Department
for Business
Innovation & Skills

STATE AID

General Block Exemption Guidance

JULY 2014

Contents

Introduction/Scope

This guidance covers Regional Aid, RD&I and the most commonly used sections of the new GBER and in particular areas which have changed significantly in the new GBER, such as access to finance for SMEs.

This guidance is intended to provide an overview of possible aid measures and should be read in conjunction with the common and specific provisions in the regulation. Please note in particular the common provisions at Chapter 1. These conditions apply to all aid given under the GBER, setting out the administrative requirements of using the GBER including, scope, i.e what the GBER does and does not cover (Article 1), notification thresholds for different kinds of aid (Article 4), which are generally higher, and how aid should be added together (Article 9). There are also new provisions requiring that Member States publish details of individual aid awards online, which we shall need to comply with within two years of the entry into force of the GBER, i.e. 1/7/2016.

Also of note is the new requirement to submit an evaluation plan to the Commission for aid schemes with an annual budget of €150m+ within 20 days of the implementation of the scheme. The evaluation should consider the effectiveness of the aid measure in the light of its general and specific objectives and should provide indications on the impact of the scheme on competition and trade.

Further guidance on the GBER and on other new state aid rules will follow.

Regional Aid 2014 - 2020

This section summarises some key aspects of the regional aid rules which will be in force for aid awarded on or after 1 July 2014. For further information, please consult the regional aid guidelines[1] which can be found on the Commission's website.

The objective of regional aid is to promote the development of the less-favoured regions mainly by supporting initial investment, or in exceptional cases, by providing operating aid.

The guidelines do not apply to:

Energy generation, distribution and infrastructure; the steel sector; Airports;

the synthetic fibres sector; Firms in difficulty[2]

Special rules apply to:

Fisheries and aquaculture; agriculture; shipbuilding sector; the transport sector; and broadband networks.

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[1] http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2013:209:0001:0045:EN:PDF

[2] See section 2.1 of the Rescue and Restructuring Guidelines for definition of a company in difficulty http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52004XC1001%2801%29:EN:NOT

There are two categories of eligible regions:

Article 107(3)(a) regions[3]: These are regions, designated in a regional aid map, where the standard of living is abnormally low or where there is serious underemployment (NUTS II regions with a GDP / cap lower than 75% of the EU average). In the UK this is Cornwall, West Wales and the Valleys.

Article 107(3)(c) areas: These are regions, designated in a regional aid map, defined on the basis of national indicators proposed by the Member States.

The assisted area map can be found here: www.ukassistedareasmap.com.

[3] Article 107(3)(a) and (c) of the Treaty on the Functioning of the European Union allow the possibility of State aid for tackling regional problems. Article 107(3)(a) allows aid for regions disadvantaged compared with the *EU* average. Article 107(3)(c) allows aid for regions disadvantaged compared with the *national* average.

Explanation of terms used

Eligible costs: Aid for initial investment can be calculated as a percentage of the investment cost in tangible or intangible assets or as a percentage of the wage-cost of the jobs linked to the initial investment.

Investment: tangible investment (land, buildings, plant/machinery) and a limited amount of intangible investment (expenditure entailed by technology transfer). Expenditure on transport equipment in the transport sector is not eligible. Consultancy costs and preparatory studies may also be eligible for SMEs, but not for large companies.

Large Investment Project: Project with eligible costs above €50million.

New establishment: A new place of business which is intended to be stable, regular and to continue for an indefinite period. Usually this would require the place of business to be fully functional, autonomous and self-standing. May share back office functions (such as IT and HR).

New activity: An activity which does not fall under the same 4-digit NACE or SIC code as activities previously performed at the establishment [or by that company in the local area]

Operating aid: Aid aimed at reducing a firm's current expenditure (eg. salary costs, transport costs, rents).

Pre-defined 'c' regions are those which were 'a' regions in 2011-2013 or are sparsely populated[4]

Single Investment project: Any initial investment / initial investment in favour of new economic activities started by the same beneficiary (at group level) in a period of 3 years of the start of another aided project in the same NUTS 3 area.

Wage-cost: Gross wage-cost, calculated over a period of two years multiplied by the number of jobs created (net job creation in the establishment concerned compared with the average over the previous 12 months).

[4] As defined in Para 158 of the regional aid guidelines 2014-2020

Aid which must be notified on an individual project basis

Regional Aid must be notified to the Commission and approved by the Commission as compatible prior to payment if:

- The aid amount is higher than €7.5million in a 10% 107(3)(c) area, €11.25m in a 15% 107(3)(c) area or €18.75m in a 107(3)(a) area.

- The undertaking receiving the aid has closed down the same or similar activity in the EEA in the last two years prior to the application or has plans to do so in the two years following completion of the project.

