

# FIT15 plus - research, innovation, and technology promotion for Vienna

2015 – 2017

Directive

Valid 1.01.2015 - 31.12.2017

"This directive has been translated from German into English. Please be aware that only the German language version of the directive is legally binding."

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## 1. SUPPORT PROGRAMS

### 1.1. RESEARCH - calls for occupational research and development

#### 1.1.1. Alignment

Research and development (R&D) is a significant factor included in the improvement of the Viennese economies international competitiveness. In particular, operational R&D activities with the aim to put innovative products and services on the market, can trigger significant added value and employment effects.

The city of Vienna will in the context of invitations to tender<sup>1</sup> ("Calls"), which is devoted to selected topics as well as helping companies that already have R&D underway, encouraging new companies to deal with R&D and develop to their potential.

Therefore within the framework of the research and development projects program promoted in Vienna, which correspond to the substantive definitions of "industrial research" or "experimental development",<sup>2</sup> provided that these projects lead to direct or indirect products, services or process innovations, for which a basic economic implementation strategy can already be represented, from which economic added value can be expected in Vienna.

#### 1.1.2. Special funding provisions

The project aims to make companies provide a high degree of sustainability in the request along with a substantial private research and development effort and carrying of the technical and economic<sup>3</sup> risk. This is considered as given, if more than 50% of R&D work (financed by the applicant companies) are provided by the company's own resources (quantitative criterion). Should this not be the case (i.e. finished solutions or central partial solutions are realized to a significant extent by third parties), the minimum conditions of the project concept is that the applicant company perceives the content of the overall project management and performs the central innovation performance itself (qualitative criterion), unless proprietary implementation would be demonstrably economically unreasonable. In any case, the applicant company must build sustainable know-how in the course of the project implementation.

For a joint application with several partners in accordance with point 2.5.8., this provision applies separately to each partner.

|                     |  |
|---------------------|--|
| Eligible            | <ul style="list-style-type: none"><li>• Viennese companies according to point 2.3.1. as well as</li><li>• Company founders in accordance with point 2.3.3</li></ul> alone or together with partners <sup>4</sup> of a project within the meaning of this program   |
| Basis of assessment | <ul style="list-style-type: none"><li>• Staff costs set forth in item 2.4.2., which are directly related to research or development work</li><li>• Costs for external services in accordance with section 2.4.3., limited to costs for work performed by third parties entrusted with research or development work, or only by SMEs in accordance to point 2.1.1. - that are in connection with the acquisition, validation and defense of patents and other intangible assets</li></ul> |
| Minimum asset basis | EUR 50,000 per research project <sup>5</sup>   |

<sup>1</sup> Tenders see point 2.5.7.

<sup>2</sup> Definitions see point 2.1.2. When elements of basic research occur in the submitted project, these are promoted within the framework of the present promotion program according to the rules of industrial research.

<sup>3</sup> Particular projects performed on behalf of third parties are excluded.

<sup>4</sup> Generally, partners are allowed from all sectors, without geographic limitation. If these partners want to draw their own costs of the project in the wake of a joint submission, they must be eligible partners in the sense of the point 2.5.8..

| Levels of funding on the basis of assessment for <sup>6</sup>             | Small companies   | Medium-sized companies | Large companies |
|---|---|------------------------|-----------------|
| Experimental development (ED)   | 45%   | 35%                    | 25%             |
| ED with supplement for cooperation  | 60%   | 50%                    | 40%             |
| Industrial Research (IR)  | 70%   | 60%                    | 50%             |
| IR with supplement for cooperation or wide distribution of the results    | 80%   | 75%                    | 65%             |
| Obtainment, validation, or defense of patents and other intangible assets | 50%   | 50%                    | -               |
| Maximum subsidy   | EUR 500,000 per research project <sup>7</sup>   |                        |                 |
| Maximum duration of project   | 3 years <sup>8</sup>  |                        |                 |
| Submission  | In the wake of an invitation to tender by the Vienna Business Agency. A fund of the city of Vienna. <sup>9</sup> In accordance with section 2.5.7.  |                        |                 |
| Prize money <sup>10</sup>   | In addition to the subsidy (calculated according to above described) the awarding of prize money can be provided for corresponding three projects by an expert jury appropriate to the objectives of the tendering. |                        |                 |
| Bonus <sup>11</sup> for projects led by women                             | If the scientific project management is proven to be carried out by a competent woman, <sup>12</sup> then the subsidy will be increased by EUR 10,000.  |                        |                 |

### 1.1.3. EU aid legal and accumulation rules

This program will be treated in accordance with the General Block Exemption Regulation<sup>13</sup> Section 4.

Personnel costs and external services are treated in accordance with the provisions of article 25 of the GBER "Aid for research and development projects". Cost of SMEs, which are connected with the acquisition, validation and defense of patents and other intangible assets, are according to the provisions of article 28 of the GBER innovation aid for SMEs ".

In the case of a commitment for funding, the Vienna Business Agency will make it clear which costs were assigned to which regulation. The accumulation ceilings in accordance with the provisions of the GBER are valid.

<sup>5</sup> This value can in the course of a tendering procedure in accordance with section 2.5.7. be set higher.

<sup>6</sup> Small, medium and large companies, see point 2.1.1., further provisions on the handling of premiums see point 2.2.4. The allocation to the research categories or levels of funding takes place for each package!

<sup>7</sup> This value can also in the course of a tendering procedure in accordance with section 2.5.7. - in compliance with the provisions of the general block exemption regulation, article 4, notification thresholds, later be set higher.

<sup>8</sup> In exceptional cases, the time period can be extended to a maximum of 5 years.

<sup>9</sup> In the following: Vienna Business Agency.

<sup>10</sup> Under state aid rules the prize money may be granted only within the cumulation ceiling. For payment, see point 2.9.2.

<sup>11</sup> Following state aid rules, one such bonus may be exclusively granted within the cumulation ceilings. For payment, see point 2.9.6

<sup>12</sup> This must be an employee of the company applicant or by partnership submissions according to 2.5.8. an eligible trade partner.

<sup>13</sup> Regulation (EC) No. 651 / 2014 of the Commission from 17 June 2014 to determining the compatibility of certain categories of aid with the market in application of articles 107 and 108 of the contract for the functioning of the European Union (General block exemption regulation", in the following abbreviated: GBER).

## 1.2. INNOVATION - strategic innovation in knowledge-based SMEs

### 1.2.1. Alignment

An intensified, continuous and sustainable innovation-orientated approach and the targeted use of knowledge as a factor of production are crucial to maintaining and expanding the competitiveness of companies. This program therefore supports the implementation of sustainable innovation projects<sup>14</sup> in small and medium-sized Viennese enterprises (SMEs)<sup>15</sup>, can apply the strategic use of knowledge (innovative knowledge management), that can achieve the developments of new methods for the creation of new products and services and are part of a company-wide innovation strategy. Eligible projects in this program are product-service processes, practices and organizational innovation<sup>16</sup>. The aim of the program is to improve the market position of a company.

In addition to classical production facilities, this program addresses the rising importance of knowledge-based innovative services for Vienna - in particular to service providers or companies who carry out innovation in the service sector. The subject of a funding application is an innovation project that demonstrates market effects for the company and where sustainable economic value can be expected for the city of Vienna. The presence of an innovation strategy<sup>17</sup> is assumed and their development can be not the subject of an application. The planned project will not only lead to immediate (short-term) project effects, but should also help the company to sustainably raise its innovation behavior to a higher level (structural effects, learning effects, knowledge effects). Innovation projects must at least show economic justification and the increasing of knowledge within the company.

### 1.2.2. Special funding provisions

This program supports the essential steps of an entrepreneurial innovation project.

The project aims to make companies provide a high degree of sustainability in the request along with a substantial private (development) effort and carrying of the technical and economic<sup>18</sup> risk. This is considered as given, if more than 50% of R&D work (development, implementation etc. financed by the applicant companies) are provided by the company's own resources (quantitative criterion). Should this not be the case (i.e. finished solutions or central partial solutions are realized to a significant extent by third parties), the minimum conditions of the project concept is that the applicant company perceives the content of the overall project management and performs the central innovation performance itself (qualitative criterion), unless proprietary implementation would be demonstrably, economically unreasonable. In any case, sustainable know-how must be built in the course of the project implementation by the applicant company.

For a joint application with several partners in accordance with point 2.5.8., this provision applies separately to each partner.

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<sup>14</sup> The concept of 'Sustainable innovation' see point 2.1.5.

<sup>15</sup> Small and medium-sized enterprises referred to in point 2.1.1.

<sup>16</sup> Types of innovation, see point 2.1.4.

<sup>17</sup> Innovation strategy, see point 2.1.3.

<sup>18</sup> Particular projects performed on behalf of third parties are excluded.

Specifically, the following activities can be supported:

#### 1.2.2.1. Design, development and the implementation of innovation

The core of an innovation project must be in the conceptual work and development activities that are carried out in the course of planning, development, implementation, and implementation of innovation<sup>19</sup>. Internal personnel costs (see point 2.4.2) and external services (section 2.4.3) can be recognized as cost elements in this section. Together with these activities/services which are characters giving for the project, the elements following point 1.2.2.2. to 1.2.2.4., can also be combined. It is not mandatory that elements from points 1.2.2.2. to 1.2.2.4 exist in the application.

#### 1.2.2.2. Investment measures in the wake of the innovation project

Subsequent acquisition costs, which are made in the course of the implementation of the innovative concept and directly related to the innovation project are also eligible.

##### **a.** *Long term usable goods (capital investments)*

According to Paragraph 2.4.4.1, if these investments correspond to the current state of available technology.

##### **b.** *General and material costs*

General and material costs (in accordance with section 2.4.4.2.) of the prototype or demo version that are clearly and exclusively attributable to the project are eligible.

##### **c.** *Rights of third parties (third party intellectual property rights (IPR))*

In accordance with point 2.4.4.3.; this may not involve a standalone measure. The purchase must be connected with the necessity to further use innovative activities in the company (the acquisition of pure "plug and play solutions" is not eligible).

#### 1.2.2.3. Protection of intellectual property rights and standards

Eligible are costs related to the protection of own intellectual property or the proof of fulfillment of an existing accepted standards (such as certifications etc.). Likewise, costs in connection with the participation in the creation of an official standard are also eligible (provided that such a standard does not already exist). In any case, these costs must be directly connected with the submitted innovation project.

Internal personnel costs (see point 2.4.2) and external services (point 2.4.3) can be recognized as restricted to relevant consultancy service cost elements in this section. Public duties (such as patent fees) are not eligible.

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<sup>19</sup> Examples: Creating specifications and specification requirements, design and development of the product, process, performance or the development of an improved model for dealing with innovation relevant knowledge in the company (knowledge management concept). Drafting of the design (in the technical sense, but also in terms of usability and aesthetics), creation of models and prototypes, development of test procedures, designing an innovative transfer of production, planning and control related logistical arrangements.

