

# **Guidelines on Funding for Combined Transport Terminals Operated by Private Undertakings**

of 4 January 2017

G 22 / 3141.4/1

## **1 Subject matter and goal of the funding**

- 1.1 The Federal Government shall, upon request and outside the scope of application of the Federal Railway Infrastructure Upgrading Act, award grants, in accordance with these Guidelines (administrative regulation) and sections 23 and 44 of the Federal Budget Code and the administrative regulations adopted pursuant thereto, for the construction of new and the upgrading of existing combined transport (CT) terminals if they are absolutely essential for achieving the objective of the funding. There shall be no entitlement to be awarded a grant. Rather, the grant-awarding agency shall take its decisions according to its own best judgment within the limits of the available appropriations.
- 1.2 The overarching objective of the funding is to support, through CT, a shift of freight movements from the roads to the more environmentally friendly rail and waterway modes. This goal can be achieved both by directly shifting traffic from the roads to the railways or waterways and through rail/rail or waterway/waterway transshipment.
- 1.3 The specific goal of the Federal Government funding is to expand the overall technical handling capacity in Germany by an average of 9,000 loading units for each million euros of funding.
- 1.4 For the purposes of these Guidelines, "combined transport" means the carriage of goods in one and the same standardized loading unit (container or swap body with a length of at least 20 feet, semi-trailer with or without tractor, rigid vehicle, trailer) where the loading unit, including the cargo, changes transport modes. The initial and final road legs are to and from the nearest suitable CT terminal. The rest of the journey is by rail and/or inland waterway.

## **2 Conditions of funding**

- 2.1 The beneficiary shall be the applicant. Eligible applicants shall be businesses established under private law. Federal railway infrastructure companies shall not be eligible to receive grants under these Guidelines.

- 2.2 For funding to be provided, the following conditions must be met:
- 2.2.1 funding by private capital alone would not result in the economic viability of the CT terminal;
  - 2.2.2 the CT terminal to be upgraded or constructed will be accessible on a non-discriminatory basis;
  - 2.2.3 the funding will not distort competition;
  - 2.2.4 the project has not already started before notification of the grant has been issued; "start of the project" shall normally mean that a contract has been concluded for the supply of goods or services attributable to its execution;
  - 2.2.5 a planned CT terminal and its component parts are acknowledged to be eligible for funding following a review by the competent grant-awarding agency;
  - 2.2.6 the net present value calculated using a suitable rate of return in accordance with the discounted cash flow method (Annex 3(9)) is negative when the funding is disregarded; the net present value calculated inclusive of the funding must be zero;
  - 2.2.7 average cargo handling costs fall by no more than €33 per loading unit as a result of the funding, and by no more than €15 per loading unit in the case of CT terminals located near seaports (degree of assistance);
  - 2.2.8 proof of benefit to the national economy is furnished (Annex 3(10)); the benefit to the national economy should be at least four times the value of the funding; lower values may be acceptable in justified individual cases; no funding shall be provided if the value of the benefit to the national economy is less than the funding;
  - 2.2.9 the CT terminal is to be upgraded or constructed on land owned by the beneficiary; if the beneficiary has a heritable building right or long-term leasehold over the property for the duration of the operating period (see 4.1), this shall be deemed equivalent to ownership;
  - 2.2.10 the CT terminal is linked to the public transport network in such a way that there is no impediment of any kind to the CT operations.
- 2.3 Applicants in respect of whose assets insolvency or similar proceedings have been requested or opened shall receive no grants under these Guidelines. The same shall apply to applicants who are obliged to disclose or have disclosed their assets in accordance with section 802c of the Code of Civil Procedure or section 284 of the Fiscal Code. If the applicant is a legal entity represented by a legal representative, this shall

apply if the legal representative is, on the basis of his 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.

