

Translation of aws guideline for funding schemes from resources of the National Foundation for Research, Technology and Development

Funding guideline of Austria Wirtschaftsservice GmbH

in accordance with Section 2 para. 2 no. 5 of the Austria Economic Service Act

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1. Goal and purpose of the funding

The objective of this funding is to implement the funding programmes of Austria Wirtschaftsservice GmbH (aws) financed from funds of the National Foundation for Research, Technology and Development (Federal Law Gazette I No. 133/2003 as amended), thereby promoting research, technology and development (RTD), in particular long-term exploitable, interdisciplinary research measures. The funding serves to visibly position Austrian research and technology development and thus to strengthen Austria's position as a research and business location.

This includes in particular the promotion of:

- excellent and visible positioning of RTD
- sustainable engagement in research (capacity building)
- multi- and interdisciplinarity
- contributions to addressing socio-political challenges
- high demands on applied research and technology development
- strengthening of the entrepreneurial spirit
- technology and knowledge transfer
- company start-ups
- innovation and/or the growth of companies

2. Legal basis

When drafting the funding agreements, aws must take into account not only European state aid law, but also this Funding Guideline (Guideline) and the respective guideline specifications (see section 2.2.). These guidelines are based on the General Framework Guidelines for the Granting of Funding from Federal Funds (ARR 2014).

2.1. European legal basis

The objective of this funding is in line with the strategic orientation of the European Union's enterprise policy as enshrined in the "Europe 2020 Strategy". Smart growth aims to develop an economy based on knowledge and innovation in pursuit of the core strategic objectives of growth, jobs and innovation (see http://ec.europa.eu/eu-rop2020/index_en.htm).

The present directive and the program documents to be issued are based on in particular on the following principles of European law, taking into account any future amendments or replacing legislation (as amended from time to time):

- Commission Regulation (EU) No. 651/2014 of June 17, 2014 (amended and by Regulation (EU) No 2023/1315 of 23 June 2023) declaring certain categories of aid compatible with the of certain categories of aid with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union, OJ L 187 of 26.6.2014 (General Block Exemption Regulation, in short: GBER)
- Commission Regulation (EU) 2023/2831 of 13 December 2023 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid, OJ L, 2023/2831, 15.12.2023 (in short: De Minimis Regulation);

This Guideline, together with the guideline specifications, shall be notified to the European Commission for exemption.

SMEs within the meaning of this Guideline are those covered by the European Commission Recommendation in accordance with the "Definition of small and medium-sized enterprises (SME)" (Commission Recommendation 2003/361/EC of 6 May 2003, OJ L 124/36, 20/05/2003, as amended). For the purposes of this Recommendation, linked companies are regarded as a single unit.

2.2. Guideline specifications

Funding on the basis of this Guideline shall be awarded within the framework of specific programmes, the design and objectives of which shall be specified in writing and published in the guideline specifications. The goals must be justified in a comprehensible way and it must be possible to operationalise them; the achievement of the goals must be verified by means of indicators. For the purpose of programme evaluation, appropriate monitoring shall be established.

The guideline specifications must include the following minimum content:

- Programme goal
- Indication of the legal basis
- Programme term
- Grant recipients
- Details on the eligible projects
- Details on the type and amount of funding and the eligible costs
- Specification of the project duration
- Gender-differentiated collection of personal data (if possible)
- Indicators for checking the achievement of objectives
- Monitoring and evaluation concept

The guideline specifications may specify the provisions of the Guideline in more detail.

3. Object of the funding and eligible projects

3.1. Object of the funding

The object of the funding are projects that serve to achieve the objectives according to section 1.

3.2. Eligible projects

3.2.1. Innovation and start-up projects

Funding can be provided for the implementation of tangible and intangible investments as well as operating or R&E costs in connection with innovation and start-up projects, e.g. market transition costs, patents acquired directly or under licence.

