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German Federal Ministry
of Transport and Digital Infrastructure

Funding Guideline: ‘Funding of computer games by the German Federal Government’

Date: 28 August 2020

Preamble

The computer games sector is a rapidly growing industry all over the world. Germany is the largest market in Europe and the fifth-largest market worldwide. Even though total revenue for the industry is rising, German companies’ market share is falling. Likewise, the trend in the absolute number of persons employed in the industry in Germany is slightly downward or stagnant. One of the main factors for this trend is the high production cost of computer games in Germany when compared to other countries.

As a part of the larger digital creative industry, computer game development is highly innovative. Along with innovative technologies (e.g. in the areas of graphics processing, 3D modelling or virtual reality) and cultural innovations, process and economic innovations can be observed as well.

In an effort to improve the framework conditions for developments from Germany, the government coalition agreement of February 2018 stipulated that funding for this sector should be introduced at federal level. Funds to this end were made available in the 2019 federal budget.

1 Objective and purpose of the funding, basis in law

This funding tool promotes the development of computer games (hereinafter referred to as ‘games’); these are interactive electronic works based on the idea of a game. These works respond to user input, serve educational and/or entertainment purposes and are intended for publication.

The aim is to strengthen Germany as a development location for gaming in the sense of a diverse cultural landscape, making it competitive internationally while thereby also helping strengthen the audio-visual sector in Europe.

The objective is for the entire industry – from small development studios to major firms – to benefit from this funding. The funding is intended specifically to help increase the number of employees within the cultural and creative economy, while at the same time increasing the number of game releases from Germany and strengthening their positioning in the German and international markets. At the same time, this instrument is intended to offer international companies an incentive to locate in Germany in the long term, thus making a strong contribution towards job creation. The number of development studios and companies in Germany is expected to increase as a result of the new measure.

The German Federal Government grants this funding for projects pursuant to this Guideline, Sections 23 and 44 of the German Federal Budget Regulation (BHO) and the General Administrative Regulations (VV-BHO) promulgated for this purpose.

There is no legal entitlement to funding. The granting authority makes funding decisions at its discretion, subject to the budgeted funds available.

2 Object of the funding

On the basis of this Guideline, the following stages of development of a game may be eligible for funding in accordance with Section 1:

- 1) Prototype development, and
- 2) Production.

3 Eligible applicants

3.1 Those eligible to apply are companies that responsibly manage and shape the development of computer games. A head office, branch or business premises in Germany throughout the project period (beginning no later than the first disbursement and continuing at least until the final payment) is a prerequisite for funding under this Guideline.

3.2 While co-developments are eligible in principle to apply, Section 3.1 shall also apply to the respective applicants where their company headquarters are concerned.

3.3 Applications by individuals are not possible.

4 Special requirements for benefits

4.1 To verify the appropriateness of and need for the funding sought, at the time of application the funding recipient has an obligation to explain whether and to what extent the recipient, beneficiaries or third parties have requested further funding for the project.

4.2 Costs and expenses¹ for the project should be calculated in a manner that is customary for the industry and based on the principle of cost-efficient business management.

4.3 Projects that have already been prior to approval of a funding application by the granting authority will not be eligible for funding.

4.4 Once the game is complete, and before it is published, the funding recipient has an obligation to submit the game to a procedure for age rating in compliance with the relevant provisions of the German Youth Protection Act (Jugendschutzgesetz). If there is no age rating, the payment granted will be reclaimed by the entity that granted the funding.

4.5 Projects that violate the German Constitution or valid law will not be eligible for funding.

4.6 In their application, applicants must indicate which of the items of the Culture Test (in the Appendix) are met by the game.

4.7 Applicants must exhibit at least one reference development. If there are no references, Section 7.10 shall apply.

4.8 Funding may be combined with funding from other funding institutions, as long as the maximum amounts fixed under German or European law are not exceeded.

4.9 No subsidy will be provided to applicants for whom insolvency proceedings have been requested or opened in relation to their assets. The same applies to any applicant who is under obligation to submit asset information pursuant to Section 802c of the German Code of Civil Procedure (ZPO) or Section 284 of the German Tax Code (AO), or from which this information has been accepted. If the applicant is a legal person represented by a legal representative, this shall apply insofar as the legal representative, by virtue of his or her obligation as legal representative of the legal person, is affected by the relevant obligations under Section 802c ZPO or Section 284 AO.

¹ In the following, only the term **costs** is used for reasons of improved legibility. This also applies to cases in which funding is provided on an expenditure basis.

4.10 Companies that have failed to comply with a recovery order resulting from a previous Commission Decision finding aid to be unlawful and incompatible with the European internal market will be excluded from funding. Companies in difficulty will also be excluded from funding.

5 Type and scope, amount of funding

5.1 Funds will be provided by way of partial financing in the form of non-repayable project-funding grants. An own contribution as a function of the share of funding granted is assumed. Own resources will total to at least 10% of eligible costs.

5.2 Only such costs as directly relate to the project or are specifically needed for the project will be eligible for funding.