### **3 Nature, scope and amount of the grants**

- 3.1 Projects shall be funded by means of pro rata funding.
- 3.2 Of the eligible capital expenditure (including a 10 percent lump sum for planning costs), up to 80 percent shall be paid in the form of a non-repayable subsidy in the case of the construction of new and the upgrading of existing CT terminals. The grant shall be limited to a maximum amount when approved. In the event of aggregation with other grants, the maximum rate of funding of 80 percent must not be exceeded.
- 3.3 In accordance with Annex 1, capital expenditure for the following shall be eligible:
  - 3.3.1 the acquisition of land, provided that it is directly required for handling operations and the traffic directly associated with them. The creation of a heritable building right or signing of a long-term lease shall be deemed equivalent to the acquisition of land, provided that the duration is at least equal to the operating period referred to in 4.1. Funding shall not be provided for the acquisition of land and measures deemed equivalent to it if the seller of the land, the grantor of the heritable building right or the lessor has a majority holding in the applicant or is able to exercise direct or indirect control over it. The same shall apply if the applicant has a majority holding in the seller of the land, the grantor of the heritable building right or the lessor or is able to exercise direct or indirect control over it;
  - 3.3.2 the carrying-out of infrastructure projects on this land that are necessary for handling operations and, where this is the case, have been ordered by the authorities;
  - 3.3.3 the erection of buildings, to the extent that they are required for the performance of activities that are directly related to CT handling;
  - 3.3.4 the procurement of terminal-based handling facilities
- 3.4 Turnover tax shall not be eligible.
- 3.5 At existing CT terminals funded since 2002 under the Guidelines on Funding for Combined Transport Terminals, all measures within the meaning of Annex 1 may, within the operating period referred to in 4.1 specified in the notification of award, be eligible which become necessary *ex post facto* due to public law requirements (in particular in relation to the transport of dangerous goods), provided that separate proof of the necessity of the funding is furnished.

- 3.6 At existing CT terminals funded since 2002 under the Guidelines on Funding for Combined Transport Terminals, the replacement once or twice of the mobile handling equipment funded under these Guidelines shall be eligible within the operating period referred to in 4.1 specified in the notification of award. The proportion of the funding shall correspond to that at which the item of handling equipment to be replaced was funded, provided that this does not exceed the maximum rate of funding permitted under the current Guidelines. In each case, the residual value of the handling equipment to be replaced shall be estimated.

#### **4 Obligations of the beneficiary**

- 4.1 The beneficiary shall ensure that the CT terminal for which funding has been provided remains in operation for a period of 20 years where its own resources' share of the eligible expenditure is less than 50 percent and for a period of 10 years where its own resources' share of the eligible expenditure is 50 percent or more.
- 4.2 The beneficiary shall be obliged, during the operating period referred to in 4.1, to make any lease, rental or sale of the terminal or parts thereof contingent upon the assumption by another lessee, tenant or buyer of all the rights and obligations arising from the relationship between the grant-awarding agency and the beneficiary. The contract shall require the consent of the grant-awarding agency.
- 4.3 Any change in the ratio of holdings in the beneficiary shall be notified to the grant-awarding agency. The operator of the terminal's holding in the beneficiary shall not exceed 50 percent.
- 4.4 If, before the end of the operating period referred to in 4.1, the facilities and buildings are decommissioned, repurposed, sold, leased or rented in a manner contrary to 4.2, or not kept in operation, the beneficiary shall be obliged to repay the grant provided, including interest, on a pro rata basis based on the unexpired portion of the operating period referred to in 4.1. The same shall apply to terminals that have ceased operation for more than three years due to a lack of orders. Interest shall be charged on the amount repayable at an annual rate of five percentage points over the base rate in accordance with section 247 of the Civil Code
- 4.5 Construction work and supplies for which funding is provided shall be put out to tender in accordance with point 3 of the General Incidental Provisions for Grants to Fund Projects, as amended.
- 4.6 If a new CT terminal is constructed and the rate of funding exceeds 50 % of the eligible expenditure, its operation shall be put out to tender. The beneficiary or natural or legal

entities that have holdings in it may have a maximum holding 50 percent in the operating company. In the event that the operating company or the natural or legal entities with holdings in it subsequently acquire a holding of over 50 % in the beneficiary (cf. 4.3), operation shall be put out to tender again.

- 4.7 Before the first drawdown of funds, the beneficiary shall furnish security in order to secure its potential repayment obligation. Sufficient security for the entirety of the repayment obligation shall be deemed to have been provided if the Federal Government is granted a first-rank lien in the form of a mortgage on the land on which the CT terminal for which funding is provided is to be constructed or upgraded. If the CT terminal is constructed or upgraded on land used under a heritable building right, it shall likewise suffice for the Federal Government to hold a first-rank lien in the form of a mortgage on the heritable building right, provided that the heritable building right has a remaining term of at least 25 years at the start of an operating period referred to in 4.1 of 10 years and of at least 50 years at the start of an operating period of 20 years. The entry of a corresponding priority notice in the land register shall suffice as proof of said lien. If a first-rank lien cannot be furnished, the beneficiary shall present a directly enforceable bank surety or a directly enforceable surety of equal value provided by a third party in order to secure its repayment obligation for the full amount of the grant.
- 4.8 During the construction phase, the beneficiary shall be obliged to present a binding forecast on 31 July and 31 October of each year of the federal funding that will be required by the end of the year
- 4.9 The beneficiary or the buyer, lessee or tenant of the CT terminal referred to in 4.2 shall be obliged, for the duration of the operating period referred to in 4.1, to send the competent grant-awarding agency an updated master data sheet on 15 September of each year, using the form provided by the agency.
- 4.10 Further information about indicators regarding the economic viability of the terminal that are relevant to cargo handling shall be provided to the grant-awarding agency on demand.