3.2.2. Consulting, studies and innovation services, formation of networks

Funding is available for consulting, coaching, mentoring costs and costs of external studies in preparation for direct investments abroad and business innovation projects, as well as measures to obtain, protect, exploit, enforce intellectual property rights (including patent screening and patent portfolio building), and consulting costs related to IPR trading and licensing agreements. Furthermore, the establishment of networks, the targeted networking of Austrian actors in the technology sector and the transfer of knowledge may be funded.

3.2.3. Measures for the introduction to entrepreneurial activities

Costs for targeted activities of persons or groups of persons, including their financial support (e.g. scholarships), in order to introduce them to entrepreneurial activities may be funded. Such measures in the run-up to an economic activity are not directed at companies and are therefore not subject to European state aid law.

3.2.4. Measures for the establishment and expansion of holding companies of universities and comparable institutions

Establishment and expansion of professional and stable investment companies by universities and comparable institutions, including third parties, that correspond to international best practices, e.g. with the task of specifically selecting scalable spin-offs and providing venture capital financing. provide venture capital financing.

3.3. Eligible costs

Eligible costs are those related to the projects listed under section 3.2, which are specified in more detail in the respective guideline specification.

3.4. Projects/costs not eligible for funding

Projects that were started before the application for funding was submitted or costs that were incurred before the application for funding was submitted are not eligible for funding.

4. Beneficiaries

4.1. Eligible enterprises must meet the following requirements

Eligible enterprises can be natural persons and legal entities, as well as partnerships, which run or intend to run a company on their own behalf and their own account.

The enterprise to be funded must have a head office or business premises in Austria.

4.2. Exclusion criteria

4.2.1. The following companies are excluded from receiving funding:

- Fishing industry and aquaculture, primary production of agricultural products. Furthermore, the following economic sectors are excluded from regional aid under the GBER: coal, shipbuilding, steel, synthetic fibres, transport and related infrastructures, production and distribution of energy, including energy infrastructures, and the relocation of activities within the EEA. The definitions published by the European Commission apply.
- Banking and other financial services, insurance and real estate services
- Regional authorities and legal entities in which regional authorities directly or indirectly hold a stake of more than 50% are not eligible to apply for funding. Exceptions are only possible for specific measures and if explicitly stated in the respective guideline specification (see section 4.4.).

With regard to the size of the enterprise, the provisions of the SME definition apply in the case of participation of regional authorities or public corporations in applicants for funding.

4.2.2. The applicant for funding or, in the case of companies, a managing partner, may not be held liable for any of the following

- no insolvency proceedings must be pending or two years must have passed since its termination without full compliance with a reorganisation plan or payment plan;
- no application for the opening of insolvency proceedings has been rejected for lack of assets to cover the costs or no insolvency proceedings have been terminated for lack of assets to cover the costs.

4.2.3. The following are excluded from funding on the basis of the GBER

- enterprises in difficulty within the meaning of Article 2 (18) GBER under national law;
- enterprises which have not complied with a recovery order following a Commission decision declaring an aid illegal and incompatible with the common market.

4.2.4. Enterprises that violate (i) the Federal Act on the Import, Export and Transit of War Material, Federal Law Gazette 540/1977 as amended, (ii) the Security Control Act 2013 (SKG 2013) Federal Law Gazette I No. 42/2013 as amended, or (iii) other Austrian legal provisions, the violation of which is punishable by law, are excluded from funding in relation to the project.

4.3. Beneficiaries of the funding measures according to section 3.2.3.

Natural persons are eligible for funding if they have the willingness to start a business. However, the successful implementation is not a mandatory criterion for this funding.

These beneficiaries are already funded in the phase before a concrete start-up planning and are therefore excluded from sections 4.1. and 4.2.