- The aid is granted to a large undertaking in a 'c' area to subsidise their diversification into a new product or change in process within the same NACE / SIC code sector which they are currently active in.

Aid which is notified will be subject to a detailed assessment and the amount of aid will be capped at the level of net extra costs (compared with the costs that would have been incurred if no aid had been given).

Aid that can be block exempted or awarded as part of a notified scheme

Aid for initial investment

For SMEs in all assisted areas and non-SMEs in 107(3)(a) areas, regional aid given for 'Initial investment' is block exempted.

Initial investment means capital spending relating to:

- the setting up of a new establishment;
- the extension of an existing establishment; or
- the starting up of an activity involving the production of products not previously produced in the establishment; or
- a fundamental change in the production process of an existing establishment; or
- Acquisition of assets belonging to an establishment which closed or would have closed had it not have been purchased.

Aid for initial investment in favour of new economic activities

For non-SMEs in 107(3)(c) areas, the block exemption for regional aid applies only to 'Initial investment in favour of new economic activities'.

This is Investment in capital costs relating to:

- The setting up of a new establishment; or
- The diversification of the activity of an existing establishment into a new activity; or

- Acquisition of assets belonging to an establishment which closed or would have closed had it not have been purchased, provided that the assets are used for a new activity.

Rules for investment aid in all assisted areas:

- The investment / jobs created by the aid must be maintained in the region concerned for 5 years (3 years for SMEs) after the completion of the investment project.
- At least 25% of the financial contribution must come from sources free from public subsidy.
- The Company needs to provide written confirmation that they (at group level) have not made closures in that sector in the past two years and do not have concrete plans for closures within two years following the completion of the investment project.

Operating aid

Operating aid may only be granted without notification in sparsely populated areas (as accepted by the Commission on regional aid maps) to compensate for additional transportation costs of goods which have been produced in the area:

- The beneficiaries must have their production activities in the area
- The aid must be quantified in advance on the basis of a fixed sum or per ton/kilometre or other relevant unit
- The costs are calculated for the journey from point of origin to point of destination within the UK using the cheapest means of transport possible, taking into account environmental costs.
- 100% of the eligible additional costs may be aided

Aid amount

Maximum Regional Aid Intensities The maximum percentage of the eligible costs which can be paid in a given area under the regional aid rules is known as the aid intensity.

	Large Enterprise	Medium enterprise	Small enterprise
Article 107(3)(a) region < 75% GDP	25%	35%	45%
Article 107(3)(c) region (pre-defined)	15%	25%	35%

	Large Enterprise	Medium enterprise	Small enterprise
Article 107(3)(c) region (not pre-defined)	10%	20%	30%

Large investment projects are subject to a sliding scale for maximum aid intensity. The maximum aid amount for a large investment project should be adjusted according to this formula:

R x (50 + 0.5 x B + 0.34 x C)

Where R is the maximum aid intensity for the area (excluding any increase in aid intensity available for SMEs); B is the part of the eligible costs between €50m and €100m and C is the part of the eligible costs exceeding €100m.

Large Investment projects are not eligible for increased aid intensity for SMEs.

Cumulation

Aid intensity ceilings specified in the tables above apply to total aid given.

- Regional aid to an undertaking (at group level) within a NUTS 3 area is added together over a three year period.

- If the cumulated amount of eligible costs is more than E100m, any further aid will be notifiable. Eligible costs over E50m will be subject to tapering.

- This also applies where assistance is granted under several regional aid schemes and whether the aid comes from local, regional, national or Community sources (except Community sources not directed by UK authorities).

- Where expenditure eligible for regional aid is eligible for aid for other purposes (e.g. R&D), it will be subject to the most favourable ceiling under the schemes in question.

Aid to SMEs

Overview:

The Commission recognises the key role that SMEs play in the economy, but that they suffer from a number of market failures. SMEs often have difficulties in obtaining capital or loans, given the risk averse nature of certain financial markets and the limited collateral that they may be able to offer. Their limited resources may also restrict their access to information, notably regarding new technology and potential markets. To facilitate the development of the economic activities of SMEs, the Regulation therefore exempts certain categories of aid when they are granted in favour of SMEs. These include SME investment aid and SME participation in fairs.

Aid that can be block exempted:

Article 17 – Investment aid to SMEs - up to €7.5m

Aid can be provides for up to 20% for small enterprises and 10% for medium enterprises for the costs of investments in tangible and intangible assets and the estimated wage costs of employment directly caused by the investment over two years.

Article 18 – Aid for consultancy in favour of SMEs - up to €2m

Aid can be provided for up to 50% for the costs of consultancy services provided by external consultants.