5.3 The funding recipient may subcontract up to 50% of its own personnel costs to subcontractors.

5.4 Costs incurred prior to or as a result of the application are not eligible for funding.

Arrangement specific to the funding of prototypes

5.5 The costs estimated for the development of a prototype must total to at least €30,000 and may not exceed €400,000.

5.6 The grant provided for the development of a prototype shall not exceed 50% of the eligible costs.

5.7 The funding of a prototype shall not give rise to any legal entitlement to subsequent production funding.

Arrangement specific to production funding

5.8 The development costs estimated for the production of a game must total to at least €100,000.

5.9 The share of funding to be applied for the production of a game is dependent upon the estimated development costs. Projects the calculated development costs of which total to €2,000,000 or less will receive a share of funding equal to 50% of the eligible costs. A degressive scale will be created to calculate the funding share for productions the development costs of

which are estimated to be in excess of €2,000,000 and ranging up to and including €8,000,000. Within this corridor, the maximum share of funding of eligible costs will drop from 50% to 25%.²

5.10 If estimated development costs exceed €8,000,000, then the maximum share of funding for eligible costs shall be 25%.

[Graphic]

Berechnungsmodell der Förderquote	Model used to calculate the share of funding
Förderquote in %	Share of funding in %
Entwicklungskosten in Mio.	Development costs in € millions

6 Other funding provisions

6.1 The 'General Auxiliary Conditions for Grants Provided for Projects' (ANBest-P) form an integral part of funding determinations based on expenditures. The 'General Auxiliary Conditions for Grants Provided for Projects on a Cost Basis' (ANBest-P-Kosten) form an integral part of funding determinations based on costs.

6.2 Under the specifications of European law that govern transparency, each individual grant of aid in excess of €500,000 will be published.

6.3 The funding granted under this Funding Guideline may constitute a subsidy within the meaning of Section 264 of the German Criminal Code (StGB). Some of the disclosures required in the course of the application procedure are thus subsidy-relevant within the meaning of Section 264 StGB in conjunction with Section 2 of the German Subsidy Act (Subventionsgesetz). Before funding is granted, the applicant is instructed as to the facts relevant to the subsidy and as to the repercussions, under German criminal law, of subsidy fraud. The applicant must ensure that he or she is aware of these facts. The applicant must submit an obligatory, written declaration for this purpose.

² The degressive share of funding (F) between €2,000,000 and €8,000,000 is calculated from the development costs (EK) involved using the following equation: $= \frac{175}{3} - \frac{25}{6} * \frac{EK}{1.000.000}$, where for EK: 2,000,000 < EK ≤ 8,000,000.

6.4 Funding may be awarded only if total financing of the project is secured. To this end, the funding recipient must furnish the granting authority with a preproduction costing or financing plan.

6.5 Under the rules applicable to the funding of prototypes: The applicant covenants to further develop the prototype into a game, or to offer it to a publisher or developer for further development.

6.6 Under the rules applicable to the funding of production: The applicant covenants to publish the game as a product, and to make it available to consumers.

6.7 Upon completion, a copy (or its equivalent) of the completed product shall be made available, free of charge, for archiving purposes.

6.8 In the case of games funded under this Guideline, clear reference shall be made, in a suitable place, to the funding.

6.9 Funding hereunder is predicated on the willingness of funding recipients to cooperate and participate in networking and event formats – such as conferences or annual meetings of current and former funding recipients. Funding recipients are also called upon to support programme-related information and communication outreach for the purpose of public presentation of project results.

6.10 Funding recipients have an obligation to take part in evaluation activities and to provide information for the assessment of the success of the funding measure.

7 Procedure

7.1 The granting authority is the German Federal Ministry of Transport and Digital Infrastructure (BMVI). The BMVI may commission a project-management organisation to oversee the handling of the funding measure. The project-management organisation thus commissioned will, where appropriate, provide advice on the application procedure.

7.2 If need be, the granting authority may enlist the assistance of third parties for a professional assessment of a specific project.

Application procedure

7.3 Grant applications must be submitted through the German Federal Government's Electronic Application System (easy-Online), at <https://foerderportal.bund.de/easyonline>.

7.4 Applications must use the forms specified by BMVI. The application documents include a culture test and further information about the project, as defined in the respective call for funding.

7.5 The required documents must be composed or made available in German.

7.6 Applications may be submitted following a relevant call. This call may define specifications that extend beyond the provisions of the Funding Guideline.

7.7 Applications will be reviewed once all of the application documents have been received. It is possible that the granting authority will then request application documents of a supplementary nature, or to clarify the facts involved.

7.8 The application, together with the documents submitted, will be reviewed in light of the criteria defined in the call. There will also be a review of the culture test, a plausibility check of the detailed preproduction costing and/or of the detailed financing plan, a creditworthiness check of the applicant and a review of the project's eligibility under the laws applicable to funding. The funding authority reserves the right to request further information or, where appropriate, to perform a separate appraisal if fulfilment of individual eligibility criteria is not clearly laid out.

7.9 Projects for which the planned total funding exceeds a threshold defined in the respective call will be subject to separate appraisal in addition to the criteria under 7.8. Funding amounts below the threshold are considered irrespective of any separate appraisal.

