documents relating to a grant, the precedence of the documents is as follows:

- a. the most recent grant arrangement;
- b. a prior grant arrangement;
- c. the Dutch text of the administrative rules for the ORIO grant facility;
- d. the administrative rules for the ORIO grant facility in a language other than Dutch;
- e. the Dutch text of the Guidelines;
- f. the text of the Guidelines in a language other than Dutch;
- g. documents as referred to in the first paragraph of this section.

20. Cofinancing

If the project is cofinanced by, for example, multilateral development banks, it is possible, in consultation with NL Agency, to depart in certain respects from the above rules in order to integrate ORIO financing into the financing structure of the institution in question.

21. Notification

The applicant must cooperate fully with the notification obligations that the OECD imposes on the Dutch State and must provide NL Agency with all the necessary information in good time. This means that the applicant or the competent authority must impose the same obligation on contractors or private parties it engages for the project.

Appendix: ORIO Result chain