#### 1.2.2.4. Preparatory marketing measures

Eligible for funding is the conducting of a market study<sup>20</sup> and the creation of an integrated marketing concept that are directly connected to the innovation project. They must serve the preparations<sup>21</sup> of a commercialization of the emerging innovation projects services<sup>22</sup> or effects.

Internal personnel costs (see point 2.4.2) and external services (point 2.4.3) can be recognized as cost elements in this section.

|   |  |
|---|--|
| Eligible                                      | <ul style="list-style-type: none"> <li>Viennese companies according to point 2.3.1. limited to small and medium-sized companies in accordance with point 2.1.1. as well as</li> <li>Company founders in accordance with point 2.3.3</li> </ul> <p>who alone or together with partners<sup>23</sup> carry out a project in the sense of this program.</p> |
| Basis of assessment                           | See point 1.2.2.1. to 1.2.2.4.   |
| Minimum asset basis                           | EUR 25,000 per innovation project  |
| Levels of funding on the basis of assessment  | <ul style="list-style-type: none"> <li>45% for small companies</li> <li>35% for medium-sized companies</li> </ul>  |
| Maximum subsidy                               | EUR 250,000 per innovation project <sup>24</sup> , for each up to EUR 50,000 for investment or preparatory marketing measures  |
| Maximum duration of project                   | 2 years  |
| Submission                                    | Continuously in accordance with point 2.5.; In addition to the current submission option, the Vienna Business Agency can carry out tenders in accordance with section 2.5.7.   |
| Prize money <sup>25</sup>                     | In an invitation to tender in accordance with section 2.5.7. additionally to the subsidy (calculated according to above described) the awarding of prize money can be provided for three corresponding projects that are most appropriate to the objectives of the tendering.  |
| Bonus for projects led by women <sup>26</sup> | If the project is proven to be led by a qualified woman <sup>27</sup> , then the subsidy is increased by EUR 10,000.   |

#### 1.2.3. EU aid basics and accumulation rules

Costs are handled for internal personnel costs, outside services and cost of obtaining, validating and defense of patents and other intangible assets are, depending on the character under the provisions of Article 25 of the General Block Exemption Regulation "aid for research and development projects", Article 28 of the General Block Exemption Regulation aid for innovation SMEs "and Article 29 of the General Block Exemption Regulation" aid for process and organizational innovation ". Not handled are the costs of preparatory marketing actions, in accordance with the provisions of Regulation (EU) no. 1407/2013 of the Commission of 18 December 2013, the application articles 107 and 108 of the Treaty on the Functioning of the European Union on<sup>28</sup> de minimis aid.

<sup>20</sup> These can be geographically oriented or factual (the acceptance relating to the product).

<sup>21</sup> Neither ongoing sales and/or marketing activities are subsidized, nor are the initiation costs for a particular business. Aid for activities that are directly linked to the exported quantities, the establishment and operation of a distribution network or other export-related running expenditures, are decidedly excluded.

<sup>22</sup> Clarification: with the inclusion of effects is, for example, that in consequence of a quality assurance project, the increased quality of the products might be an essential argument in the marketing strategy.

<sup>23</sup> Generally, partners are allowed from all sectors, without geographic limitation. If these partners want to draw their own project costs in the wake of a joint submission, they must be eligible partners in the sense of the point 2.5.8.. If such partners are large companies (see point 2.1.1.), those costs cannot be included in the basis of assessment for a subsidy.

<sup>24</sup> This maximum value can also be set lower in the wake of an invitation to tender.

<sup>25</sup> Under state aid rules the prize money may be granted only within the cumulation ceiling. For payment, see point 2.9.2.

<sup>26</sup> Following state aid rules, one such bonus may be exclusively granted within the cumulation ceilings. For payment, see point 2.9.6

<sup>27</sup> This must be (in accordance with 2.5.8) to an employee of the applicant company or in partnership submission, an entitled applicant partner.

<sup>28</sup> Following: De minimis regulation

Cost of investment measures (long-term usable goods, general and material costs) are treated in accordance with the de minimis regulation.

In the case of a commitment for funding, the Vienna Business Agency will make it clear which costs were assigned to which regulation. In any case, the accumulation ceilings under the strictest state aid rules shall apply.

### 1.3. COLLABORATION INITIATIVES – Facilitating Collaboration in Research

#### 1.3.1. Focus

Collaboration is a major element of successful company research activities. In regards to SME<sup>29</sup>, especially for those companies where research is not the focus, activities that require collaboration and the development of a research strategy historically face high financial and organizational barriers.

With the use of grants, Vienna supports company activities whose goal is the development and solidifying of research strategies<sup>30</sup> and partnerships and/or developing cooperative research programs. These partnerships and programs generally represent separate requirements over and above the usual business of a company. At the time of the application, at least one prospective partner that the KMU wishes to form a partnership with must be identified by name.

#### 1.3.2. Specific Grant Requirements

Activities qualifying for grants are those that serve the development of a research strategy<sup>31</sup> and the development and formation of a research partnership<sup>32</sup>. The submitted proposal must be formatted in reference to clarity, transparency and completeness so that it meets the requirements of granting agencies and other capital investors. In addition to the major research proposal, items (scientific description) requirements in regards to project management must be met (division of tasks, responsibilities,) along with clarification of proprietary rights. Commercial considerations (costs, market considerations) are generally also included.

Research facilities collaborating with KMU are eligible for grants just as other organizations are. National and international partnerships are also grant eligible.

Along with partnerships<sup>33</sup>, contractual relationships may also be included. This is the case when, due to the planned activity and the knowledge gained through it, a high level of sustainability for innovative activities will be attained. Ready-made solutions or partial solutions realized through third parties must not conflict with these relationships.

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<sup>29</sup> Small and midsize companies in accordance with 2.1.1.

<sup>30</sup> If the company has already a research strategy, it should be added to this application. The envisioned project has to be part of the research strategy.

<sup>31</sup> See 2.1.3.

<sup>32</sup> The format may be in reference to a contract, the founding of a joint venture or a contract for work. In special circumstances, a specific contract may not be required, for example, when the formalization of the partnership is to take place upon award of the grant. Apart from those cases, the grantors recommend that any involved partners have a signed contract.

<sup>33</sup> In contrast to a contractual relationship, collaborations are generally not performed under the principles of performance against a consideration. They are formed due to a mutual interest, whereby each of the collaboration partners will have their rights and responsibilities defined.

|                                     |  |
|-------------------------------------|--|
| Eligible parties                    | <ul style="list-style-type: none"> <li>• Viennese companies in accordance with 2.3.1. restricted to small and midsize companies in accordance with 2.1.1.</li> <li>• Company founders according to 2.3.3., As well as</li> <li>• large Viennese companies if and when they collaboration with one or more Viennese KMU's, who are involved in a project, alone or together with partners<sup>34</sup> , as a part of this program</li> </ul>   |
| Basis of assessment                 | <ul style="list-style-type: none"> <li>• Personnel expenses in accordance with 2.4.2.</li> <li>• Travel expenses in accordance with 2.4.5.; Travel expenses are only allowable up to 25% of the total grant costs <ul style="list-style-type: none"> <li>• fees for external services in accordance with 2.4.3., especially in reference to consultant fees during the course of contract preparation<sup>35</sup> and during the development phase of the research concept<sup>36</sup>.</li> </ul> </li> </ul> |
| Minimum assessment basis            | €5000  |
| Maximum funding based on assessment | 75%  |
| Maximum grant                       | €50,000  |
| Maximum project duration            | One year   |
| Submission                          | Ongoing in accordance with 2.5.  |

### 1.3.3. EU- State aid policy and accumulation rules

All expenses follow the rules of the de-minimis-regulation.

<sup>34</sup> Collaboration partners from all sectors and without preference to geographic area may participate. If these collaboration partners wish to include their own project expenses through means of a joint submission, they must be contractual partners in accordance with 2.5.8.

<sup>35</sup> For example legal consultation, translation expenses.

<sup>36</sup> For example technical or scientific consultation through third parties, also feasibility or market studies as long as these are required under the definition of the research project.

#### 1.4. COMMUNICATION - Public Relations Work for Technology Awareness; Strategic Steps for Increasing the Visibility of the Science, Research, and Technology Center of Vienna

##### 1.4.1. Focus

- a. One of the barriers for the continued development of innovative companies is the lack of information about technological developments among the public. This leads to a fear of, and irrational behavior towards, new technologies.

The image of Vienna as a modern, open-minded city supportive of innovative ideas depends upon the support it receives from its citizens for the results of research and innovation. An education in the sciences must be justifiable in terms of a future need for personnel in the areas of research and science.

Within the framework of this program, Vienna provides grants and supports local businesses, which through use of public relations (events, trade fairs, conferences etc.) inform a large and clearly defined group of citizens, raise awareness, and create excitement for research and innovation.

The success of the science, research, and technology location of Vienna is in large part also dependent upon the national and international visibility the city receives for its activities. This includes visibility both among subject experts as well as the general public.

For this reason, measures are also supported which will increase the visibility of the strength and the image of the science, research and technology location of Vienna. These can include, for instance, activities and events that bring increased international visibility or specific activities that bring increased visibility to Vienna. H

##### 1.4.2. Specific Grant Requirements

When working in accordance with 1.4.1. lit. a., target groups must be approached and reached which lay outside the specific technology community. If the company is to be compliant with 1.4.1. lit. b., then the possibility of international visibility must be taken into consideration. At any rate, the results of the respective activities must be meaningful and useful for those directly involved. Proposals that serve for the development, publication, or promotion of individual products or companies are not eligible for grants.

The Vienna Business Agency may specify quality standards for proposals, compliance with which will be a requirement for the payment of grants.

The focus of the program, regardless of the type of proposal, is to provide a stimulus, not for ongoing financing of long-term activities. In all cases, successful pilot projects that were supported by a grant are eligible to receive grants for follow-on activities.

|                                     |  |
|-------------------------------------|--|
| Eligible parties                    | All eligible persons in accordance with 2.3., who are, individually or with partners <sup>37</sup> , submitting a project within the framework of this program.  |
| Basis of assessment                 | <ul style="list-style-type: none"> <li>• Personnel expenses in accordance with 2.4.2.</li> <li>• Expenses for external services in accordance with 2.4.3. along with material and actual costs in accordance with 2.4.4.2 <ul style="list-style-type: none"> <li>• travel expenses in accordance with 2.4.5.; Travel expenses are only allowable up to 25% of the total grant costs</li> </ul> </li> </ul> |
| Minimum assessment basis            | €20,000  |
| Maximum funding based on assessment | <ul style="list-style-type: none"> <li>• 50% for companies in accordance with 2.3.1. and company founders in accordance with 2.3.3.;</li> <li>• 75% for other legal entities</li> </ul>  |
| Maximum grant                       | €50,000 per project <sup>38</sup>  |
| Maximum project duration            | One year   |
| Submission                          | Ongoing in accordance with 2.5.; In addition to ongoing submissions, the Vienna Business Agency can put out calls for proposals in accordance with 2.5.7.  |
| Prize money <sup>39</sup>           | A call for proposal may include, in accordance with 2.5.7. , in addition to the above-described method, prize money for the three proposals that best fills the requirements of the requested goals.   |

#### 1.4.3. EU- State aid policy and accumulation rules

Insofar as it concerns a company involved in market economy activities, the de-minimis-regulation applies.