4.4. Other beneficiaries

For specific funding measures, the following beneficiaries may also be eligible, if explicitly stated in the respective guideline specification:

- Research organisations: organisations, regardless of their legal status or method of funding, whose primary mission is to carry out independent research and development or to disseminate the results of such activities through teaching, publication or knowledge transfer. Enterprises which, for example as shareholders or members, can exercise decisive influence on such an institution may not be granted preferential access to the research results generated by it. If such an entity carries out both economic and non-economic activities, it must keep separate accounts of their financing, costs and revenues so that there is no risk of cross-subsidisation of the economic activity;
- Public contracting authorities pursuant to the Federal Public Procurement Act 2018, insofar as they operate outside the statutory remit of a territorial authority;
- Associated companies (also in the process of being founded) of universities or comparable institutions with headquarters or operating or research facilities in Austria. The universities or institutions mentioned may be the sole shareholder of the holding company or may hold the shares in the holding company together with other such universities or institutions and/or other third parties. In exceptional cases, non-profit foundations of universities and comparable universities and comparable institutions may also act as shareholders.

The institution to be funded or the contracting authority must have its registered office or research location or operating facility in Austria.

In the case of beneficiaries pursuant to section 4.4. of this Guideline, a participation of regional authorities of more than 50% is not detrimental; otherwise, the exclusion criteria in section 4.2. apply *mutatis mutandis*.

The promotion of economic activities is subject to European state aid law; in particular, the provisions of the Union Framework for State Aid for Research, Development and Innovation (2022/C 414/ 01) are used to distinguish between economic and non-economic activities.

5.Design of funding

5.1. Type and scope of funding

The funding consists of a grant, which is specified in the guideline specification according to section 2.2. Funding can also be provided in the form of a service provided directly by aws, which is specified in the guideline specification in accordance with section 2.2. In this case, the flat-rate extent of the service (in euros) corresponding to a grant as well as the cash grant value are defined in the funding agreement.

5.2. Extent of funding

The funding amounts to a certain percentage of the eligible costs, depending on the legal basis for the aid, which is specified in the respective guideline specification.

5.2.1. Caps

The maximum eligible costs are EUR 5,000,000 per project. Lower programme-specific caps can be set in the respective guideline specification.

The eligible costs result from the sum of the cost estimates or invoices (excl. VAT) after deduction of any discounts, rebates and credit notes offered.

5.2.2. Cumulations

When funding is granted, the respective funding cap must be observed (cumulation), in particular taking into account funding granted for the project under other guidelines and/or from other sources (including those of the provinces, municipalities or other funding bodies, as well as from EU funds, including any de minimis subsidies).

The applicant for funding is therefore obliged to include in the application for funding corresponding information on intended, current or completed applications to other legal entities concerning the same project and to notify any subsequent changes in this regard. On the basis of this information, aws must check whether and to what extent funding can be granted on the basis of the provisions applicable to cumulation.

6. Funding processing procedure

6.1. Application

Applications for funding are to be submitted electronically via the website www.aws.at unless the guideline specification provides for a different procedure.

The documents and other information to be provided must be complete in order to enable the aws to make a comprehensive assessment of the enterprise applying for funding and the project to be funded. If such documents are not submitted despite a grace period, the application for funding may be withdrawn without further notice.

6.2. Decision

Applications for funding must be checked by the aws for compliance with the funding guidelines and the respective guideline specification.

Decisions on applications for funding are made by the aws in its own name and on its own account.

In the event of a positive decision on an application for funding, the aws must send the funding applicant an offer containing all the terms and conditions associated with the funding commitment. Unless shorter deadlines are stipulated in the guideline specification, this offer must be accepted by the applicant for funding within 3 months of its issue at the latest. By accepting the funding, the applicant for funding also confirms that he/she has read and understood the funding guideline and the respective guideline specification.

By way of derogation, an abbreviated funding commitment procedure may be stipulated in the guideline specification.

In the event that an application for funding is rejected, the aws will inform the applicant for funding in writing of the relevant reasons for this decision.

This Guideline does not establish a legal entitlement to the granting of funding, either in terms of the reason or the amount.

