

# Federal Ministry of Transport and Digital Infrastructure

Funding Guidelines: Federal Government Computer Games Funding

of 28 August 2020

## Preamble

The computer games industry is enjoying strong growth worldwide. Germany is the largest market in Europe and ranks fifth internationally. Although the overall revenue of this industry is increasing, the market share of German companies is shrinking. Likewise, the absolute number of people employed in this industry in Germany is declining slightly or stagnating. One of the main reasons for this development is presumably the fact that production costs for computer games in Germany are relatively high compared with other countries.

As part of the wider creative sector, computer game development is a highly innovative industry. In addition to innovative technologies (e.g. in graphics processing, 3D modelling or virtual reality) and cultural innovations, the industry also develops process and business innovations.

In an effort to ameliorate the framework conditions for game development in Germany, the coalition agreement of February 2018 stipulated that funding support was to be introduced at federal level. Resources earmarked accordingly were made available in the 2019 federal budget.

## 1. Funding objective and purpose of grants, legal basis

This funding instrument promotes the development of computer games (hereinafter 'games'), i.e. interactive electronic works based on a game idea. These works respond to user input and are designed to serve educational and/or entertainment purposes and intended for publication.

The aim is to bolster Germany's status as a games development hub within a diverse cultural landscape, enable it to be competitive internationally, in this way helping to strengthen the audio-visual sector in Europe.

This funding support is to benefit the industry as a whole, from small development studios to major corporations. The funding support is intended in particular to increase employment figures in the cultural and creative industry as well as the number of games published in Germany, and enhance their position both on the German and international markets. Furthermore, the instrument is to incentivize international companies to establish permanent operations in Germany, in this way leading to sustainable job creation. As a result, the number of development studios and companies in Germany is to increase.

The Federal Government will provide the grants for projects in accordance with these Guidelines, sections 23 and 44 of the Federal Budget Code (BHO) and the General Administrative Regulations (VV-BHO) adopted pursuant thereto.

There is no legal entitlement to funding support. The grant-awarding authority decides freely, after due assessment of the circumstances, within the framework of the funds available.

## 2. Subject of the funding

On the basis of these guidelines, the following stages of game development are eligible for funding pursuant to 1:

- 1) Prototype development
- 2) Production

## 3. Eligible parties

- 3.1. Companies responsible for overseeing and decisively influencing the development of the game are eligible to apply. The company must have a head office, a permanent establishment or a place of business in the Federal Republic of Germany throughout the entire project lifetime (from the first payment at the latest to at least the last payment).
- 3.2. While co-developments are possible in principle, the requirements regarding registered offices pursuant to 3.1 shall apply to the respective applicants.
- 3.3. Applications from individuals will not be accepted.

## 4. Special conditions for the provision of grants

- 4.1. In order to assess the appropriateness and necessity of the requested funding, the funding recipient is obliged to declare on submission of their application whether or to what extent they, beneficiaries or third parties have applied for other funding for the project.
- 4.2. The costs and expenditures<sup>1</sup> for the project should be calculated using an industry-standard approach and in accordance with the principle of economical business management.
- 4.3. Projects that have been commenced before approval of an application for funding will not be funded.
- 4.4. The funding recipient is obliged to submit the game for evaluation for age rating in compliance with the relevant provisions of the Youth Protection Act. If the game is not subjected to age rating, the funding provider shall demand repayment of the grant.
- 4.5. Projects that infringe against the German constitution or governing law will not be eligible for funding.
- 4.6. In their applications, applicants must indicate which aspects of the culture test (see Annex) are fulfilled.
- 4.7. Applicants must provide proof of at least one reference development. If the applicant does not have any references, 7.10 applies.
- 4.8. The funding support may be combined with funding from other funding institutions provided the ceilings defined in accordance with German or European law are not exceeded.

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<sup>1</sup> In the following, the term **costs** will be used exclusively for better legibility. This is also true in cases in which the funding is made available on an expenditure basis.