<sup>37</sup> Collaboration partners from all sectors and without preference to geographic area may participate. If these collaboration partners wish to include their own project expenses through means of a joint submission, they must be contractual partners in accordance with 2.5.8.

<sup>38</sup> In the case of proven exceptions and above average appraisals, this limit can be increased in the case of companies or company founders that deal with market economy activities. The increase is limited to that amount set by the de-minimis-regulation (compare 2.2.5.). In the case of other contractors to a maximum of €300,000 per proposal.

<sup>39</sup> For subsidy law reasons prize money will be granted solely within the upper limits of the accumulation specifications. For the disbursement see 2.9.2.

## 1.5. MICRO GRANTS

### 1.5.1. TECHNOLOGY AWARENESS

#### 1.5.1.1. Focus

In order to reach the goals as identified per 1.4., activities identified according to 1.5.1.2 may also be supported.

#### 1.5.1.2. Special grant requirements

The guidelines for the program COMMUNICATION, 1.4., apply. The following guidelines also apply:

- In addition to the first time implementation of a project, projects are also eligible for grants that occur on an ongoing basis.
- In respect to the areas dealing with, for example, size and diversity of the target group or the international visibility of the project, the smaller value of the minimum assessment basis or of the maximum grant evaluation criteria is in effect.

|                                     |  |
|-------------------------------------|--|
| Eligible parties                    | All eligible parties in accordance with 2.3., who conduct a project within the meaning of this program   |
| Basis of assessment                 | All expenses associated with the effort in accordance with Clause 2.4. with the exception of internal personnel expenses in accordance with 2.4.2.   |
| Minimum assessment basis            | €5000  |
| Maximum funding based on assessment | 75%  |
| Maximum grant                       | €5000  |
| Maximum project duration            | 12 months  |
| Submission                          | Submittal and decisions are ongoing. The Vienna Business Agency can assign deadlines for submittals.<br>A maximum of one TECHNOLOGY-AWARENESS-grant per calendar year may be requested. A new submittal assumes that any previous proposals have been completed. |
| Payment terms                       | Grant will be paid after proof of the expenses is submitted; payment on account is not available.  |

#### 1.5.1.3. EU- State aid policy and accumulation rules

Insofar as it concerns a company involved in market economy activities, the de-minimis-regulation applies.

## 1.5.2. TECHNOLOGY TRANSFER

### 1.5.2.1. Focus

Collaboration with research facilities often creates financial and organizational barriers/requirements for small businesses. Access to the expertise of scientific facilities is important for companies when it comes to the development or improvement of products, processes or services. This is also true when it concerns continual improvement processes. In addition, the networking of several actors increases the efficiency of the development processes and brings a substantial advantage to Vienna. The goal of the program is to enable access to research facilities for small businesses.

### 1.5.2.2. Special Grant Requirements

The program takes place in the form of questions, which occur during the process of planning, development or improvement of innovative products, services or processes.

The questions – technical, organizational, or process driven– and the answer to these by a subject expert (research facility) must serve the development or continued development of a product, process or service with a high level of subjective innovation for the company. In addition, the assignment by a research facility must lead to an increase in the knowledge base of the company, and offer further developmental opportunities. The advantages for the company must be direct and able to be proved. The worthiness of the project is directly related to the meaningfulness of the questions in relationship to the innovation strategy of the company.

The possible expert facilities are research facilities in accordance with AGVO, Article 2, Number 83:

- Universities (UG 2002, Donau Universität Krems Gesetz DUKG)
- Technical colleges
- Research facilities outside the university system

“Facilities for the expansion of research and science“: facilities such as technical colleges or research institutes, technology transfer facilities, innovation intermediaries, research oriented physical or virtual collaboration facilities. This list is independent of their legal format (public or private) or their method of financing whose main goal is to conduct independent basic research, industrial research, or experimental development; or to distribute the results of these activities through means of lessons, publications or knowledge transfer. If this type of facility also carries out business activities, the financing, costs and revenue information must be kept in separate books. Companies that, for example, function as shareholders or members may have a certain influence over this type of facilities and may not be given privileged access to the research results that they are working towards.

The research facility must be identified by name at the time of submittal.

Eligible for grants are, for example:

- preliminary work, research for R&D projects
  - consulting services in connection with check, measurement and test contracts (a maximum of 50% of the associated expenses may be related to check, measurement and test contracts).
- Concept development
- feasibility studies
- conceptual work and studies with the focus being the market introductory phase of a product or service innovation (not included: putting the plan into operation)

Not eligible for grants are, for example:

- projects which contribute nothing to the innovation of a product, process or service
- development of a strategy for innovation (this must already be completed at the time of submittal)
- basic research
- description of steps without conceptualized work
- education, seminars, training sessions
- projects which are already being funded through other public grants
- in response to specific, dedicated research questions in research and development projects with a high level of scientific requirements, it is preferred that innovation checks from the Austrian Research Association (FFG) be used.

|                                     |   |
|-------------------------------------|---|
| Eligible parties                    | <ul style="list-style-type: none"> <li>• Viennese companies in accordance with 2.3.1., restricted to small companies in accordance with 2.1.1.</li> <li>• Company founders in accordance with 2.3.3.</li> </ul>   |
| Basis of assessment                 | Expenses in accordance with 2.4.3. for outside services of the – identified by name – research facility   |
| Minimum assessment basis            | €5000   |
| Maximum funding based on assessment | 75%   |
| Maximum grant                       | €5000   |
| Maximum project duration            | 12 months after confirmation that a grant has been approved in accordance with 2.8.   |
| Submission                          | <p>Submittal and decisions are ongoing. The Vienna Business Agency can assign deadlines for submittals.</p> <p>A maximum of one TECHNOLOGY-TRANSFER-micro grant per calendar year may be requested. A new submittal assumes that</p> <ul style="list-style-type: none"> <li>• any previous proposals have been completed and</li> <li>• the subsequent submittal is a proposal for a different research facility</li> </ul> |
| Payment terms                       | Grant will be paid after proof of the expenses is submitted; payment on account is not available.   |

#### 1.5.2.3. EU- State aid policy and accumulation rules

De-minimis-regulation applies

## 2. GENERAL FUNDING RULES

The following general funding rules apply to all funding programs of this directive. Other provisions are noted in section 1.1 to 1.5 for the individual funding programs.

### 2.1. Definitions of selected terms

#### 2.1.1. Small and Medium Enterprises (SMEs)

Small and Medium Enterprises are businesses within the meaning of the General Block Exemption Regulation, Annex I, Article 2.

The category of small and medium sized enterprises (SMEs) is made up of enterprises which employ fewer than 250 persons and which have an achieve annual turnover not exceeding EUR 50 million or an annual balance sheet total not exceeding a maximum of EUR 43 million. Within the SME category, a small enterprise is defined as an enterprise, which employs fewer than 50 persons and whose annual turnover or annual balance sheet total does not exceed EUR 10 million.

This classification applies to independent companies. It represents only one orientation-serving excerpt from the full text of the GBER, which is available on the homepage of the Vienna Business Agency.

Companies that cannot be classified as SMEs are considered as large enterprises.

#### 2.1.2. Fundamental research, industrial research, experimental development<sup>40</sup>

*Fundamental research, industrial research, and experimental development Basic research: experimental or theoretical work undertaken to acquire new fundamental knowledge, without any direct practical application or use in the first place.*

*Industrial research:* to develop planned research or critical investigation aimed at discovering new knowledge and skills for developing new products, processes or services or use for bringing about a significant improvement in existing products, processes or services. This also includes the development of components of complex systems, which are necessary for industrial research, notably for generic technology validation, to the exclusion of prototypes.

*Experimental development:* acquiring, combining, shaping and using existing scientific, technological, business and other relevant knowledge and skills for the purpose of producing plans and arrangements or designs for new, altered or improved products, processes or services. These include, for instance, other activities aiming at the design, planning and documentation of new products, processes and services. These activities may include the creation of drafts, drawings, plans and other documentation, provided that they are not intended for commercial purposes. The development of commercially usable prototypes and pilot projects is also included if it is the prototype is necessarily the final commercial product and its preparation would be too expensive to be used only for demonstration and evaluation purposes. In a subsequent commercial use of demonstration or pilot projects, any revenue generated from such use must be deducted from the eligible costs. The experimental production and testing of products, processes and services are also eligible, provided that they cannot be converted into industrial applications or commercially exploited or for such purposes.

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<sup>40</sup> Definition according to the General Block Exemption Regulation, article 2, cl. 84-86.

### 2.1.3. Research strategy, innovation strategy and innovation projects

In the context of this directive is understood to be a research strategy that collectively describes, a concept that defines the main research goals of the company and the necessary (and possibly to be created) conditions. A research strategy may be an aspect of an innovation strategy, provided that such research has components. The acquisition of new knowledge and skills as part of specific research projects is understood to be a research goal here, that should be marketed effectively to be implemented by the company in the sense of the broader innovation strategy in new processes, products, processes or services. The conditions include, among other things, the infrastructural and organizational conditions for research activities, the stock or any necessary purchases of know-how and knowledge carriers and provisions on fundamental principles of action, principles and practices.

Under an innovation strategy means a sustainable business concept, which is aimed as a whole at raising the company to a higher innovatory level and/or to make the innovation of the company as an ongoing business task, in order to improve the company's competitiveness. The strategy describes the innovation and interaction objectives of all those (current and future) activities of a company in the interest of achieving these goals. At its core, an innovation strategy will have measures that are already considered to be befitting of the concept of innovation (innovation projects), but it will also describe accompanying changes and improvements in the company, which are indeed necessary in order to implement the innovation strategy, but that don't even comply with the concept of innovation.

Under an innovation project is understood to be a future, deferred action or a set of directly related to each other innovative activities of an enterprise. Embedding in an innovation strategy is expected.

The requirement that there must be a project implies a planned approach with clear project-related objectives, work packages and milestones. "Directly related" are different innovative measures either when this condition from a factual point of view, support, supplement or spring from the same fundamental developments or adjustments or if from the perspective of the target market offers can be derived for affiliated or related needs of a particular customer group from the different complementary innovations.