7.10 If an applicant cannot produce at least one reference development, eligibility for funding must be confirmed by means of a separate appraisal.

7.11 Once the application has been processed, the applicant will receive written notification of the outcome of the review.

7.12 There is no legal entitlement to the return of documents submitted within the framework of the application procedure. No funding can be granted for costs incurred as a result of the application.

Approval and disbursement procedures

7.13 The granting authority issues the funding on the basis of a funding decision. The approved funding will be provided to the funding recipient based on the proof as laid out in the funding decision, by means of call or request procedure, pursuant to Number 7 of the General Administrative Regulations (VV-BHO) to Section 44 (1) of the German Federal Budget Regulation (BHO) and the General Auxiliary Conditions for Grants Provided for Projects (ANBest-P) and the General Auxiliary Conditions for Grants Provided for Projects on a Cost Basis (AnBest-P-Kosten).

7.14 Above and beyond the obligations that must be met under ANBest-P and ANBest-P-Kosten, in individual cases the granting authority may – at its due discretion, and in an effort to accomplish the purpose of the funding – incorporate further proof or stricter requirements as ancillary provisions in the funding decision.

Procedure for the proof of use

7.15 Proof of use must be provided for project funding in accordance with VV-BHO No. 10 to Section 44 BHO, No. 6 ANBest-P and 7 ANBest-Kosten.

Regulations to be observed

7.16 The approval, disbursement and settlement of funding, and for purposes of proof and review of the use of funding and, if appropriate, the revocation of the funding decision and the recovery of the funding awarded, shall be governed by Sections 48 to 49a of the German Administrative Procedures Act (VwVfG), Sections 23 and 44 of the German Federal Budget Regulation (BHO) and the General Administrative Regulations promulgated for this purpose, unless departures from the General Administrative Regulations are permitted under these Funding Guidelines. The German Federal Audit Office (Bundesrechnungshof) is authorised to conduct audits in accordance with Sections 91, 100 BHO.

8 Success monitoring

8.1 Within the scope of the review of proof, the granting authority will conduct success monitoring of the respective funding measure in accordance with VV-BHO No. 11 a.1 to Section 44 BHO. Success monitoring is also conducted relative to the overarching aims of this Funding Guideline.

9 Date of entry into force

9.1 This Funding Guideline shall enter into force on the day following its publication in the German Federal Legal Gazette (Bundesanzeiger).

9.2 The Funding Guideline is set to expire on 31 December 2023.

Berlin, 28 August 2020

German Federal Ministry
of Transport and Digital Infrastructure

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Appendix 1: Culture test

A game may be funded if it meets at least two criteria in each of the following Categories I and II (thereof II.1 or II.2) and meets at least 1 criterion of Category III.

I Cultural context and cultural content

1 The game situation is located in Germany or the European Economic Area or features contemporary historical or historical references thereto.

2 The main characters of the game represent a figure of German or European contemporary and world history, or a fictional figure in German or European cultural history.

3 The game is published in at least the German language.

4 The theme, motives or ideas that underlie the game relate to Germany or the European Economic Area, e.g.:

a) The game's course of play, its story or its design address Germany's culture (everyday culture, pop culture, gaming culture, youth culture, high culture, learning culture, media culture, etc.), society, identity, German history or aspects of life in Germany or in the European Economic Area.

b) The story of the game is based on a literary, cinematic, television or other foundation drawn from the German or European (language) area, e.g. including fairy tales, legends and science fiction.

c) The game references or further develops German gaming traditions.

d) The game highlights aspects of regional diversity in Germany or in the European Economic Area.

e) The game reflects the German cultural heritage.

In exceptional cases, the cultural context and content may also be non-European if this is very clearly defined and designed to be particularly creative or innovative, and if a particularly large number of criteria under II and III are met.

II Cultural/creative platform

1 A significant proportion of the creative work (concept development, programming, music recording) will take place in Germany and as a result is expected to have a special impact towards the promotion of the local cultural and creative sectors.

2 At least 50% of the team members have their main place of residence in Germany, are taxed there or are otherwise familiar with German culture – due, for instance, to their qualifications acquired in Germany or due to a corresponding stay in Germany.

In any event, the following team members must meet this criterion:

- a) Producer
- b) Leading Copywriter/Author/Concept Developer
- c) Leading Composer/Sound Designer
- d) Art Director
- e) Technical Director
- f) Leading Game Designer

3 Promotion of young cultural talent: The team includes graduates from universities or institutions of higher learning who have graduated up to 2 years ago if

- (a) the university or institution of higher learning is located in Germany; or
- b) the graduate of a foreign university or institution of higher learning currently resides in Germany.

III Design-based, creative and technological innovation

The game is particularly creative or innovative, in the following areas, for example:

- 1 Narrative structure or game play,
- 2 Design of the characters, the setting, the story and the environment,
- 3 Game music,
- 4 Interactivity, multiplayer function, user interface, user-generated content,
- 5 Use of artificial intelligence,
- 6 Use of new technologies for the development, implementation or application of the game.