- 4.9. Grants shall not be awarded to applicants against whom insolvency proceedings have been requested or opened. The same shall apply to applicants who are obliged to disclose or have disclosed their assets under section 802c of the Code of Civil Procedure (ZPO) or section 284 of the Fiscal Code (AO). If the applicant is a legal entity represented by a legal representative, this shall apply if the legal representative is, on the basis of their engagement as the legal representative of the legal entity, subject to the corresponding obligations arising from section 802c of the Code of Civil Procedure or section 284 of the Fiscal Code.
- 4.10. Companies that have not complied with a recovery order following a previous Commission decision declaring state aid illegal and incompatible with the internal market will be excluded from funding. Companies in difficulty will also be excluded from funding.

## 5. Nature and scope, amount of funding

- 5.1. Grants for project funding are awarded as non-repayable subsidies in the form of pro rata funding. A prerequisite for this is that the recipient makes an own contribution calculated as a function of the funding rate granted. The own resources committed must amount to at least 10% of the eligible costs.
- 5.2. Only costs directly related to the project or which are required specifically for the project are eligible for funding.
- 5.3. The beneficiary may subcontract no more than 50% of its own manpower costs to subcontractors.
- 5.4. Costs incurred before or because of the application are not eligible.

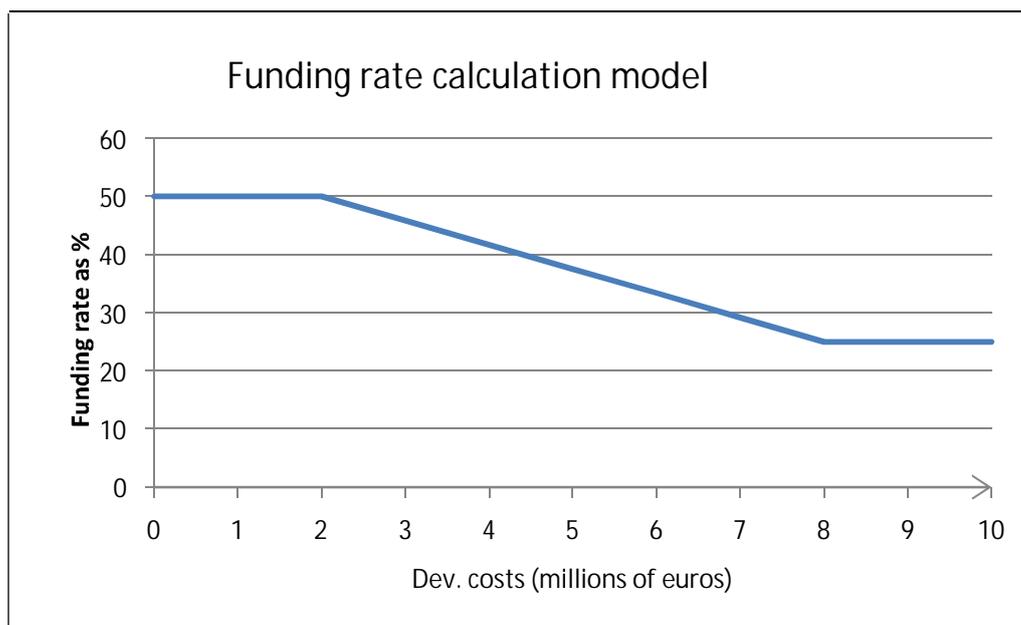
### Specific provisions on prototype funding

- 5.5. The estimated development costs for a prototype must be 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. Funding of a prototype shall not result in any legal entitlement to subsequent production funding.

### Specific provisions on production funding

- 5.8. The estimated development costs for the production of a game must be at least €100,000.
- 5.9. The funding rate applicable for the production of a game depends on the estimated development costs. Projects with calculated development costs up to and including €2,000,000 will receive a funding rate of 50% of the eligible costs. When calculating the funding rate for productions with estimated development costs from €2,000,000 up to and including €8,000,000, a declining scale will be applied. Within this corridor, the maximum funding rate of eligible costs drops from 50% to 25%<sup>2</sup>.
- 5.10. If the estimated development costs exceed €8,000,000, the maximum funding rate of eligible costs shall be 25%.