Article 19 – Aid to SMEs for participation in fairs - up to €2m

Aid can be provided for up to 50% of the costs of renting/setting-up and running a stand at a fair or exhibition.

Article 20 - Aid for co-operation costs incurred by SMEs in European Territorial Cooperation projects - up to €2m

Aid can be provided for up to 50% of the costs for organisational cooperation including the cost of staff and offices to the extent that it is linked to the cooperation project; and costs of advisory and support services linked to cooperation and delivered by external consultants and service providers.

Explanation of terms used:

'employment directly created by an investment project' means employment concerning the activity to which the investment relates, including employment created following an increase in the utilisation rate of the capacity created by the investment.

'organisational cooperation' means the development of joint business strategies or management structures, the provision of common services or services to facilitate cooperation, coordinated activities such as research or marketing, the support of networks and clusters, the improvement of accessibility and communication, the use of joint instruments to encourage entrepreneurship and trade with SMEs.

'advisory services linked to cooperation' means consulting, assistance and training for the exchange of knowledge and experiences and for improvement of cooperation.

'support services linked to cooperation' means the provision of office space, websites, data banks, libraries, market research, handbooks, working and model documents.

Aid for access to finance for SMEs

Overview:

The new risk finance rules are aimed at enhancing the incentives of private sector investors - including institutional ones – to invest and increase their funding activities in the area of SME financing.

The finance gap also provides the rationale for aid for start-ups.

Article 21 – Risk finance aid

Risk finance investment schemes may be block exempted if they adhere to a number of criteria:

The total amount of risk finance aid that SMEs may take, in the form of equity, quasi-equity, loans guarantees, or a mix thereof, shall not exceed €15m.

To be eligible SME's must, at the time of the first risk capital investment fulfil **one** of the following conditions:

(a) they have not been operating in any market;

(b) they have been operating in any market for less than 7 years following their

first commercial sale;

(c) they require an initial risk finance investment which, based on a business plan prepared in view of entering a new product or geographical market, is higher than 50% of their average annual turnover in the preceding 5 years.

The level of required private investment depends on the stage of growth of the SME:

(d) 10% of the risk finance provided to the eligible undertakings prior to their first commercial sale on any market;

(e) 40% of the risk finance provided to the eligible undertakings where they have been operating in any market for less than 7 years following their first commercial sale;

(f) 60% of the risk finance for investment provided to undertaking requiring an initial risk finance investment which, based on a business plan prepared in view of entering a new product or geographical market, is higher than 50% of their average annual turnover in the preceding 5 years.

60% private investment is also required for follow-on investments in eligible undertakings after the 7-year period mentioned in paragraph (b).

Financial intermediaries should be managed on a commercial basis. This requirement is considered to be fulfilled where the financial intermediary and the fund manager, fulfil the following conditions:

(g) they are obliged by law or contract to act with the diligence of a professional manager in good faith and avoiding conflicts of interest; best practices and regulatory supervision shall apply;

(h) their remuneration is at market rate. This requirement is presumed to be met where the manager or the financial intermediary is selected through an open, transparent and non-discriminatory selection call, based on objective criteria linked to experience, expertise and operational and financial capacity;

(i) their remuneration is linked to performance, or they share part of the investment risks by co-investing own resources so as to ensure that their interests are permanently aligned with the interests of the public investor.

Article 22 – Aid for start-ups

Eligible undertakings shall be unlisted small enterprises up to five years following their registration, which have not yet distributed profits and have not been formed through a merger. For eligible undertakings that are not subject to registration the five years eligibility period may be considered to start from the moment when the enterprise either starts its economic activity or is liable to tax for its economic activity.

Start-up aid may take the form of:

(a) loans with interest rates which are not conform with market conditions, with a duration of 10 years and up to a maximum of €1m, or €1.5m for undertakings established in Article 107(3)(c) assisted areas, or €2m for undertakings established in Article 107(3)(a) assisted areas. For loans with a duration comprised between 5 and 10 years the maximum amounts may be adjusted by multiplying the amounts above by the ratio between 10 years and the actual duration of the loan. For loans with durations of less than 5 years, the maximum amount shall be the same as for loans lasting 5 years;

(b) guarantees with premiums which are not conform with market conditions, with a duration of 10 years and up to maximum €1.5m of amount guaranteed, or €2.25m for undertakings established in Article 107(3)(c) assisted areas, or €3m for undertakings established in Article 107(3)(a) assisted areas. For guarantees with a duration comprised between 5 and 10 years the maximum amount guaranteed amounts may be adjusted by multiplying the amounts above by the ratio between 10 years and the actual duration of the guarantee. For guarantees with durations of less than 5 years, the maximum amount guaranteed shall be the same as for guarantees with lasting 5 years. The guarantee shall not exceed 80% of the underlying loan.