### 2.1.4. Innovation types

The following table offers an overview of the range of investment projects. A classification of the submitted project in one of the types of innovation by applicants is not necessary. A project may also include aspects of more than one type of innovation. The association of a project to a type of innovation is insignificant for the degree of funding.

A product or service innovation is a product or service, whose major components (technical fundamentals, integrated software, using properties, ease of use, availability) are either new or markedly improved in terms of their basic characteristics.

Organizational innovation is the implementation of new organizational methods in business practices, workplace organization or business of a company. Changes that are based on organizational methods already employed in the company shall not be regarded as an organizational innovation, changes in management strategy, mergers and acquisitions, the setting of the application of a workflow, simple capital replacement or extension, changes resulting purely from changes in factor prices new customer orientation, localization, regular, seasonal or other periodic changes and trading of new or significantly improved products;

Process innovation is the implementation of a new or significantly improved method for the production or the provision of services (including significant changes in techniques, the equipment or software). Not be regarded as a process innovation are minor changes or improvements, the expansion of production or service capabilities through additional manufacturing or logistical systems which are very similar to those already used, the setting of an operation, simple capital replacement or extension, changes resulting from changes alone resulting in factor

prices, new customer orientation, localization, regular seasonal and other cyclical changes, and trading of new or significantly improved products.

#### 2.1.5. Characteristics of a sustainable innovation

Projects are defined as innovative in this directive are those which lead to (at least for the enterprise) new or significantly improved processes, products, processes or services. Implementation in the enterprise will be carried out by the company's own development, implementation and organization services and with the aim of improving competitiveness. Moreover, innovation projects entail in any case a degree of technical, organizational and business risk in itself, which clearly goes beyond the usual business operations.

Routine and periodic changes to products, production lines, manufacturing processes, existing services and other ongoing operations eligible for funding are out of the question, even if such changes may represent improvements.

An innovation project will then be designated as sustainable under this directive, if the proposed transaction (or its impact on the strategy) a longer term, beyond the immediate project objectives beyond positive change of innovation systems, the innovation behavior (change of behavior) or a multiplier effect (based on follow-up projects, multiple use) can be achieved. Particular attention is paid here in the generation of knowledge (learning effects). Purchase of external services or goods (investments) thus may be connected not only with the implementation of an innovation project; in addition, an organization or learning and implementation effort in the company must be present.

## 2.2. Basic conditions

The aim of the funding programs 1.1 to 1.5 forming the object of this directive is to make the benefits of research, technological development and innovation available for economic value creation processes in Vienna.

Therefore projects from eligible applicants as part of these programs for the purposes of point 2.3 can be promoted in the form of cash grants<sup>41</sup>, if the projects

- they have placed their focus on research, technological development and innovation (R & D & I),
- are essentially carried out, not only the project planning and control comprehensive parts, in Vienna,
- exhibit sustainable ( usually economic) alignment with the aim of using the results in (economic) value-added process in Vienna and
- correspond and meet the specific conditions of the mentioned funding the under point 2.6.3. established evaluation indicators to a large extent.

#### 2.2.1. Adequate project planning

Only those applications in accordance with section 2.6 will be included in the assessment, in which the planning of the project is adequate to project scope and content, and therefore successful project implementation can be expected as well as providing sufficient data for an evaluation.

Each project submitted for funding must be formulated as a project with an identified and appropriate project management and identified project costs.

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<sup>41</sup> In the following also called "subsidy" or "allowance"

The application must be generally divided into results-oriented work packages<sup>42</sup>. Each work package must end with a verifiable partial result ("Milestone"), which must be documented and submitted as part of the project accounting. It must already be made clear during the application process, how achieving a partial result can be checked.

#### 2.2.2. Sufficient resources

A necessary prerequisite for funding: that the applicants are (possibly in cooperation with partners) able to attend to the submitted projects with the necessary resources to continue it and that ultimately lead to a plan according to commercial implementation at the appropriate pace. First of all here the financial means as well as the human and technical resources (qualified staff, technical equipment, competent cooperation partners) are taken into consideration.

#### 2.2.3. Incentive effect of the funding

It is a stated goal of the funding policy, to especially support companies when these in comparison with the past, have additional and higher quality research, development and innovation activities that will help the company in comparison with the previous status, or that permanently raise existing activities to a higher level in the field of corporate research, development and innovation. This can be in the development of resources and structures, reflected in the scientific level of research (development) or in certain behaviors (risk-taking, research and innovation strategy).

Grant applications must be submitted before the start of the project or activity in any case.<sup>43</sup>

Moreover - particularly for large companies - proof of the fulfillment of several of the following criteria is required:

- There is a significant increase in the scope of the project / activity.
- There will be an increase in the scope of the project/activity.
- Due to the aid there is a significant increase in the total amount actually spent by the aid recipient for the project/activity.
- The completion of the project/activity concerned is significantly accelerated.

Exemplary here are more opportunities for additional effects especially including those for research, development and innovation projects:

- Does the present project positively break on the "scientific" level from the previous behavior of the company?
- Does the project open a new research area, a new division, or a new business for the company?
- Does the project differ in its scope (cost) significantly from the scope of the company's previous R & D projects?
- Is the project a (first) step towards the acquisition of comparatively more development risk?
- Is it possible to expect that attainment of a stronger (and sustainable) anchor or strategic importance by the project itself or as a result of research and development within the company?
- Are new structures being created?

The existence of an incentive effect of funding is subjected to a special examination in applications from large enterprises.

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<sup>42</sup> Another form of the structure in the programs in accordance with section 1.5. may be necessary and will be determined by the Vienna Business Agency.

<sup>43</sup> C.f. General Block Exemption Regulation, article 6.

#### 2.2.4. Special legal aid provisions for R & D projects

Projects are handled in several programs or certain project-related expenses under the provisions of the General Block Exemption Regulation for aid for research and development and innovation (Section 4).

For the accumulation of aid for one and the same research project, the corresponding limits and provisions of the General Block Exemption Regulation, in particular those specified in Article 25 of the GBER maximum funding intensities apply.

The maximum aid intensity is calculated from a base intensity that can be added to any applicable additions.

- Aid intensity without surcharges: According to the classification of the project (the individual parts of the project<sup>44</sup>) as "Industrial Development" or "Experimental development"<sup>45</sup>, subject to the following maximum aid intensities: 50% for industrial research and 25% for experimental development.
- Surcharges for SMEs: For aid for medium-sized enterprises, the intensity can be increased by 10 percentage points and for small enterprises by 20 percentage points.
- Surcharges for cooperative projects<sup>46</sup> or for projects whose results are widely used: up to a limit of 80%, a bonus of 15 percentage points is allowed if the project is realized in cooperation between at least two independent companies or in collaboration between a company and a research organization or when the results of the research project are widespread. In the case of cooperation of at least two companies, no single company must bear more than 70% of eligible costs. Furthermore, the project must involve collaboration with at least one SME or be cross-border. In the case of collaboration between a company and a research organization, the research organization must bear at least 10% of eligible costs, and they must have the right to publish the results of the research projects insofar as the institution carried them out. Should the surcharge be justified by the wide dissemination of research results, then it must be a project of industrial research and results of the project are widely distributed at technical and scientific conferences or through publication in scientific and technical journals or in open information sources (databases, where everyone has access to the raw research data has) or accessible through free or open source software.
- The aid intensity must be determined separately for each beneficiary (in cooperation projects) and may exceed the said intensities for no beneficiary.

#### 2.2.5. De minimis Regulation

Unless specified in the programs, the provisions of (EU) Regulation no. 1407/2013 of the Commission of December 18, 2013 are applicable to the recoverable purposes in such programs or for certain defined outputs within such projects over the application of Articles 107 and 108 on the Functioning of the European Union to de minimis aid in the amended or the provisions of a contingent lieu thereof act in its entirety. The total De-minimis-aid granted to the company under this regulation may not exceed EUR 200,000 in a period of three fiscal years.

#### 2.2.6. Funding intensities/funding maximums

The programs mentioned under 1.1. to 1.5 are carried out subject to their budgetary facilities. All mentioned funding intensities and maximums in the funding programs 1.1. to 1.5 are subject to budgetary possibilities and most restrictive state aid rules can reduce these funding intensities and maxima to a level to be decided and on a definable time and must announce this.

#### 2.2.7. Substituting other public funds

The funding provided under this directive should not lead to the substitution of other public funds, applicants must acknowledge and make this feasible.

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44 Classification is carried out at the level of work packages. Different work packages within an overall project may well have different assignments. The base intensity of the entire project is therefore the weighted average.

45 For definitions see section 2.1.2.

46 Subcontracting is not considered as cooperation as set forth in this provision.

### 2.2.8. Other subsidies/accumulation

All funding applied for or related to public funding promoting projects agencies (in particular those of the City of Vienna, the Federal Government or the European Union) and thus related expenses in the context of this Directive, must be disclosed by applicants. Whether and to what extent funding may be granted under this directive and the underlying aid regulations will be determined based on this information. If a project is already funded by other public funds via cash grants for economic development, then additional funding from a title of the present directive isn't possible.

Concerning projects that are subject to the General Block Exemption Regulation, the following provisions apply

The European Commission has held in Article 4 of the General Block Exemption Regulation maximum amounts (so-called notification thresholds) for eligible cost categories. Furthermore, threshold intensities - specified in separate articles - are for individual aid issues (e.g. aid to SMEs, R & D & I aid etc.). If several grants (e.g. from various funding bodies) are applied for the same eligible costs, pursuant to Article 8 of the General Block Exemption Regulation (accumulation), the sum of subsidies granted for these expenses may not exceed the specified maximum values and intensities; regardless of whether it concerns with the additional funding requested to de minimis or GBER aid.

It should be checked to what extent an accumulation of all the de minimis funding awarded to the company in the course of three fiscal years exceeding the amount of EUR 200,000 with regard to the granting of funded costs under de minimis that are funded as part of this directive.

Further multiple funding from public funds of the City of Vienna concerning the same elements of a project is not permitted.

## 2.3. Eligible parties

Eligible applicants under this directive are subject to the following limitations in principle all entities that at one location in Vienna <sup>47</sup>

- are planning to carry out business-oriented projects according to the purpose of this directive at a single location in Vienna,
- are able to supply a safety confirmation to the city treasury of the City of Vienna with regard to the fulfillment of municipal tax obligations (or are exempt from these obligations) as well as to confirm that they have the necessary rights and authorizations to carry out the project (e.g. licenses).

For certain types of legal entities, the following definitions or restrictions are applicable with regard to their right to apply:

### 2.3.1. Companies

Within the meaning of this directive are economic units that carry out activities that are stable, long-term, independent, organized and focused on making a profit at their own risk, regardless of whether this is the goal of a dividend or a substantial reinvestment of profits realized (such. B. is in the foreground in research or social enterprise). Detailed provisions are set out in Annex I.

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<sup>47</sup> In the funding program 1.1. „RESEARCH“ there is the possibility of submitting multiple applications for this requirement.