## 5 Procedure

- 5.1 The grant-awarding agencies shall be the Federal Railway Authority<sup>1</sup> for combined rail/road and rail/rail transport terminals and the Federal Waterways and Shipping

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<sup>1</sup> Eisenbahn-Bundesamt, Heinemannstr. 6, 53175 Bonn

Agency<sup>2</sup> for combined waterway/road and waterway/waterway transport terminals. The latter shall also be the grant-awarding agency for trimodal terminals (waterway/rail/road) where the focus is on investment in the waterway infrastructure. The former shall be the grant-awarding agency for trimodal terminals where the focus is on investment in the rail infrastructure.

- 5.2 The applications required by these Guidelines shall be submitted in writing to the competent grant-awarding agency. It shall take decisions on both the request for resolution of the siting issue and the application for funding (cf.1).
- 5.3 The competent grant-awarding agency shall assist interested parties and applicants before the submission of an application and during the approval process.
- 5.4 The competent grant-awarding agency shall first review the request for resolution of the siting issue. The documents required are listed in Annex 2.
- 5.5 In its request for resolution of the siting issue, the applicant shall provide verifiable evidence of:
  - 5.5.1 how the economical operation of the CT terminal will be ensured;
  - 5.5.2 whether, and if so what, modal shift impacts are likely and how the project will affect the competitive environment in its catchment area. If requested by the grant-awarding agency, a professional opinion on the matter shall be presented.
- 5.6 Following resolution of the siting issue, the grant-awarding agency shall review the application for funding. In this regard, the applicant shall submit the documents referred to in Annex 3 and declare that:
  - 5.6.1 none of the restrictions referred to in 2.3 apply;
  - 5.6.2 work on the project has not yet started (see 2.2.3); and
  - 5.6.3 the terminal will be operated on a non-discriminatory basis.
- 5.7 The applicant shall:
  - 5.7.1 furnish proof that the entire funding of the project is ensured; and
  - 5.7.2 submit a declaration concerning subsidy-relevant facts using the form provided by the grant-awarding agency.

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<sup>2</sup> Generaldirektion Wasserstraßen und Schifffahrt, Cherkuskerring 11, 48147 Münster

- 5.8 The grant-awarding agency shall review the completeness of the applications referred to in 5.4 and 5.6 within one month.
- 5.9 If the grant-awarding agency arrives at the conclusion that a CT terminal for which an application for funding has been submitted is fully eligible for funding but that it may be wise, given the volumes of cargo likely to be handled in the medium term, to build it in stages, it may grant funding for the project accordingly, after first consulting the applicant.
- 5.10 If the grant-awarding agency has received two or more applications for a single catchment area in which sufficient volumes are not expected for all of the CT terminals for which an application for funding has been submitted, it shall endeavour to reach a consensual solution with the applicants. In so doing, it may also involve other stakeholders, in particular the operators of competing CT terminals. If agreement is not forthcoming within a reasonable period of time, the grant-awarding agency shall decide on the applications according to its best judgment.
- 5.11 The applicant is to be informed of the outcome of the review of the application for funding referred to in 5.6 as soon as possible and no later than three months after submission of all the documents required for the decision.
- 5.12 Sections 23 and 44 of the Federal Budget Code, the General Administrative Regulations adopted pursuant thereto, the General Incidental Conditions for Grants to Fund Projects and sections 48 to 49a of the Administrative Procedures Act shall apply in respect of the award, disbursement and settlement of the grant and also in respect of the proof and review of the use of funds, revocation of the notification of award, recovery of the grants awarded and the charging of interest, unless these Guidelines provide otherwise.
- 5.13 Non-discriminatory access to the terminals shall be monitored by the competent grant-awarding agency and the Federal Network Agency.
- 5.14 The beneficiary shall take suitable measures to prevent funds being used for improper purposes and to prevent corruption from influencing the operations. If there is any evidence of misappropriation of funds, corruption-related crime or other violations of the purpose for which the grant has been earmarked, it shall inform the grant-awarding agency and enable it to carry out checks. The beneficiary shall also be obliged to apply accordingly the current version of the Federal Government's Guidelines on the Prevention of Corruption in the Federal Administration, which shall be made available by the grant-awarding agency.