(c) grants, including equity or quasi equity investment, interests rate and guarantee premium reductions up to €0.4m gross grant equivalent or €0.6 million for undertakings established in Article 107(3)(c) assisted areas, or €0.8m for undertakings established in Article 107(3)(a) assisted areas.

For small and innovative undertakings these aid amounts can be doubled.

Explanation of terms used:

'risk finance investment' means equity and quasi-equity investments, loans including leases, guarantees, or a mix thereof to eligible undertakings for the purposes of making new investments.

'equity investment' means the provision of capital to an undertaking, invested directly or indirectly in return for the ownership of a corresponding share of that undertaking.

'first commercial sale' means the first sale by a company on a product or service market, excluding limited sales to test the market.

'follow-on investment' means additional risk finance investment in a company subsequent to one or more previous risk finance investment rounds.

'quasi-equity investment' means a type of financing that ranks between equity and debt, having a higher risk than senior debt and a lower risk than common equity and whose return for the holder is predominantly based on the profits or losses of the underlying target undertaking and which are unsecured in the event of default. Quasi-equity investments can be structured as debt, unsecured and subordinated, including mezzanine debt, and in some cases convertible into equity, or as preferred equity.

'innovative enterprise' means an enterprise:

(a) that can demonstrate, by means of an evaluation carried out by an external expert that it will in the foreseeable future develop products, services or processes which are new or substantially improved compared to the state of the art in its industry, and which carry a risk of technological or industrial failure,

or

(b) the research and development costs of which represent at least 10% of its total operating costs in at least one of the three years preceding the granting of the aid or, in the case of a start-up enterprise without any financial history, in the audit of its current fiscal period, as certified by an external auditor

Aid for sport and multifunctional infrastructures

Overview:

Investment aid measures for sport infrastructures are covered by the block exemption to the extent they constitute State aid. In the sport sector a number of measures may not constitute State aid because the beneficiary does not carry out an economic activity or because there is no effect on trade between Member States. This could, for example, be the case for aid measures which have a purely local character or which are taken in the field of amateur sport.

Aid to infrastructures which serve more than one purpose of recreation and are thus multifunctional is also covered by the block exemption. However, aid to multifunctional tourism infrastructures such as leisure parks and hotel facilities are exempted only as part of a regional aid scheme

The compatibility conditions regarding aid for sport or multifunctional infrastructures aim to ensure, in particular, open and non-discriminatory access to the infrastructures and a fair process of assignment of concessions to a third party to upgrade and/or operate the infrastructure. If sport infrastructure is used by professional sport clubs, pricing conditions for the use of the infrastructure by those clubs need to be made publicly available to ensure transparency and equal treatment of users. The exclusion of overcompensation should also be ensured.

Aid that can be block exempted:

Article 55:

Investment aid for sports and multifunctional infrastructures: up to €15m or the total costs exceeding €50m per project.

Eligible costs are investment costs in tangible and intangible assets.

The aid amount cannot exceed the difference between the eligible costs and the operating profit of the investment.

Operating aid for sport infrastructure: up to €2m per infrastructure per year.

Eligible costs are the costs of operating the infrastructure. This excludes depreciation charges and the cost of finance if these have been covered by investment aid.

Sport infrastructure cannot be used exclusively by a single professional user. Use by others should account for a least 20% of the time capacity of the infrastructure.

Access to sport or multifunctional recreational infrastructure should be open to several users and be granted on a transparent and non-discriminatory basis. Preferential access may be granted to undertakings that finance at least 30% of the investment cost, but this should be publicly available and any concessions should be awarded with regard to the public procurement rules.

Explanation of terms used:

'professional sport' means the practice of sport in the nature of gainful employment or remunerated service, irrespective of whether or not a formal labour contract has been established between the professional sportsperson and the relevant sport organisation, where the compensation exceeds the cost of participation and constitutes a significant part of the income for the sportsperson. Travel and accommodation expenses to participate to the sport event shall not be considered as compensation for the purposes of this Regulation.

Aid for local infrastructures

Overview:

A number of measures taken by Member States with regard to local infrastructures do not constitute aid because they do not fulfil all the criteria of Article 107(1) of the Treaty, for example where the beneficiary does not carry out an economic activity.

However, where the financing of such local infrastructures does constitute State aid within the meaning of Article 107(1) of the Treaty, such aid is exempted from the notification requirement when only small amounts of aid are granted.

Aid that can be block exempted:

Article 56:

Investment aid for local infrastructures: up to €10m or the total costs exceeding €20m for the same infrastructure to cover investment costs in tangible and intangible assets. The aid amount cannot exceed the difference between the eligible costs and the operating profit of the investment.