<sup>2</sup> The declining funding rate (F) between €2,000,000 and €8,000,000 is calculated from the development costs (EK) based on the following formula:  $F = \frac{175}{3} - \frac{25}{6} \times \frac{EK}{1,000,000}$ , where EK is:  $2,000,000 < EK \leq 8,000,000$



## 6. Other funding provisions

- 6.1. The 'General Auxiliary Conditions for Grants for the Promotion of Projects' (ANBest-P) shall be a component of the notification of award of grant on an expenditure basis. The 'General Auxiliary Conditions for Grants for the Promotion of Projects on a Cost Basis' (ANBest-P-Kosten) shall be a component of the notification of award of grant on a cost basis.
- 6.2. In line with European transparency legislation, each individual grant in excess of €500,000 is disclosed publicly.
- 6.3. Grants provided under these Funding Guidelines may constitute a subsidy within the meaning of section 264 of the Criminal Code (StGB). Some of the information to be provided in the application procedure is therefore subsidy-relevant within the meaning of section 264 of the Criminal Code in conjunction with section 2 of the Subsidies Act (Subventionsgesetz). Before any grant is awarded, the applicant shall be informed of the facts relevant to the granting of a subsidy and made aware of the consequences of subsidy fraud under criminal law. The applicant must ensure that they are aware of these facts. For this purpose, the applicant must submit a mandatory written declaration.
- 6.4. Grants may only be awarded if the entire funding of the project is ensured. To this end, the funding recipient must submit a preliminary costing or a budget plan to the grant-awarding authority.
- 6.5. For prototype funding: The applicant undertakes to further develop the prototype to a game or offer it to a publisher or developer for further development.
- 6.6. For production funding: The applicant undertakes to publish the game as a product and make it available to end consumers.
- 6.7. After completion, a copy (or appropriate equivalent) of the finished product shall be made available, free of charge, for archiving.
- 6.8. Games funded under these guidelines shall contain a clear reference to this in a suitable place.

- 6.9. This funding is subject to the willingness of the funding recipients to cooperate and participate in networking and event formats, such as conferences or annual meetings of current and former funding recipients. Moreover, funding recipients are called upon to support overarching programme-related information and communications outreach for public presentation of project results.
- 6.10. Funding recipients are obliged to participate in evaluation measures and to provide information to assess the success of the funding measure.

## 7. Procedure

- 7.1. The Federal Ministry of Transport and Digital Infrastructure (BMVI) is the grant-awarding authority. The BMVI can commission a project executing organization to oversee the implementation of the funding measure. Where appropriate, the project execution organization can provide advice on the application process.
- 7.2. If required, the grant-awarding authority can avail itself of the support of third parties for technical assessment of a project.

### Application procedure

- 7.3. Grant applications must be submitted through the Federal Government's Electronic Application System (easy-Online) at <https://foerderportal.bund.de/easyonline>.
- 7.4. The forms specified by the BMVI must be used for the applications. A culture test and further information on the project, as defined in the relevant call for applications for funding, are part of the application documents.
- 7.5. The required documents must be written or provided in German.
- 7.6. Applications can be submitted after a corresponding call for applications for funding. This call may define specifications above and beyond those stipulated in the Funding Guidelines.
- 7.7. The applications will be reviewed after receipt of the complete application documents. The grant-awarding authority may request supplementary or clarifying application documents or clarification of the relevant facts.
- 7.8. The application and the submitted documents shall be assessed based on the criteria defined in the call. The following are also conducted: a review of the culture test, a plausibility check of the detailed preliminary costing and/or the detailed budget plan, a credit risk assessment of the applicant and a review of the project's eligibility under funding-related laws. The funding donor reserves the right to request further information or, where appropriate, to conduct a separate assessment if fulfilment of the individual eligibility criteria is not clearly demonstrated.
- 7.9. Projects whose budgeted funding total exceeds a threshold defined in the respective call will be subjected to separate assessment in addition to the criteria set forth under 7.8. Funding totals below the threshold are not subject to the separate assessment.
- 7.10. If an applicant cannot provide proof of at least one reference development, the eligibility for funding must be confirmed via a separate assessment.
- 7.11. After processing of the application, the applicant will be notified in writing of the result of the review.
- 7.12. There is no legal entitlement to have documents that are submitted as part of the application process returned. Costs incurred for the application procedure are not eligible for funding.