## Vienna companies

Vienna companies are companies that have a permanent establishment in Vienna. A permanent establishment presupposes the existence of a fixed place of business through which the company can fully or partially carry out its activities. Detailed provisions are set out in Annex II and I.

### 2.3.2. Companies in difficulties

Aid is not granted to companies in difficulty in accordance with Article 2, point 18 of the GBER.

Companies thus find themselves in difficulties—independent from their size—in particular in the following cases:

- a. if more than half of a limited liability company's registered capital is lost as a result of accumulated losses;
- b. at companies in which at least some shareholders are fully liable for debts, when as a result of accumulated losses of more than half of the company accounts' proven funds is lost;
- c. if the company is subject to insolvency proceedings or fulfills the criteria under its domestic law for being at the opening of insolvency proceedings at the request of creditors;
- d. if the company received rescue aid and the loan has not been repaid or the guarantee has not yet expired or the company has received restructuring aid and is still subject to a restructuring plan;
- e. if, in the case of a company which is not an SME,
  - the ratio of book-entry debt of the company from the past two years to its equity is at a value of 7.5,
  - the EBITDA interest coverage ratio is below a value of 1.0.

### 2.3.3. Company founders

Company founders within the meaning of this directive are entities that have begun to build a company as set forth in point 2.3.1.

They can then be funded if they

- realize and acknowledge the establishment of the company within 6 months<sup>48</sup> after any communication on the granting of funding as set forth in point 2.8. and
- they have the rights necessary for the implementation of the project (e.g. licenses), and permissions or the company being established will have these rights or permissions (for example, when specifically designated and consenting to their entries is done person designated as a managing director under trade law or trading regulations).

### 2.3.4. Legal entities in the areas of research and education

Legal entities in research and education as set forth in this directive are universities, colleges and other entities, the research and education sector, which is declared in their organization standard (e.g. Establishment Act, Social Contract) or from the nature of their design continuously produced an operation in the field of research and/or education or actually exercise a predominant activity in any of those areas.

If these entities receive funding from public funds that are suitable for or determined by the scope of project funding<sup>49</sup> to also cover the basic costs of the relevant legal entity (where one actually received a legal right to such equal funding), they are only entitled to submit an application under this directive if they submit funding together with others, not regarded as legitimate entities of a university, college, or other publicly funded legal entity of the

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<sup>48</sup> For exceptionally justified cases the Vienna Business Agency may set this time to be even shorter in the notification on the granting of funding.

<sup>49</sup> For example, the predominantly publicly funded centers of excellence funded under a related to a funding measure for specific research projects and should therefore not be publicly funded on the basis of the meaning of this directive and are therefore eligible to apply as companies.

research and education sector, i.e. in particular companies and company founders (see. point 2.5.8.) and if the subject of the application has the purpose of bringing about a partnership, a network or an essential strengthening of a network with one or more companies within the meaning of the transfer of knowledge from the sphere of science in those enterprises.

This does not include projects in the scope of the COMMUNICATION and TECHNOLOGY-AWARENESS programs (see point 1.4. and 1.5.1.).

#### 2.3.5. Predominantly publicly funded entities

Those entities not already excluded by the above paragraph that are predominantly financed by public funds or dominated by legal entities under public law (in particular by one or more authorities) (for example, because public entities hold the majority of shareholder voting rights or are authorized to determine the majority of the members of a management or supervisory body of the company), are only eligible to apply if they plausibly and reasonably demonstrate that the granting of funding under this directive would not lead to a substitution of other public funds. These provisions shall apply *mutatis mutandis* to universities and colleges and other publicly financed entities of research and education areas in accordance with section 2.3.4.

#### 2.3.6. Public-sector authorities and interest groups

Public sector authorities, statutory professional representative bodies, and professional interest groups under private law are excluded from the application as well.

#### 2.3.7. Disqualification as result of an unmet recovery order

It should be expressly pointed out that under article 1, paragraph 4 point a of the GBER, a company that is subject to an outstanding recovery order following a previous decision by the commission to establish the inadmissibility of aid and its incompatibility with the internal market may not be granted any individual aid, except aid under aid schemes to address the consequences of certain natural disasters.

### 2.4. Eligible costs

#### 2.4.1. Basic rules governing eligibility of costs

- a. In the development programs in accordance with section 1.1. to 1.5. eligible costs are exclusively the following types of costs defined under point 2.4.2. to 2.4.5., wherein which of these types of costs displayed in the individual funding programs, - possibly also stating restrictive specifications- can be included in each program and thus represent the basis for a grant.
- b. Only actually incurred costs proven by the applicants to bear that are directly related to the project submitted for funding will be recognized.
- c. Only net costs are included. If applicants are proven not to be entitled to deduct VAT and thus the tax is actually to be paid by them, this may be included in the basis of assessment.
- d. Costs are only included only to one customarily recognized extent in the assessment basis.
- e. Correct and legal documents from accounting must be submitted as evidence of internal costs; external costs must - in accordance with legal regulations - be assigned invoices.

- f. The actual incurring of costs (payment) for the funded project is - except for prize money in accordance with section 2.9.2, with payments on account in accordance with section 2.9.3.. as well as bonuses in accordance with point 2.9.6. - a prerequisite for the disbursement of funds. For payments on account, the actual incurring of costs in the interim and/or final accounts must be documented. Proof of payment must be submitted at the request of the Vienna Business Agency.

Costs incurred continuously to maintain the normal business operation and costs incurred prior to the submission of the project at the Vienna Business Agency are fundamentally ineligible.

#### 2.4.2. Personnel costs

Personnel costs for salaried employees are calculated based on gross annual salaries plus direct salary costs and plus overhead. Staff costs are included in the tax base, if all relevant provisions of point 2.4.1 are fulfilled.

The following cost components are the basis for calculating personnel costs:

*Gross annual salary: gross monthly salary for 14 months (including "13/14 salary".)*<sup>50</sup>

*Direct salary costs are taken into account with a flat rate surcharge rate of 32% of gross annual salary and include social as social security service encoder channel share, service encoder channel contribution surcharge for service channel encoder contribution, service delivery channel encoder, municipal tax and employee internal pension fund.*

Costs of benefits in kind, bonuses and other benefits, which are either directly or regularly assignable to the salary, special payments and severance payments can not be brought to bear here.

*Overhead* is taken into account with a flat rate surcharge of 20% on gross salary incl. direct salary costs and in particular includes proportionate administrative, energy and maintenance costs and prorated costs of consumable and business premises.

To calculate of the hourly rate of employees at cooperating projects to be supported employees following calculation formulas apply:

|                          |   |  |
|--------------------------|---|--|
| Personnel costs          | = | gross annual salary plus 32% direct salary utilities plus 20% overhead   |
| Annual work hours        | = | week commitment in hours multiplied by 41 weeks on average <sup>51</sup> |
| Hourly rate              | = | personnel costs divided by annual hours                                  |
| Eligible personnel costs | = | hourly rate multiplied by the project hours worked                       |

<sup>50</sup> This applies provided that the person has been employed throughout the year; otherwise the 13th and 14th salary has to be considered aliquot. For individuals who are not employed in Austria, no 13th and 14th salary can be considered.

<sup>51</sup> This value is the maximum for the approach to the assessment of funding to be drawn from annual working hours per person - overtime is therefore not considered.

**Example:**

|   |                |            |                  |
|---|----------------|------------|------------------|
| monthly gross salary of employee Mag.a Z. amounting to                                |                | EUR        | 2,500.00         |
| = gross annual salary including 13/14th salary  | 2,500 x 14     | EUR        | 35,000.00        |
| + 32% flat rate for direct payroll costs  | 35,000 x 0.32  | EUR        | 11,200.00        |
| = Subtotal  |                | EUR        | 46,200.00        |
| + 20% flat rate for proportional overhead   | 46,200 x 0.20  | EUR        | 9,240.00         |
| <b>= Personnel costs for Mrs. Mag.<sup>a</sup> Z. annually</b>                        |                | <b>EUR</b> | <b>55,440.00</b> |
| <hr/>   |                |            |                  |
| Hours per week commitment according to Employment contract of Ms. Mag Z. amounting to |                |            | 40 h             |
| = <b>annual working hours</b> therefore for 41 weeks pa                               | 40 x 41        |            | 1,640 h          |
| <b>= Hourly rate for Mrs. Mag.<sup>a</sup> Z.</b>                                     | 55,440 / 1,640 | <b>EUR</b> | <b>33.80</b>     |
| <hr/>   |                |            |                  |
| Employment of Mag.a Z. on projects submitted in that year                             |                |            | 612 h            |
| <b>= Eligible personnel costs</b>   | 33.80 x 612    | <b>EUR</b> | <b>20,685.60</b> |

For small businesses (as defined in section 2.1.1) the value of labor services can also be based upon the actively cooperating company owners and shareholders of funded projects - but at a maximum in the amount of the highest level of the applicant's prevailing salary structure<sup>52</sup> (the collective agreement).

#### 2.4.3. Costs for external services

Costs for external services are costs reimbursed by third parties to applicants in the course of implementation of the project (for example, consulting and training costs, costs to protect its own intellectual property rights (excl. charges), costs of other services, etc.), provided that this cost doesn't underlie the acquisition of capital goods or rights to foreign intellectual property.

Services that are used continuously or in regular intervals in particular or that belong to the routine operational costs of the company, such as routine tax advice, legal advice, or advertising may not be involved.

<sup>52</sup> For companies or industries without collective bargaining provisions the content closest in terms of the operating object of the collective agreement is to be used.  
If the wage of one of the activities listed in the applicant company project staff exceeds the employee's collective agreement maximum value, this wage can be used as a guide.  
In the case of volunteer organizations, the mutatis mutandis mutual regulation may be applied to the functional representative mentioned by name in the Central Register of Associations.

On invoices and fee notes the invoiced services must be described in detail and, where appropriate, determined exactly in hours and hourly rate. The costs of such services are included in the tax base if all relevant provisions of point 2.4.1 are fulfilled.

#### 2.4.4. Cost of equipment

The acquisition costs defined below can be included in the basis for assessment on the conditions specified below<sup>53</sup>:

##### 2.4.4.1. Commodities that can be used in the long term (investments in material assets)

Investments in material assets within the meaning of this directive shall include goods that can be used in the long term<sup>54</sup> for production or the provision of services that are shown on the balance sheet as tangible fixed assets and can usually be depreciated over their useful life. Their acquisition costs – with the exception of any acquisition costs for property, buildings and vehicles, as well as for mere replacement investments – shall be included in the basis for assessment, provided that all the relevant requirements outlined in Clause 2.4.1 are met.

If material assets are acquired by way of a rental or leasing agreement, the pro rata rental or leasing expenses may be included in the basis for assessment during the period of the project if all the relevant requirements outlined in Clause 2.4.1 are met.