## **6 Subsidy relevance**

Grants provided under these Funding Guidelines shall constitute a subsidy within the meaning of section 264 of the Penal Code. Some of the information to be provided in the application procedure shall thus be subsidy-relevant within the meaning of section 264 of the Penal Code in conjunction with section 2 of the Subsidies Act. 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.

## **7 Period of validity**

7.1 These Guidelines shall enter into force on 1 January 2017.

7.2 They shall expire at midnight on 31 December 2021.

## Annex 1

**Terminals eligible for subsidy**

(Funding to be provided only if need is proved)

Trade	Individual measures	Comments
Land	Land acquisition only	An existing plot of land may be deemed to be part of the applicant's own resources.
	Heritable building right	Heritable building rights shall be eligible on the same basis as land acquisition to the amount of: <ul style="list-style-type: none"> <li>a) where security is provided in the form of a mortgage on the property, <ul style="list-style-type: none"> <li>- 5 times the lease payment for the first year for an operating period of 10 years</li> <li>- 10 times the lease payment for the first year for an operating period of 20 years</li> </ul> </li> <li>b) where a mortgage on the property cannot be provided, <ul style="list-style-type: none"> <li>- 7.5 times the lease payment for the first year for an operating period of 10 years</li> <li>- 15 times the lease payment for the first year for an operating period of 20 years.</li> </ul> </li> </ul> <p>Full disbursement shall be made on the date of the first payment due as per the heritable lease agreement.</p>
	Long-term lease	Heritable building rights shall eligible on the same basis as land acquisition to the amount of: <ul style="list-style-type: none"> <li>- 7.5 times the lease payment for the first year for an operating period of 10 years</li> <li>- 15 times the lease payment for the first year for an operating period of 20 years.</li> </ul> <p>Full disbursement shall be made on the date of the first payment due as per the lease agreement.</p>
	Site clearance	
Underground work	Relocation of pipes and cables	
	Buried cable work	
	Water supply and wastewater disposal	
Earthworks	General earthwork	Removal, refilling
	Soil replacement	
	Foundation improvement	
	Protective subgrade layer	
Wharves	Steel sheet piling	Steep or inclined slope
	Gangways	Vertical or stepped slopes
	Mooring piles/ dolphins	
	Roll-on/roll-off bridges	
Tracks (to incorporate old but serviceable materials if possible)	Approach track	If this track is used <u>solely</u> to connect the combined transport terminal to the public rail network
	Arrival/departure tracks	In accordance with the production strategy
	Transshipment sidings	In accordance with the production strategy
	Run-around loops	In accordance with the production strategy
	Headshunt	In accordance with the production strategy
	Track for spare/damaged wagons	For 1 damaged wagon/pair of trains

Trade	Individual measures	Comments
	Sidings	In accordance with the production strategy
	Points	Remotely controlled on running/shunting routes, otherwise locally controlled
<b>Roadways</b>	Approach road	If this road is used <u>solely</u> to connect the CT terminal to the public road network.
	Traffic and pre-stowage areas	Sufficient lanes outside the handling area, including parking/stowage space in the gate area
	Handling area (driving, loading and parking lanes)	Driving and loading lane and, for each transshipment track, normally one parking lane, in accordance with the production strategy
	Parking areas	Where necessary for CT shipments awaiting handling in accordance with the transport schedule
	Customer and employee car parking	Where directly linked to the cargo handling function of the terminal
<b>Surface construction</b>	Entry/exit gate	Including barriers in entry/exit areas
	Offices	Where required for handling-related activities
	Mess rooms	Where required for staff involved in handling operations
<b>Handling facilities</b>	Gantry cranes	Suitable for handling all CT loading units
	Mobile and other handling equipment	Terminal-based; suitable for transshipment of all CT loading units
	Road-based delivery vehicles (e.g. tractor units)	Only terminal-based vehicles absolutely essential for handling operations
	Horizontal handling facilities	Terminal-based equipment only
	Access ramps for non-cranable semi-trailers	If terminal-based
<b>Equipment and ancillary work</b>	Overhead line	Approach track, arrival/departure tracks on electrified lines; extension of overhead electrification in the track module if direct departures are planned and appropriate
	Signalling	In the area of the running/shunting routes
	Power supply	For the handling facilities and for the 50 Hz area, provided that the power is supplied to handling-related facilities
	Lighting	
	Points heating	Only in the area of the running/shunting routes
	Brake testing facility	Only for CT terminals where direct exit is possible
	Private mobile radio	
	Operational control system	IT equipment (hardware and computer operating systems) for eligible workplaces, data transmission between gate and crane
	Automatic consignment registration equipment	Stationary equipment in road, rail and shipping approaches
	Refuelling facility	For terminal-based vehicles
	Storage area for dangerous goods, mobile spill trough	If required by dangerous goods legislation and for the purposes of handling
	Sound insulation	If required by applicable law
	Landscaping	In accordance with applicable regulations
Rainwater retention basin	If required	
<b>Other measures</b>	Waterway upgrade	If required for loading/unloading point
	Oil barriers	
	Power supply posts	If required for purposes of handling