It does not apply to infrastructure covered by other sections of the Regulation, except Regional Aid. So it could not be used for a broadband project for example.

The infrastructure should be made openly available to users with a market price charged.

Aid for Research, Development and Innovation

The current State aid framework[5] for R&D and Innovation was adopted on 21st May 2014. It allows Member States to fund business research and innovation projects, high-tech start-up companies, and research infrastructure and services.

R&D and Innovation support that is not considered to constitute State aid

Public funding of university and other non-profit research organisations' core teaching, research, and result dissemination activities, including provision of infrastructure for core activities, is not state aid. This still applies where organisations also provide economic services such as commercial research and consultancy, as long as the economic services are: necessary to or intrinsically linked to main non-economic activities; use the same inputs (material, equipment, labour & fixed capital) and do not exceed 20% of the annual capacity

Public funding of university/other non-profit research organisations' licensing and spin-off creation (up to the point they are spun out) is not considered state aid where these activities are in-house and income generated is reinvested in the organisations' core public activities

Where a University/non-profit research organisation effectively callborates in business research projects, this will not constitute state aid provided the organisation is paid market rates by business partners for its share of the project work or results, or is given on-going ownership of the results generated by its share of the work. Where these conditions are not met, the organisation's contribution to the project will constitute State aid (see below for terms on which State aid for projects can be approved)

Where public bodies buy or commission research, as opposed to subsidising businesses to carry out research projects (see below); provided the contract is at market rates, in particular where there has been a tender procedure in compliance with the EU procurement directives, or the R&D& framework, there should be no State aid

Where universities/research organisations or other not for profit intermediaries provide publicly funded services to businesses (for example, contract research, incubator services to SMEs or open access research facilities), they can be regarded as a channel for State aid rather than a recipient of it themselves as long as they can show that they are not deriving an undue advantage as intermediaries. Any aid to end user businesses must comply with normal State aid rules.

It is recommended that you consult the R&D&I framework before relying on any of these exemptions.

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[5] Community framework for state aid for research and development and innovation

http://ec.europa.eu/competition/state_aid/modernisation/rdi_framework_en.pdf

Sectors for which special rules apply

Agriculture & fisheries, shipbuilding and transport: higher aid intensities and/or different definitions of fundable R&D and innovation projects apply in some cases.

The framework does not allow aid to undertakings in difficulty as defined under state aid rules on rescue and restructuring.

Explanation of terms used

R&D project: defined as an operation that includes activities spanning over one or several categories of R&D and that is intended to accomplish an indivisible task of a precise economic, scientific or technical nature with clearly defined goals. Projects which do not have independent probabilities of technological success are considered as a single project.

Fundamental research: defined as "experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts, without any direct practical application or use in view".

Industrial research: defined as "planned research or critical investigation aimed at the acquisition of new knowledge and skills for developing new products, processes or services or for bringing about a significant improvement in existing products, processes or services" .

Experimental development: pre-competitive development category defined as "the acquiring, combining, shaping and using of existing scientific technological business and other relevant knowledge and skills for the purposes of producing plans and arrangements or designs for new, altered or improved products, processes or services". This category does not cover routine or periodic changes to produces and services.

Feasibility studies: evaluation and analysis of the potential of a project to support decision making.

Repayable advance: Grants, expressed as a percentage of the eligible costs, which will be repaid plus interest (at least equal to the applicable discount rate) in the event the project has a successful outcome (as defined on the basis of a reasonable and prudent hypothesis).

Research infrastructure: facilities, resources and related services that are used by the scientific community to conduct research in their respective fields and covers scientific equipment or sets of instruments, knowledge based resources such as collections, archives or structured scientific information, enabling information and communication technology-based infrastructures such as grid, computing, software and communication, or any other entity or a unique nature essential to conduct research. Such infrastructures may be 'single-sited' or 'distributed'.

Innovation clusters: These are defined as groupings of universities and other research organisations and businesses including innovative start-ups, SMEs and large businesses, which operate in a particular area and promote knowledge transfer by networking, sharing facilities and exchanging expertise.

Aid that can be block exempted or awarded as part of a notified scheme

Aid for R&D projects

When giving support for R&D projects, the level of support available depends on the type of research or development being carried out.