##### 2.4.4.2. Overheads and material expenses

Overheads and material expenses within the meaning of this directive shall mean any individual costs arising in the course of the project funded which originate from payments to third parties and which do not constitute any services obtained from third parties.

The latter shall, for example, include the costs of basic materials or materials required for manufacture (raw materials, semi-finished products, components, etc.), the costs of supplies (e.g. welding rods, screws, nails, etc.), operating resources (except for sources of energy and imputed costs) and test materials (consumables) which can be clearly allocated to the development, creation and review of the project submitted for funding (demo versions or comparable project results of a different nature).

Overheads and material costs shall be included in the basis for assessment if all the relevant requirements outlined in Clause 2.4.1 are met.

##### 2.4.4.3. Rights in third party intellectual property (IPR)

Rights in third party property include rights in protected third party intellectual property that is shown on the balance sheet as intangible assets, which are necessary for production or the provision of services and which can be used in the long term.

Their acquisition costs shall be included in the basis for assessment if all the relevant requirements outlined in Clause 2.4.1 are met.

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<sup>53</sup> The costs of acquiring financial assets shall not be included in the basis for assessment.

<sup>54</sup> As a reference value for how long-term the asset is, a usual useful life of over three years is generally assumed. The acquisition costs for low-value fixed assets can in any event not be included.

Should rights in intellectual property be acquired by way of license agreements, leases or leasing agreements, the pro rata license fees or rental or leasing expenses may be included in the basis for assessment during the currency of the project if all the relevant requirements outlined in Clause 2.4.1 are met.

#### 2.4.5. Travelling expenses

Travelling expenses within the meaning of this directive shall include costs for travelling to and from the destination, as well as the cost of any overnight stays there, as long as the journey is undertaken on behalf of and on account of the funding applicants. The costs of catering, diets and any other ancillary expenses associated with the journey may not be included.

The cheapest means of transport in each case that is in line with the purpose and aim of the journey is to be chosen for the journey to and from the destination.<sup>55</sup> For overnight stays at the destination costs totaling a maximum amount of EUR 150.00 per night may be included.

Travelling expenses shall be included in the basis for assessment if all the relevant requirements outlined in Clause 2.4.1 are met.

## 2.5. Submission of applications

### 2.5.1. Filing period

Applications for the granting of a subsidy are possible within the period of validity of this directive at any time in accordance with the "Essential Conditions" as per Clause 2.2. –in the case of invitations to tender in accordance with Clause 2.5.7. only within the periods of time specified in the respective invitations to tender.

### 2.5.2. Submission date/recognized expenses

No significant implementation steps for the project submitted for funding may yet have been taken as at the submission date. In regard to any costs that are subject to the *de minimis* regulation within the scope of this directive the submission in any event needs to have been filed prior to commencement of the period of performance/prior to the date of delivery and the first invoice. In regard to any costs eligible for funding that are subject to the General Block Exemption Regulation (GBER), the submission date (the date of receipt of the application by Vienna Business Agency shall be pertinent in this respect) must precede commencement of the work concerning the project or activity.

### 2.5.3. One-off opportunity to submit an application

Projects that have already been submitted to Vienna Business Agency in a funding program previously cannot be submitted under the same funding program again.

### 2.5.4. Online submission

Applications are to be filed over the Internet at [www.wirtschaftsagentur.at](http://www.wirtschaftsagentur.at) using the online forms provided there. The forms are to be filled in so that they contain true and complete details to the best of the applicant's knowledge and belief.

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<sup>55</sup> In the event of a private car being used, a driver's logbook is to be presented and the official mileage allowance applied.

#### 2.5.5. Certificate of authenticity/e-signature regarding the application

The procedure outlined by the Vienna Business Agency in invitations to tender or on the above-mentioned website, in particular in regard to the certificate of authenticity in regard to the application that is to be signed in a legally binding manner or an electronic signature is to be adhered to. Should no legally binding electronic signature be provided, the certificate of authenticity in regard to the application is to be submitted (in paper form) in writing, signed in a legally binding manner.

#### 2.5.6. Filing language

Applications are to be filed in German or English.

#### 2.5.7. Special provisions concerning invitations to tender

In accordance with the requirements of technology policy and the budgetary constraints, Vienna Business Agency may issue invitations to tender within the scope of funding programmed, if need be also together with its partners. Applications may only be submitted to Vienna Business Agency within the submission period specified in the invitation to tender.

The invitations to tender include the detailed specifications relevant to obtaining funding and will be published in a suitable form at least three months prior to the end of the submission period, in regard to which the following details are in any event to be specified:

- The aim and subject matter of the invitation to tender;
- the special provisions in regard to the invitation to tender for assessing projects worthy of funding (e.g. by emphasizing or specifying one or more of the funding indicators and/or by naming a particular field of technology and/or a particular target group and/or a particular task for which proposals are sought about how to solve it);
- the submission period;
- any partners involved in the invitation to tender;
- the budget provided.

#### 2.5.8. Joint filing/partner application

A funding application for programs covered by this directive may be filed jointly in regard to the same project, also by multiple eligible parties. In such a case, a funding relationship will materialize with each of the applicants involved, in regard to which the community of applicants

- is to appoint one of the legal entities involved, which or who is deemed a company or company founder in accordance with Clause 2.3.1. or 2.3.4. and to whom or which the properties of the legal entities defined in Clause 2.3.4 do not apply, with representing all the applicants vis-à-vis Vienna Business Agency and needs to grant such power of attorney to them <sup>56</sup> and,
- the master data of all applicants needs to be given upon application, and the distribution of work packages, project costs, project risk, project results and project rights, as well as the distribution of the funds among the applicants, needs to be set out in writing and disclosed to Vienna Business Agency.

Universities, universities of applied sciences or other publicly funded legal entities eligible to file an application within the meaning of Clause 2.3.4. shall – if they file an application jointly with companies or companies in the process of being established to which the properties listed under Clause 2.3.4. do not apply – be classified, in regard to the funding intensities which may be granted to them, in exactly the same way as the smallest company

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<sup>56</sup> for applications for the COMMUNICATION (Clause 1.4.) and TECHNOLOGY AWARENESS (Clause 1.5.1.) programmes, any legal entity may, in accordance with Clause 2.3, be granted such power of attorney (with the exception of distressed companies in accordance with Clause 2.3.2);

eligible to file an application out of those companies or companies in the process of being established filing a joint application with them.

In so far as the provisions on *de minimis* subsidies in accordance with Clause 2.2.5. are to be applied, and if the community of applicants constitutes a uniform organization of personal, tangible and intangible assets and an ongoing co-operation between the applicants is aimed for to achieve a joint economic purpose, it is established that the applicants are, in their entirety, to be deemed a company within the meaning of the *de minimis* regulation of the European Commission in accordance with Clause 2.2.5, and will thus only be granted funding of such an amount that does not exceed the amount laid down in said regulation in regard to the granting of funds to a company.

## 2.6. Assessment

### 2.6.1. Preliminary assessment

All applications in all funding programmes are subject to a preliminary assessment by Vienna Business Agency, wherein the focus is in particular on the fulfillment of formal criteria, the existence of an adequate basis for assessment and any individual conditions required being met.

### 2.6.2. Basis of assessment

The applications will subsequently be assessed in accordance with the assessment indicators explained in Clause 2.6.3., wherein, generally, exclusively the application documents submitted online will be drawn upon, and these need to offer an adequate basis for the assessment in accordance with the directive.

Notwithstanding the latter, Vienna Business Agency may, if necessary, request the applicant for funding to provide additional details on the application documents available, either in writing, verbally or in the form of a presentation on the application or certain parts of it.

In the case of projects or parts thereof which have already been examined and assessed by other public funding bodies, Vienna Business Agency may revert to such an assessment and reference may be made to the latter in the assessment in accordance with the objectives specified in Programmes 1.1. to 1.5. and the indicators specified in Clause 2.6.3..

### 2.6.3. Assessment indicators

Building upon the objectives and conditions specified in Funding Programmes 1.1. to 1.5., corresponding assessment indicators shall be drawn upon for assessing applications. Which indicators are applied, with which weighting, when assessing the applications filed is determined by the nature of the respective funding program.

Vienna Business Agency may, within the scope of this directive, draw upon all the necessary and relevant indicators<sup>57</sup> to reach an objective assessment of an application. In order to achieve the most comprehensive transparency possible, Vienna Business Agency publishes the respective criteria to be drawn upon on the Internet, specifying their characteristics and weighting in detail.

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<sup>57</sup> See also, in that respect, Clauses 2.2.1. to 2.2.3.

The main assessment indicators are, for example, the additionality of the project to be funded in regard to previous activities or the incentive effect of the funding <sup>58</sup>, as well as the technological level or the technological advancement in regard to relevant contestants and the associated risk of implementation.

Furthermore, the business relevance, the available financial and staffing resources for carrying out the project and the (in)direct employment effects, for example, are evaluated. The following factors may – depending upon the program – for example, be taken into consideration in the assessment: The regional economic relevance (especially the co-operation and the networking across regions and any foreseeable role model effect), the general economic policy and social relevance (such as technological acceptance and creating awareness among the population), the empowerment and furtherance of SMEs, equal opportunities for men and women, the ecological effects of the project and any cross-effects on other areas of politics.

#### 2.6.4. Assessment/jury

The applications are assessed by Vienna Business Agency, which – depending upon the objectives and standards of the respective funding program, the nature of the projects to be assessed and the scope of the funding to be granted – obtains supplementary expert opinions (if any) from experts or makes use of a jury.

If a jury is appointed by Vienna Business Agency, the latter consists of at least three specialists – either returning specialists or one-off specialists – who are required to assess the applications received in accordance with the directive<sup>59</sup>.

The composition of a jury is published in a suitable form and may be enquired about at Vienna Business Agency. Prior to the commencement of the assessment funding applicants will have a single opportunity to name a maximum of two individuals or institutions forming part of the jury to be excluded from assessing their application if circumstances exist which would cast doubt on the impartiality of their being involved in the assessment.

#### 2.6.5. Confidentiality obligation

All individuals appointed by Vienna Business Agency to assess and check applications are subject to a stringent confidentiality obligation. In the event of funding being granted, Vienna Business Agency shall be entitled to publish the identity of the applicant without restriction, along with the designation and a short description of the project funded, the amount of the funding and the reasons for selecting the project funded.

#### 2.6.6. Ranking

Applications that have been submitted to Vienna Business Agency in full in the course of an invitation to tender in accordance with Clause 2.5.7. or, based on the option to submit applications on an ongoing basis, within a respective calendar quarter (or up to any other reference date published online) shall – provided that they have achieved at least 25% of the respective assessment points possible – be ranked in accordance with the result of the assessment.