The proceeds of sales, especially of land that becomes available elsewhere, are to be credited to the project.

## Annex 2

## Documents required for resolving the siting issue

Supporting documents		Notes / Explanations
1	Explanatory report	Justification and explanation of the need for the project
		Justification of the choice of location
		Description and explanation of the planned configuration of the terminal
		Explanation of the connection of the terminal to the transport infrastructure
2	Overview plan of the economic region	Scale 1:200 000 (General map)
		Showing existing locations of CT terminals
3	Site plan of terminal location	Scale 1:5,000
		Connections to the rail, road and waterway systems must be clearly visible
4	Cargo handling forecasts	Account of the volumes of cargo likely to be handled and forecast of the trends in these volumes for the period of planned use of the CT terminal in loading units (LUs) and twenty foot equivalent units (TEUs), broken down by traffic routes (origins and destinations).
		Account of the forecast modal shift from the road in tonnes, tonne kilometres and LUs.
5	Likely effects	Description of the effects on other, pre-existing CT terminals (including indication of whether competing terminals are accessible on a non discriminatory basis and to which modes of transport they are connected). For projects close to a border, the effects on terminals in the neighbouring country should also be considered.

## Supporting documents for the funding application

Supporting documents		Notes / Explanations
1	Explanatory report	Account of the current situation
		Description of the project and justification of the need
		Account of the alternatives studied
		Description of the effects on other pre-existing CT terminals For projects close to a border, the effects on terminals in the neighbouring country should also be considered.
		Statement of current and future traffic volumes in loading units (LUs) and twenty foot equivalent units (TEUs) for the operating period
		Forecast modal shift from the road in tonnes, tonne kilometres and loading units, indicating origin and routes of said traffic and method of derivation (e.g. investigation, survey)
		Explanation of the production strategy: <ul style="list-style-type: none"> <li>- Organization (e.g. staff planning, two-shift or three-shift operation)</li> <li>- Transport programme (origin/destination of traffic, service days, arrival/departure times, dwell times at CT terminal)</li> <li>- Operational programme (track use, shunting and truck movements, container handling within CT terminal)</li> </ul>
		Explanation of the technological and commercial viability of the rail and/or waterway services (e.g. by submitting at least one – depending on the scale – declaration of intent from CT operators, railway undertakings or shipping companies)
		<b>Description and justification of the components of the terminal (terminal-related representation taking particular account where necessary of planned upgrades)</b>
2	General map	
3	Site plans	Scale 1:1,000
4	Standard cross-sections	
5	Longitudinal sections	
6	Building plans	Highlighting the premises for staff involved in handling operations
7	Special drawings	If necessary
8	Summary of expenditure	
9	Data sheet for value for money assessment in accordance with the discounted cash flow method	With the calculations on which it is based (to be sent as an Excel spreadsheet) <sup>3</sup>
10	Data sheet for determining the benefit to the national economy for the operating period	Data concerning the full transport distance to the destination/point of origin of the loading units must be presented for calculation purposes where they will be shifted to the rail or inland waterway modes. The length of the domestic/foreign sections of the journey should be shown separately (to be sent as an Excel spreadsheet) <sup>3</sup> . Account will be taken in the calculations of the German sections of the journey plus 50 % of the (non-German) European sections.
11	Construction schedule	Showing planned drawdown of funds
12	Financing plan	In accordance with Administrative Regulation 3.2.1 to Section 44 of the Federal Budget Code
13	Comments by the federal state	
14	Proof of technical suitability and value for money where special designs are employed	
15	Declarations and proof	In accordance with 6.6 of the Guidelines <sup>3</sup>
16	Terminal master data sheet	Where an existing terminal is to be upgraded <sup>3</sup>

<sup>3</sup>Template will be provided by the grant-awarding agencies

<b>Supporting documents</b>	<b>Notes / Explanations</b>
17	Submission of the entry of a priority notice for the mortgage on the property / granting of a directly enforceable surety (see 4.7 of the Guidelines)