	Notification threshold	**Small enterprise**	**Medium enterprise**	**Large enterprise**
Fundamental research	€40m	100%	100%	100%
Industrial research	€20m	70%	60%	50%
Industrial research projects involving collaborations* or where the results will be disseminated	€20m	80%	75%	65%
Experimental development	€15m	45%	35%	25%
Experimental development projects involving collaborations*	€15m	60%	50%	40%
Feasibility studies	7.5m	70%	60%	50%

* collaborations between businesses and research organisations where the research organisation bears at least 10% of the costs & have the right to publish their own research, or business to business collaborations which involve more than one member state of the EU/ EEA or involve at least one SME, provided that no one business partner carries more than 70% of the project costs.

For EURIKA projects, the notification threshold is double those listed above. Where aid is given in the form a repayable advance, aid intensity ceilings increased by 10% and the notification threshold is increased by 50%. For EURIKA projects given as repayable advances the notification threshold is therefore triple the amounts listed above.

Investment aid for research infrastructures

Support given for the construction or upgrade of research infrastructures that performs economic activities is considered state aid and is limited to 50% of the investment costs. Where an infrastructure carries out both economic and non-economic activities, support for the non-economic part is not considered state aid and can be given up to 100% but support for the economic part is considered state aid and cannot exceed 50%.

For example, a research infrastructure that is predominately non-economic but is used for contract research (an economic activity) 30% of the time and costs £10m can receive £8.5m public funding towards its construction: 100% for the 70% non-economic portion (£7m) and 50% for the 30% economic (£1.5m).

Infrastructure supported in this way must be open to several users on a transparent and non-discriminatory basis. Users must pay a market rate for using the facility. Businesses which have contributed at least 10% to the investment costs can have preferential access proportionate to their contribution. The conditions of this access must be made publicly available.

Notification threshold for this aid type is set at €20m per infrastructure.

Aid for innovation clusters:

This category allows the commercial organisation responsible for running a cluster to be granted investment and operating aid for training and research facilities, open access research laboratories and testing facilities and broadband infrastructure. Up to 50% of the eligible costs can be supported. For facilities in assisted areas (see regional aid) an additional 5% support can be given (15% in Cornwall, West Wales & the Valleys).
The premises, facilities and activities must be open to several users on a transparent and non-discriminatory basis. Fees charged must be at market rate or reflect costs. Businesses which have contributed at least 10% of the investment costs may be granted preferential access. Such access must be proportional to their contribution and the conditions made publicly available.

Operating aid may be given for up to 10 years to cover the personnel and administrative costs relating to the start-up costs for collaboration, information sharing and business support services; marketing; and management of the clusters open access facilities.

The notification threshold for support is €7.5m per cluster.

Aid for process and organisational innovation in services

This allows support for changes to new organisational methods of business practices or the implementation of new or significantly improved production or delivery methods. The changes it supports must not be routine or reactionary changes, for example as a result of changes ceasing to use a process, simple capital replacement or extension, changes resulting purely from changes in factor prices, customisation, localisation, regular, seasonal and other cyclical changes and trading of new or significantly improved products. Large companies are only eligible for grants as part of collaborative projects with SMEs; the SMEs must bear at least 30% of project costs.

Aid intensities are 50% of eligible costs for SMEs and 15% for large enterprises in collaboration with SMEs. Eligible costs are the same as for R&D project aid. Notification threshold is €7.m per recipient per project.

Innovation aid for SMEs:

This allows a variety of different types of support for SMEs seeking to innovate. Up to 50% of the eligible costs can be met, with a notification threshold of €5m per SME per project.

The eligible costs are:

- Costs of obtaining, validating and defending patents and other intangible assets;
- Secondment of highly qualified personnel[6] from a research organisation or large enterprise, working on research, development and innovation activities in a newly created function within the beneficiary;
- Costs of innovation advisory and support services including consultancy, and training in the areas of knowledge transfer, acquisition, protection and exploitation of intangible assets, use of standards and regulations embedding them and the provision of office space, data banks, libraries, market research, laboratories', quality labelling, testing and certification for the purpose of developing more effective products, processes or services

Where the costs of innovation advisory and support services do not exceed €200,000 over three years, the maximum support rate for those services only can be increased to 100%.

Training Aid

Overview

The promotion of training constitutes a central objective of the economic and social policies of the Union and its Member States.

Training usually generates benefits for society, increasing the pool of skilled workers and improving the competitiveness of the Union's industry. Aid to promote training is therefore exempted from the notification requirement under certain conditions. In light of the particular handicaps that SMEs face and the higher relative costs they must bear when they invest in training, the intensities of aid exempted by this Regulation are increased for SMEs. Additionally, the intensities of aid exempted are further increased if the training is given to disadvantaged workers or to workers with disabilities.

The GBER covers aid up to €2 million per training project providing certain conditions are met. Any individual aid with a grant equivalent exceeding €2 million per training project must be notified to the Commission for prior approval.