6.3. Project implementation and disbursement

6.3.1. Implementation period

The period for the implementation of the eligible project is defined in the funding agreement. An eligible project must be carried out within 3 years at the most; a longer

implementation period may only be set in duly justified individual cases. Deviations from this regulation can be defined in the guideline specification for the purpose of procedural simplification.

6.3.2. Project cost statement

Proof that the entire project has been completed in accordance with the funding agreement must be provided in the form of a project cost statement prepared and signed by the grant recipient (a summary of invoices supported by original receipts) using the form provided by the aws. Only net amounts paid (i.e. after deduction of VAT, discounts offered, rebates, credit notes, bank charges, open liability discounts, etc.) may be included in this project cost statement.

In the case of beneficiaries without entrepreneurial status, amounts including VAT are eligible for funding under the conditions of Section 33 ARR.

The deadline for the project cost statement and the fulfilment of requirements and conditions is defined in the funding agreement.

6.3.3. Disbursement

The grant awarded is paid out in one amount or in several instalments. The detailed regulations in this regard are defined in the respective guideline specification.

Prior to the disbursement of the total grant, the following must be submitted in any case:

- a. the project cost statement according to section 6.3.2.
- b. proof of compliance with the requirements and conditions attached to the funding agreement.

It can be specified in the guideline specification that on account payments are also possible.

It can be specified in the guideline specification that additional documents are to be submitted:

- c. in the case of external financing, confirmation from the financing institution that the financing funds have been used for the intended purpose
- d. in the case of self-financed investments, proof that the funds have been raised;

Assignment, instruction, pledging or any other disposal of the claims arising from the promised grant are not permitted.

7. Information and checks

7.1. General obligations to provide information

The applicant for funding shall be obliged to submit annual financial statements upon request and to provide all information in connection with the project, to allow inspection of books and vouchers as well as other documents serving to verify the funding project and to permit an on-site inspection. The grant recipient shall also be obliged to keep all documents relating to the funded project in a safe and orderly manner for a period of ten years after the end of the calendar year in which the entire funding is disbursed, and to comply with the reporting obligations in accordance with the respective guideline specification.

7.2. Obligation to provide information on projects

The applicant for funding must notify aws immediately and on his/her own initiative of any events that delay or make impossible the implementation of the project or would require a change to the application or agreed terms and conditions, and must comply with his/her notification obligations without delay.

7.3. Check

A review of the funded project can be carried out in particular by bodies or agents of the aws, the National Foundation for Research, Technology and Development, the Court of Auditors and the European Union.

8. Cessation and repayment

8.1. Cessation

8.1.1. The disbursement shall be provisionally suspended in the event of the

- a. opening of bankruptcy or reorganisation proceedings against the assets of the grant recipient;
- b. sale or transfer of the enterprise or the subsidised part of the enterprise for consideration;
- c. transfer of the enterprise by gift or inheritance.
- d. premature termination of the funding agreement (in the case of a beneficiary or a recipient according to section 3.2.3.)

8.1.2. Subsequently, if the company or project continues and the funding conditions and requirements are met, payment will be continued after a duly justified notification to the aws. In the event of a sale or transfer by gift or inheritance, the buyer or the transferee as well as the subsidised enterprise, including any resulting group, must continue to fulfil the specific eligibility requirements (e.g. young entrepreneur status, SME status, de minimis criteria, etc.).

8.1.3. Funding is finally discontinued

- a. if the requirements of item 8.1.1. are met, if in the case of lit. a. no reorganisation plan is adopted or in the case of lit. b., c. or d. the specific eligibility requirements are no longer met;
- b. if the business activity is permanently discontinued.

8.1.4. aws may revoke funding commitments if the conditions for payment are not met within the deadlines specified in the funding agreement through the fault of the applicant (withdrawal from the funding agreement).