#### 2.6.7. Funding proposal

The Steering Committee of Vienna Business Agency will thereafter be presented with the list of all applications, as well as a funding proposal within the meaning of the ranking and in accordance with the budgetary constraints, in regard to which with any invitation to tender in accordance with Clause 2.5.7. the budget stipulated for this

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<sup>58</sup> A particularly in-depth examination of the incentive effect is undertaken if an application is filed by a major company (cf. Clause 2.1.1.) and the project submitted for funding is to be deemed close to the market.

<sup>59</sup> When assembling a jury, attention shall be paid to having as balanced a ratio of men and women as possible.

invitation to tender, and - based on the option to submit applications on an ongoing basis - a pro rata budget derived from the annual budget– usually distributed evenly over the calendar quarters – will be drawn upon.

#### 2.6.8. Second chance

Applications that can no longer be included in a funding proposal in accordance with Clause 2.6.7. for budgetary reasons will – except in the case of an invitation to tender in accordance with Clause 2.5.7. – be accepted once into the subsequent ranking procedure (usually in the next calendar quarter), in order to once again subject them there to ranking together with the applications then newly included.

### 2.7. Decision-making process

The Steering Committee of Vienna Business Agency will take a decision on the funding proposal presented by Vienna Business Agency and will recommend the municipal authorities of the City Council of Vienna to grant or reject the funding.

The decision on the granting of funding or rejection of an application will be taken by the municipal authorities of the City Council of Vienna based on the recommendation of the Steering Committee of Vienna Business Agency .

### 2.8. Notifications

The applicants will receive the notification on this decision taken by the municipal authorities of the City Council of Vienna and any conditions for the granting of funding in writing from Vienna Business Agency. The amounts of funding specified therein are always maximum amounts. In the event of the application being turned down, the grounds for the rejection will be notified.

### 2.9. Disbursement

#### 2.9.1. Conditions

If the funding has been granted subject to certain conditions, such conditions need to be fulfilled and evidence provided of their fulfillment by the applicant prior to any funds being paid out. Furthermore, if the submission concerned a company in the process of being established in accordance with Clause 2.3.3., proof that the company has been verifiably established needs to be provided prior to any funds being paid out.

#### 2.9.2. Prize money

If prize money is awarded within the scope of an invitation to tender in accordance with Clause 2.5.7., the latter will be transferred following the transmission of a notification in accordance with Clause 2.8. (announcing the granting of funds), taking Clause 2.9.1. into consideration and after the project funded has been commenced and Vienna Business Agency has been notified of the latter.

#### 2.9.3. Advance payment

Unless a condition is contained in the notification on the granting of funding in accordance with Clause 2.8 (see Clause 2.9.1.) that conflicts with this, once the project funded has been commenced and the Vienna Business Agency notified about it a payment to account of an amount that is in line with the respective nature of the project

will be paid out, up to a maximum of 50% of the maximum amount of the subsidy specified in this notification. Should insolvency proceedings be instituted against the business filing the application no payment to account can be made.

#### 2.9.4. Partial payments

Partial payments shall only be possible for projects the scheduled duration recognized in the course of assessment of which exceeds 24 months<sup>60</sup>.

Unless there is an unfulfilled condition contained in the notification in accordance with Clause 2.8 opposing the granting of funding, a residual subsidy can be requested. After deduction of any payment to account, as well as a 20% performance bond, said residual subsidy will be divided into several tranches corresponding to the progress of the project (work packages, milestones). These tranches will – commencing at the earliest one year after receipt of the notification in accordance with Clause 2.8. – be respectively paid out at the rate of a maximum of one per year following the presentation and checking of an interim report, including an interim settlement statement on the scheduled progress of the project funded.

#### 2.9.5. Final payment

Following conclusion of the project that is the basis for the funding, as well as the presentation and checking of the final report to be presented in accordance with Clause 2.10.3., the subsidy will be re-calculated based on the recognized actual costs of the project funded that have been checked and found to be eligible for aid. If this subsidy calculated falls short of the maximum amount of the subsidy specified in the notification in accordance with Clause 2.8., any payment to account already made in accordance with Clause 2.9.2., as well as any partial payments already made in accordance with Clause 2.9.4., shall be deducted from the subsidy calculated – or otherwise from the maximum amount of the subsidy. Any positive balance will be transferred to the funding applicant, any negative balance is to be repaid within 14 days of the date of such request. In the event of default, arrears interest will be payable, as decreed by the Municipal Directorate on 21 July 2010, cf. MDS-K-876/10 or otherwise on an alternative legal basis.

#### 2.9.6. Bonuses

Where additional bonuses are granted to supplement the subsidy, the latter will be transferred if evidence is provided in the course of the final settlement that the underlying requirements have been met.

#### 2.9.7. Disbursement in the case of joint filing

Clauses 2.9.1. to 2.9.6. inclusive shall also apply to any joint submissions. Any payout of the total amount of funding for all partners shall be made to the authorized applicant with the effect of discharging the debt. The authorized applicant shall be obliged to pass on the proportions of the amount of funding in accordance with the written announcement of Vienna Business Agency to the partners entitled to it without delay. In the event of the authorized applicant not complying with this obligation to pass on the funding, the partners shall only be entitled to assert any claims vis-à-vis the applicant authorized by them. In exceptional cases the individual amounts of funding may be paid out to all the partners directly if there are objectively justifiable grounds for doing so. The final amounts of funding attributable to the respective partners will be recalculated based on the final settlement and taking into account the provisions of Austrian or EU subsidy law and the provisions of the present directive. The entire amount of the funding shall be limited to the maximum amount of the subsidy.

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<sup>60</sup> Vienna Business Agency reserves the right to stipulate the requirement of preparing an interim report, including an interim settlement statement, in exceptional cases.

## 2.10. Obligations to provide information and archive documents, as well as reporting obligations

### 2.10.1. Progress report(s)

In the event of funding being granted, a meaningful progress report must be presented bi-annually, without the necessity of a reminder (as from commencement of the project). Where forms are made available for that purpose, these are to be used, completely filled in, and submitted – if possible, electronically.

### 2.10.2. Interim report(s), including interim settlement statement(s)

In the event of funding being granted, a meaningful progress report must be presented prior to any desired partial disbursement of subsidies in accordance with Clause 2.9.4, without the necessity of a reminder. Where forms are made available for that purpose, these are to be used, completely filled in, and submitted – if possible, electronically. A component of an interim report shall also be an interim settlement statement detailing the actual costs of the project incurred to date, as well as a revised cost plan for the entire project. In cases where a noticeable decrease in the overall cost is apparent from the latter, the following partial payouts need to be adapted to the new circumstances or suspended altogether.

### 2.10.3. Final report, including final settlement statement

In the event of funding being granted, a meaningful final report needs to be exhibited, without the necessity of a reminder, directly following the conclusion of the project funded, however no later than within three months of expiry of the maximum possible duration of the project as per the program. Where forms are made available for that purpose, these are to be used, completely filled in, and submitted – if possible, electronically. Every final report must in particular contain a final settlement statement detailing the costs of the project actually incurred. If the documents for the final settlement transmitted by the applicant are deficient and if they fail to provide an adequate basis for assessment (and if corresponding documentation is also not forwarded by the end of an appropriate grace period), the granting of the funding shall be revoked in accordance with Clause 2.11.1.

### 2.10.4. Monitoring and evaluation

Substantial qualitative and/or quantitative changes relevant to the success of the project funded during the currency of the project need to be reported to Vienna Business Agency without delay. Applicants shall be obliged to answer any questions arising in connection with the project submitted for funding and the general development of the company funded posed by Vienna Business Agency in writing without delay, in full, and – if required to do so – provide any documents that require to be examined and supporting documentation that may be requested, even once the project has been concluded. This obligation shall cease to exist ten years after the final funding payment has been made in accordance with Clause 2.9.5.

### 2.10.5. Publication

In the event of funding being granted, the applicant(s) need to specify the funding by means of the endorsement "Promoted out of funds of the City Council of Vienna by Vienna Business Agency. A trust of Vienna City council." and affix the logo of Vienna Business Agency wherever it is expedient and reasonable to do so, as perceived by the public within the scope of any PR and marketing activities concerning the project funded.

#### 2.10.6. Archival of documents, inspection by Vienna Business Agency

Applicants shall be obliged to archive any documents submitted in connection with the application filed and any documents that are pertinent to the latter, as well as, in addition, any documents of Vienna Business Agency relevant to the granting of the funding and its administration which have been transmitted by Vienna Business Agency in proper form, carefully and in an expedient form. This obligation shall cease to exist ten years after the final funding payment has been made in accordance with Clause 2.9.5.

This archival obligation shall in particular include documents that are informative

- in regard to the business sector in which the applicant operates,
- for the classification of the company filing the application as a small, medium-sized or large company within the meaning of Clause 2.1.1.,
- in regard to the gross and net amounts drawn upon for assessing the funding;
- for any export orientation of the company funded,
- for the amount of the respective funding and the duration of the funding period,
- in regard to the other de minimis subsidies specified in the application, which have been applied for or granted in the current fiscal year, as well as in the last two preceding fiscal years prior to the application being filed.

Applicants shall be obliged to make such documents available to Vienna Business Agency, the municipal authorities of the City of Vienna, the City Audit Court of the City of Vienna, the institutions of the European Union or Officers of the aforementioned bodies at any time upon request, either as originals or copies, and transmit them to said organizations.

Vienna Business Agency, the municipal authorities of the City of Vienna, the City Audit Court of the City of Vienna, the institutions of the European Union or the Officers of the aforementioned bodies shall be entitled, within the archival period, to request the applicant to transmit all the aforementioned documents electronically or make them available for inspection in electronic form at any time.

#### 2.11. Revocation of funding granted

##### 2.11.1. Grounds for revocation (10 years)

In the event of one or more of the items mentioned below occurring and becoming known, the funding granted may be revoked up to ten years after the final payment has been made, in accordance with Clause 2.9.5, if

- a. the funding is/has been used inappropriately;
- b. checks carried out by Vienna Business Agency, the municipal authorities of the City of Vienna, the City Audit Court of the City of Vienna, the institutions of the European Union or Officers of the aforementioned bodies have been refused or impeded or reporting obligations in connection with the project funded have been infringed;
- c. details on circumstances which were decisive for the granting of the funding retrospectively transpire to be incomplete or untrue, do not exist or have lapsed, in particular if, contrary to the details given in the application,

- in the case of funding awarded to founders of companies in accordance with Clause 2.3.3. the company has not been established within six months of the notification of funding being granted having been received in accordance with Clause 2.8; or
  - the project funded is/has been implemented outside Vienna; or
  - the chronological course of the project has been considerably delayed without any sound reasons being put forward for the delay; or
  - the project is changed so considerably that it is no longer in line with the basis for the funding granted in this form; or
  - the project is not being/has not been undertaken;
- d. a meaningful final report in accordance with Clause 2.10.3 is not presented in good time or such a report cannot be reliably and conclusively checked (for example due to a lack of or insufficient documents relevant to the settlement) and a respective request for improvement has not been complied with within a reasonable period of time;
- e. evidence of the orderly archival of documents in accordance with Clause 2.10.6 has not been provided or the documents archived are not submitted to Vienna Business Agency, the municipal authorities of the City of Vienna, the City Audit Court of the City of Vienna, the institutions of the European Union or the Officers of the aforementioned bodies immediately and in full upon request or – in the event of archival and availability for inspection electronically being requested – the possibility of inspecting those documents electronically does not exist;
- f. the funding applicant revokes a declaration of consent in accordance with Clause .