Eligible Costs and Aid Intensities

The eligible costs shall be the following:

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[6] degree educated staff with at least 5 years relevant professional experience, which may include doctoral training

(a) trainers’ personnel costs, for the hours during which the trainers participate in the training;

(b) trainers’ and trainees’ operating costs directly relating to the training project such as travel expenses, materials and supplies directly related to the project, depreciation of tools and equipment, to the extent that they are used exclusively for the training project. Accommodation costs are excluded except for the minimum necessary accommodation costs for trainees' who are workers with disabilities;

(c) costs of advisory services linked to the training project;

(d) trainees' personnel costs and general indirect costs (administrative costs, rent, overheads) for the hours during which the trainees participate in the training.

4. The aid intensity shall not exceed 50% of the eligible costs. It may be increased, up to a maximum aid intensity of 70% of the eligible costs, as follows:

(a) by 10 percentage points if the training is given to workers with disabilities or disadvantaged workers;

(b) by 10 percentage points if the aid is granted to medium-sized enterprises and by 20 percentage points if the aid is granted to small enterprises;

5. Where the aid is granted in the maritime transport sector, the aid intensity may be increased to 100% of the eligible costs provided that the following conditions are met:

(a) the trainees are not active members of the crew but are supernumerary on board; and

(b) the training is carried out on board of ships entered in Union registers.

Environmental Aid

Overview

The Commission notes that investments to increase levels of environmental protection are essential to meeting EU targets and sustainable development. However these may be hampered by market failures. In particular, costs incurred in reducing pollution may not result in corresponding benefits for the investor. Regulation can be used to overcome market failure, however state aid may be justified to deliver higher levels of environmental protection than those required under EU law. In principle, state aid may not be used to support investments which are required to comply with EU law.

In general, environmental aid is intended to restore a level playing field, therefore it is usually the case that only those extra costs associated with increased levels of environmental protection are eligible costs. Where these extra costs are not obvious, they may be calculated by subtracting the cost of a technically equivalent counterfactual investment (which meets minimum EU environmental standards) from the cost of the greener investment. For example, the eligible costs of an electric vehicle may be found by subtracting the cost of an equivalent ICE vehicle from the cost of the electric vehicle

Environmental aid may only be used to support investments which directly improve the environmental performance of the beneficiary, it may not be used for the design and manufacture of green products.

Other key terms

Investment aid: provided to offset the additional fixed investment costs of a more environmentally friendly project

Operating aid: provided to offset the on-going operating costs and incentivise continued operation of an environmental project

Aid that can be block exempted:

Article 36 – Investment aid to go beyond EU standards for environmental protection

Article 36 allows investment aid for any project which increases levels of environmental protection beyond minimum EU standards and which does not fall within one of the other categories of environmental aid. Aid for the purchase of more environmentally friendly transport vehicles which comply with future EU standards which have been adopted but are not yet in force is also permitted.

Eligible costs are the extra costs. The maximum aid intensity is 40%. This aid intensity can be increased by 10% for medium companies and 20% for small companies; and by 15% for investments in 107(3)(a) areas and 5% for investments in 107(3)(c) areas.

Article 37 – Investment aid for early adaptation to EU standards for environmental protection

Investment aid can be used to support undertakings who comply with future EU environmental standards early.

The eligible costs are the extra costs. The maximum aid intensity is 10% if the project is completed and implemented more than three years before the new EU environmental standard comes into force. The aid intensity is 5% if the project is completed and implemented between 1 and 3 years before the entry into force of the new EU environmental standard. This aid intensity can be increased by 5% for medium companies and 10% for small companies; and by 15% for investments in 107(3)(a) areas and 5% for investments in 107(3)(c) areas.

Article 38 - Investment aid for energy efficiency

Up to €15M may be given to projects which increase energy efficiency. The eligible costs are the extra costs and the maximum aid intensity is 30%. This aid intensity can be increased by 10% for medium companies and 20% for small companies; and by 15% for investments in 107(3)(a) areas and 5% for investments in 107(3)(c) areas.

Article 39 - Investment aid for energy Efficiency in Buildings

This article allows aid measures which are aimed at providing loans and guarantees in support of energy efficiency projects in buildings, similar to the UK's Green Deal scheme. The aid is provided to in the form of an endowment, equity, guarantee or loan to a financial intermediary or fund who in turn passes this on in full in form of loans or guarantees to householders and businesses with energy efficiency projects. The value of loans to the end beneficiary should not exceed €10M and guarantees must not underlie more than 80% of the finance involved. Beneficiaries should not repay less than the nominal value of the loan.