8.2. Repayment

The recipient must be obliged to repay all or part of the disbursed funding or the cash value of the funding (in the case of services) within 14 days of a written request from aws, and claims to contractually guaranteed funding that has not yet been disbursed must be forfeited if

- 8.2.1.** aws or its agents or bodies or agents of an institution authorised to review the funded project have been informed incorrectly or incompletely about material circumstances, or
- 8.2.2.** a provision contained in this Guideline, the relevant guideline specification or the funding agreement has not been complied with, or
- 8.2.3.** planned reports are not compiled, proof is not presented or necessary information has not been provided, where in such cases a written warning, containing a time-limited and explicit reference to the legal consequences of non-compliance, has proved unsuccessful and other notifications envisaged in this Guideline were not issued or
- 8.2.4.** the grant recipients fail to report incidents on their own initiative without delay – but in any case before an audit or announcement thereof –, which

- would delay or render impossible implementation of the funded project, or would require modification compared to the application for funding or the agreed terms or conditions, or
- 8.2.5.** the grant recipients prevent or obstruct stipulated control activities pursuant to section 7 or the right to use the funding can no longer be reviewed within the scheduled period for storage of documents, or
 - 8.2.6.** grant funds have been used improperly, in full or in part, or
 - 8.2.7.** the project cannot or has not been carried out on time, or
 - 8.2.8.** the provisions of the Equal Treatment Act or the Federal Disability Equality Act or the prohibition of discrimination pursuant to Section 7b Disability Employment Act have not been observed by the recipient, or
 - 8.2.9.** recovery and/or suspension is requested by institutions of the European Union, or
 - 8.2.10.** the ban on assignment, instruction, pledging and other transfer has not been observed by the grant recipients, or
 - 8.2.11.** other funding requirements, in particular those intended to ensure the achievement of the funding purpose, have not been met by the grant recipients.

Interest on the repayment amount of 4% per annum from the date of disbursement of funding is in application of the interest rate method. If these interest rates are lower than the interest rate set by the EU for recoveries, the latter shall be used.

In the event of a delay in the repayment of the funding, interest on arrears shall be agreed at a rate of 4% above the applicable base rate per year from the occurrence of the delay.

If the project can only be or has only been partially implemented through no fault of the grant recipient, aws may refrain from extinguishing the claim and/or repaying the funding attributable to the partial implementation if the partial implementation is eligible for funding on its own.

- 8.2.12.** aws may, in particular in connection with requirements under state aid law or the conditions of EU co-financing, reclaim all or part of the disbursed funding or the cash value of the funding (in the case of services), whereby the claim to funding not yet disbursed expires if within a period of three years (SMEs) or five years (large companies), beginning with the date of completion of the project,
 - a. a subsidised capital good leaves the business assets, or
 - b. the requirements under trade law or other conditions for running the business cease to apply, or
 - c. the business activity is permanently discontinued.

If there is no fault on the part of the funded company in these cases, aws can waive the offsetting of interest.

Any further claims remain unaffected by this.