#### 2.11.2. Grounds for revocation (4 years)

In the event of one or more of the items mentioned below occurring and becoming known, the funding granted may be revoked up to four years after the final payment has been made, in accordance with Clause 2.9.5., if

- a. the company funded relocates substantial parts of its economic activities highly relevant to creating added value that previously took place in Vienna to a location outside Vienna;
- b. the business of the company funded or the company itself is sold, unless the purchaser or legal successor has declared in writing without delay that it wishes to enter into the funding relationship with all rights and obligations and its entering into it is approved by Vienna Business Agency.
- c. the participation quotas of the company funded change significantly and the purpose of the funding is thereby no longer fulfilled;
- d. the business of the company funded is discontinued or permanently closed down or the company funded goes into liquidation.

#### 2.11.3. Revocation in the case of joint submission

In the case of grounds for revocation in accordance with Clauses 2.11.1 to 2.11.2 existing, in the event of grounds for revocation existing which do not affect all partners the revocation of the funding granted may only be pronounced vis-à-vis that partner to whom the grounds for revocation apply.

#### 2.11.4. Pronouncement of the revocation

Should grounds for revocation exist, such grounds for revocation are to be pronounced no later than six months after the expiry of the respective deadlines specified in Clauses 2.11.1 and 2.11.2.

#### 2.11.5. Repayment in the event of revocation

In the event of revocation, any payment to account made towards the subsidy or the subsidy paid out is to be repaid within two weeks upon request. In the event of default, arrears interest will be payable, as decreed by the Municipal Directorate on 21 July 2010, cf. MDS-K-876/10 or otherwise on an alternative legal basis.

In the event of grounds for revocation existing in accordance with Clause 2.11.2 (b), (c) and (d) and evidence of the actual costs incurred within the scope of an interim or final settlement in accordance with Clause 2.10.2 or 2.10.3, the reclamation shall only be made to the extent to which goods capable of being capitalized have been acquired within the scope of the funding whose statutory depreciation period has not yet come to an end as at the date of the grounds for revocation occurring. The reclamation will be effected pro rata in relation to the remaining depreciation period.

The right to assert any further claims under civil law shall not be affected thereby.

#### 2.11.6. Reporting requirement

Applicants shall be obliged to make known any quantitative or qualitative changes in connection with the project submitted for funding and/or the company funded to the Division 5 of the municipal authorities of the City of Vienna – Finance Office, Ebendorferstraße 2, 1082 Vienna or Vienna Business Agency in writing without delay.

## 2.12. Data privacy

Applicants shall be obliged, in regard to any data concerning them which

- is contained in any requests for the granting of funding or
- emerge during the processing or monitoring of the funding,

to submit any declarations which, pursuant to data privacy law are necessary to ensure the legitimacy of using the data within the meaning of Sec. 7 Austrian Data Privacy Act 2000 (*DSchG*), , in particular

- for computer-assisted processing or
- for transmission to
  - the municipal authorities of the City of Vienna, the City Audit Court of the City of Vienna or any other bodies or institutions, in particular funding agencies of the City Council of Vienna,
  - bodies or institutions, in particular funding agencies of the Republic of Austria or a Federal State of the Republic of Austria or
  - bodies or institutions of the European Union.

Applicant shall undertake

- in regard to non-sensitive data, to grant consent pursuant to Sec. 8(1)(2) Austrian Data Privacy Act 2000 (*DSchG*) and
- in regard to sensitive data to grant consent pursuant to Sec. 9(6) Data Privacy Act 2000 (*DSchG*);

and to in particular do so by signing the deeds or certificates transmitted by Vienna Business Agency.

The applicants shall be entitled to revoke their declarations of consent by means of a written notification directed to Vienna Business Agency at any time. In the event of a declaration of consent being revoked, any use of data, which is illegitimate without the relevant consent, will immediately be ceased by Vienna Business Agency upon receipt of the revocation.

The revocation of a declaration of consent by the applicant may, in accordance with Clause 2.11.1.(f), lead to the revocation of the award of the funding and to the return of any subsidies already paid out being demanded.

## 2.13. Legal basis/legal claim

The decision to award the subsidy is made in accordance with the available budgetary means based on this directive resolved by the Vienna Municipal Council on 26 November 2014, Pr.Z. 03039-2014/0001-GFW, and, if applicable, based on the text of the invitation to tender published within the scope of an invitation to tender in accordance with Clause 2.5.7.

In the case of all programmed in this directive explicit reference is made to the respective legal basis under EU law. In so far as it is not general measures that are funded, the latter concerns the following regulations, as amended, or any legal act substituting them:

- Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (hereinafter referred to as "General Block Exemption Regulation" or GBER).
- Commission Regulation (EU) No. 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (referred to in curtailed form as the "*De minimis* Regulation").

To the extent that reference is made in this directive to legal bases, the text of the latter shall always be binding. Any curtailed explanations of these legal sources given in this directive shall only serve to provide non-binding advance information.

No legal claim to funding being granted exists.

## 2.14. Period of validity

This directive shall be valid for submissions dated between 01/01/2015 and 31/12/2017.

## 2.15. Funding processing authority



Vienna Business Agency.

Mariahilfer Straße 20 | 1070 Vienna

Tel. +43 (1)4000 86165

foerderungen@wirtschaftsagentur.at

www.wirtschaftsagentur.at

### 3. ANNEX

#### Appendix I

##### Definition of the term companies

Companies will be deemed companies within the meaning of Clause 2.3.1 of this directive if they

- are registered in the Commercial Register or
- have a VAT ID or
- can provide evidence of the registration of a proper trade in the central Trade Register or
- can provide evidence of the registration of a proper professional place of business with the competent regional administrative authority or
- if, in particular in the case of sole proprietorships or one-person companies, the proprietor maintains insurance under the Federal Act on Social Security for Persons engaged in Trade and Commerce (*GSVG*), Federal Act on Social Security for Self-Employed Persons in the Liberal Professions (*FSVG*) or the Federal Act on Social Security for Farmers (*BSVG*).

##### Definition of the term Viennese companies

- The term “Viennese companies” means companies, which have a place of business (permanent establishment) in Vienna. The expression "permanent establishment" shall be a fixed business establishment, i.e. the company has power of disposal over certain (of its own or leased) facilities, premises or machinery, through which the company can pursue its business activity, in whole or in part. In order to define this concept more precisely, Article 5 of the OECD Model Convention 2010 on the avoidance of double taxation" shall be referred to (see Appendix II).
- Should the requirements of Article 5 of the OECD Model Convention 2010 be fulfilled, one of the following pieces of evidence will be recognized as evidence of the existence of a place of business (permanent establishment) in Vienna:
  - Ongoing payment of the municipal tax to the respective Viennese authority (Evidence: City Treasury) or
  - an existing Commercial Register record specifying the Viennese address of the place of business (permanent establishment); or
  - an existing registration of the VAT ID in the VAT ID database of the Austrian Financial Administration specifying the address of the Viennese place of business; or
  - an existing registration of a trade in the Trade Register under the Viennese address of the place of business; or
  - an existing registered proper professional domicile or any proper branch registered in Vienna.

Should in particular no evidence be provided by sole proprietorships or one-person businesses on any of the above-mentioned points, but the existence of a Viennese place of business nonetheless be argued, evidence of residence in Vienna is to be provided (to be obtained from the local Inland Revenue responsible for the entrepreneur's place of residence). In such a case a description of the place of business, as well as the fixed equipment of business, is, moreover, to be attached to the application. This description shall in particular include the following details:

- The number and size (in square meters) of the rooms at the business premises;
- the function and purpose of the premises (e.g. workspace, meeting room, etc.);
- any fittings and fixtures and machinery existing that are necessary for carrying on the business activity;
- any necessity for or existence of a license permit for operating equipment and
- the nature of the use of the premises (exclusive or shared with other users);

- the nature of the power of disposal over the premises (lease, sub-lease, ownership).

Where the address of the place of business is not identical to that of the place of residence, the address of the place of residence is also to be given.

## Appendix II

### Definition of the term permanent establishment.

1. Within the meaning of this convention, the term "place of business" (permanent establishment) means a fixed place of business through which the business activity of a company is carried on, in whole or in part.
2. The term "permanent establishment" shall in particular include:
  - a. a place of governance of the business and its operations
  - b. a branch office
  - c. a branch
  - d. a production plant.
3. A building site or assembly site is only deemed a place of business if its duration of existence exceeds 12 months.
4. Notwithstanding the foregoing provisions of this article, the following will not be considered places of business:
  - a. Facilities exclusively used to store, display or deliver goods of the company;
  - b. stocks of goods of the company exclusively maintained for the purposes of storage, display or delivery;
  - c. stocks of goods of the company exclusively maintained for the purpose of being processed or finished by another company;
  - d. a fixed place of business that is exclusively maintained for the purpose of purchasing goods for the company or obtaining information;
  - e. a fixed place of business that is exclusively maintained for the purpose of pursuing other activities for the company, that are of a preparatory nature or constitute ancillary or auxiliary work;
  - f. a fixed place of business that is exclusively maintained for the purpose of pursuing the activities specified under the letters (a) to (e), provided that the overall activity of the fixed place of business arising from the latter is of a preparatory nature or constitutes ancillary or auxiliary work.
5. If an individual – with the exception of an independent representative within the meaning of paragraph 6 – works for a company and if he or she has the power to conclude agreements in the name of the company in a contracting state, and if he or she usually exercises the power of attorney there, notwithstanding paragraphs 1 and 2 the company will be treated as if it had a place of business in such state for all activities carried on by that individual on behalf of the company, unless such activities are limited to the activities specified in paragraph 4, which, if they had been carried on through a fixed place of business, would not have made such a site a place of business in accordance with the paragraph specified.
6. A company is not already treated as if it had a place of business in a contracting state just because it carries on its business activity there through a broker, commission agent or other independent representative, as long as such persons are acting within the scope of their proper business activity.
7. No company domiciled in a contracting state will be seen as having the place of business of another company just because it controls or is controlled by a company that is domiciled in a different contracting state or (either through a permanent establishment or in some other way) carries on its business activity there.

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<sup>61</sup> Definition in accordance with the OECD Model Convention 2010 on the avoidance of double taxation (Article 5)