### **Approval and disbursement procedure**

- 7.13. The grant-awarding authority awards the grant on the basis of the notification of award of grant. The applicant will be provided with the approved funding based on the corresponding proofs defined in the notification via a call or request procedure, pursuant to point 7 of the General Administrative Regulations (VV-BHO) on section 44(1) of the Federal Budget Code (BHO) and the 'General Auxiliary Conditions for Grants for the Promotion of Projects' (ANBest-P) and the 'General Auxiliary Conditions for Grants for the Promotion of Projects on a Cost Basis' (ANBest-P-Kosten).
- 7.14. Above and beyond the obligations to be fulfilled in accordance with ANBest-P and ANBest-P-Kosten, the grant-awarding authority may, on a case by case basis and at its due discretion, incorporate further proof or stricter requirements as ancillary provisions in the notification of award of grant in order to achieve the purpose of the grant.

### **Expenditure report procedure**

- 7.15. Expenditure reports must be submitted for project funding in accordance with point 10 of VV-BHO on section 44 of BHO, point 6 of ANBest-P and point 7 of ANBest-Kosten for project funding.

### **Provisions to be observed**

- 7.16. Approval, disbursement and settlement of the grant, proof and verification of its use, withdrawal of the notification of award of grant (if necessary) and recovery of the grant provided shall be governed by sections 48 to 49a of the Administrative Procedures Act (VwVfG), sections 23 and 44 of the Federal Budget Code (BHO) and the General Administrative Regulations adopted pursuant thereto, unless the present Funding Guidelines allow derogations from the General Administrative Regulations. The Federal Audit Office shall be authorized to conduct audits under sections 91 and 100 of the Federal Budget Code.

## **8. Performance monitoring**

- 8.1. As part of the review of expenditure reports, the grant-awarding authority will conduct performance monitoring of the respective funding measure in accordance with point 11 a.1 of VV-BHO on section 44 of BHO. Performance monitoring will also be conducted with respect to the overarching objectives of these Funding Guidelines.

## **9. Entry into force**

- 9.1. These Guidelines shall enter into force on the day following their publication in the Federal Gazette.
- 9.2. The Funding Guidelines are effective until 31 December 2023.

Berlin, 28 August 2020

Federal Ministry  
of Transport and Digital Infrastructure

Dr Tobias Miethaner

## Annex 1: Culture test

A game is eligible for funding if it fulfils at least 2 criteria of each of the categories I. and II. below (II.1 or II.2) and at least 1 criterion from category III.

### I. Cultural context and cultural content

1. The game is set in Germany or the European Economic Area or has contemporary or historical references.
2. The main characters in the game represent a figure from German or European contemporary and world history or a fictional figure in German or European cultural history.
3. The game is published at least additionally in German.
4. The game's underlying topic, subjects or ideas relate to Germany or the European Economic Area, for example:
  - a) The game's structure, story or design addresses German culture (everyday culture, pop culture, gaming culture, youth culture, high culture, educational culture, media culture, etc.), society, identity, German history or aspects of life in Germany or in the European Economic Area.
  - b) The game's story is based on a literary, cinematic, televisual or other foundation from the German or European (language) area, e.g. including fairy tales, legends and science fiction.
  - c) The game references or evolves German gaming traditions.
  - d) The game highlights aspects of regional diversity in Germany or the European Economic Area.
  - e) The game reflects German cultural heritage.

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

### II. Cultural/creative platform

1. A significant part of the creative work (concept development, programming, music recording) will take place in Germany and, as a result, it is expected to have a particular promotional impact for domestic cultural and creative sector.
2. At least 50% of the team members have their main place of residence in Germany, are subject to taxation there or are otherwise familiar with German culture, for example due to qualifications obtained in Germany or an appropriate period of time spent in Germany.

The following team members must definitely meet this criterion: a) Producer

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

3. Promotion of young cultural talent: The team includes graduates of universities or higher education institutions who graduated within the past 2 years
  - a) if the university or higher education institution is located in Germany; or
  - b) from foreign universities or higher education institutions provided the graduate currently resides in Germany.

### **III. Design-related, 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, setting, story and 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