9. Data protection and publication

9.1. Data use

1. The grant applicant must be informed both in the application for funding and in the funding agreement that aws is authorised as the grantor and controller
 - a. to use the personal data arising in connection with the initiation and processing of the contract, the use of which is necessary for the performance of a task assigned to aws (by law) that is in the public interest (Art 6 para 1 lit e GDPR), for the fulfilment of a legal obligation (Art 6 para 1 lit c GDPR), for the purposes of concluding and processing the contract (Art 6 para 1 lit b GDPR) or otherwise to safeguard the legitimate interests of the controllers and a third party (Art 6 para 1 lit f GDPR), for the purposes of concluding and processing the funding contract, for the performance of the tasks assigned to aws (by law) and for monitoring purposes;
 - b. to collect necessary personal data for assessing the existence of funding requirements and checking on the project cost statement, beyond the information they have provided themselves, including by making enquiries at other bodies of the Federal Government or another legal entity, which awards or handles relevant funding, or at other third parties, and to transfer such data, whereby they in turn are entitled to provide information on and process necessary personal data for such requests;
 - c. conduct transparency portal queries pursuant to Section 32 para. 5 TDBG 2012.
2. The applicant for funding must be made aware that during the course of the use, it may happen that personal data must be transferred or disclosed particularly to the National Foundation for Research, Technology and Development (Federal Law Gazette I No. 133/2003 as amended), to bodies and agents of the Austrian Federal Ministry of Finance (in particular pursuant to Sections 57-61 and 47 of the Federal Budget Act 2013, Federal Law Gazette I No. 139/2009, as amended, and Section 14 of the ARR 2014, as amended), of the Court of Auditors (particularly Section 3 para. 2, Section 4 para. 1 and Section 13 para. 3 of the Court of Auditors Act 1948, Federal Law Gazette I No. 144/1948, as amended), bodies and organs of the European Union based on provisions of European law as well as KommAustria in accordance with the provisions of the Media Transparency Act, Federal Law Gazette I No. 125/2011, as amended. The legal basis for this in each case is the fulfilment of a legal obligation (Art 6 para 1 lit c GDPR) or the performance of a task in the public interest (Art 6 para 1 lit e GDPR).
3. If the grant applicant is a natural person, the application and the funding agreement must contain information on data processing in accordance with Art 13 and 14 GDPR (data processing information).
4. The funding applicant must confirm that the disclosure of data of natural persons to aws is in accordance with the provisions of the GDPR and that the data subjects will be or have been informed by the funding applicant about the data processing by aws (data processing information in accordance with section 3.).

9.2. Declaration of consent

If it is necessary to use data beyond section 9.1 and the use of data is not already permitted, it must be stipulated that, pursuant to Art 6 para 1 lit a, and Art 9 para 2 lit a GDPR, the applicant expressly consents to the use of the data by aws for these additional purposes. The declaration of consent must state which data can be used for which purpose. The applicant may revoke this declaration of consent at any time. To be effective, it must be declared to aws in writing.

Further use of the data will be discontinued immediately after receipt of the revocation by aws, without prejudice to existing statutory transmission obligations.

9.3 Publication

The applicant for funding must also be informed that, pursuant to European state aid law, in particular pursuant to Art 9 para 1 GBER, the data listed in Annex III of this Regulation must be published if the total funding promised for a project exceeds EUR 100,000 and from 01.01.2026 in accordance with Art. 6 De-minimis Regulation the data listed there, the data must be published.

10. Provisions in connection with EU programmes

This Funding Guideline can also be used within the framework of the EU Structural Funds programmes or other EU programmes both for the allocation of EU funds and for the presentation of national co-financing.

11. Observance of the Equal Treatment Act, the Federal Disability Equality Act and the Disability Employment Act

Funding will only be awarded to applicants who undertake to comply with the Equal Treatment Act and the Federal Disability Equality Act as well as the prohibition of discrimination according to Section 7b of the Disability Employment Act as amended.

12. Liability

aws shall not assume any liability for a specific outcome being achieved in relation to the funded project or for personal or material damages incurred in the course of project implementation. No liability claims can be derived from the funding contract or from the advice and support provided against an employee of the aws or the National Foundation for Research, Technology and Development.

13. Place of jurisdiction

To the extent permitted by law, a provision must be included in the funding agreement stating that the grant recipient submits to the jurisdiction of the competent court in Vienna in all disputes arising from the granting of funding, but that aws reserves the right to take action against the grant recipient at its general place of jurisdiction.

14. Entry into force and duration

The present version of the Guideline shall enter into force on **31/07/2024** and shall remain in force until **31/12/2026**. After expiry of this period, the present version of the Guideline shall only apply to funding agreements concluded on the basis of this legal basis.

Deadlines in connection with the submission of the application for funding are regulated in the respective guideline specification.

The present version of the Guideline replaces all previous version.