There are a number of detailed terms and conditions to ensure that any potential distortions are minimised. Please see article 39 for more details, but requirements include the need to ensure that the fund or intermediary is fairly and transparently appointed; the aid should leverage in private investment such that this makes up at least 30% of the total financing; there must be a reasonable allocation of risk between private investors and public authorities, and the fund or intermediary must be well managed on close to commercial terms.

Article 40 – Investment aid for high efficiency cogeneration (combined heat and power or CHP)

This article allows aid in support of newly installed or refurbished CHP projects which make overall primary energy savings by comparison with separate generation of heat and power in accordance with the energy efficiency directive (2012/27/EU).

The eligible costs are the extra costs and the maximum aid intensity is 45%. This aid intensity can be increased by 10% for medium companies and 20% for small companies; and by 15% for investments in 107(3)(a) areas and 5% for investments in 107(3)(c) areas.

Article 41 – Investment aid for energy from renewable sources

Investment aid of up to 15M may be provided to new renewable energy generation projects. Hydro power projects must comply with the water framework directive (2000/60/EC). Only sustainable biofuels production may be supported and aid may not be granted for food based biofuels, or biofuels which are subject to a supply or blending obligation.

It is necessary to choose the most appropriate way of calculating the eligible costs:

A) the extra costs in which case the maximum aid intensity is 45% or;

B) the total costs may be eligible for certain smaller installations where the counterfactual cannot be established because equivalent smaller scale conventional plants do not exist. In this case the maximum aid intensity is 30%.

Aid intensity can be increased by 10/20% for SMEs and by 15% for investments in 107(3)(a) areas and 5% for investments in 107(3)(c) regions.

Article 42-43 – Operating aid for energy from renewable sources (including small scale generators)

Operating aid may also be provided to new renewable energy generating projects. For installations of more than 500kw (3MW for wind), aid must be sold in the market and provided in the form of a premium per unit of energy generated, operators must be subject to standard balancing responsibilities and aid is not permitted when prices are negative.

In general operating aid for renewable energy must be awarded on the basis of an open, technology neutral competitive bidding process. However it is possible to limit the bidding process to new and innovative technologies making up to 5% of the planned new electricity capacity from renewable sources per year. Member states may also be able to limit auctions to avoid certain harmful effects, for example, to avoid distortions in raw materials markets. However a detailed assessment of this must be carried out and submitted to the Commission when the scheme is registered.

Up to €15M may be provided to small-scale renewables projects of less than 1MW (or 6MW for wind) without the need to set up a competitive bidding process. The maximum aid which may be awarded per unit of energy is the difference between the levelised cost of generating energy and the market price for that form of energy.

Article 45 – Investment aid for remediation of contaminated sites

Remediation of polluted and contaminated sites may also be awarded aid of up to €20M. Only undertakings which are not liable for the damage caused may receive aid. The eligible costs are the total cost of remediating the land minus any increase in the value of the land and the maximum aid intensity is 100%.

Article 46 - Investment aid for energy efficient district heating and cooling

Up to €20M may be awarded towards a district heating or cooling project.

The eligible costs of the production plant are the extra costs involved in the construction, expansion and refurbishment of a generating unit relative to the conventional production plant. The maximum aid intensity is 45%. Aid intensity can be increased by 10/20% for SMEs and by 15% for investments in 107(3)(a) areas and 5% for investments in 107(3)(c) regions.

The eligible costs of the distribution network are the investment costs. However the maximum aid should not exceed the difference between the eligible costs and the operating profit.

Article 47 – Investment aid for waste recycling and re-utilisation

This article may be used for waste projects which go beyond state of the art and which handle the waste generated by undertakings other than the beneficiary (projects which handle the waste of the beneficiary may be supported under article 36 instead). The materials handled by the project must be treated in a more environmentally friendly manner than in the absence of the project. Projects must not increase demand for materials to be recycled without increasing collection of those materials.

Eligible costs are the extra costs. The maximum aid intensity is 35%. Aid intensity can be increased by 10/20% for SMEs and by 15% for investments in 107(3)(a) areas and 5% for investments in 107(3)(c) areas.

Article 48 – Investment aid for energy infrastructure – up to €50m

Infrastructure must be located in assisted areas. Infrastructure should be subject to full tariff and access regulation in line with internal market rules. Aid may not be given to electricity and gas storage projects or oil infrastructure.

Eligible costs are the extra costs. The aid amount should not exceed the difference between the eligible costs and the operating profit of the investment.

Article 49 – Aid for environmental studies - up to €15m

Aid may be granted in support of environmental studies which are directly linked to other types of projects which would be eligible for aid under the environmental aid section of

GBER. Large enterprises may not receive aid for energy audits under the energy efficiency directive.

Eligible costs are the costs of the study and the maximum aid intensity is 50%. Aid intensity can be increased by 10/20% for SMEs.

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