

Additional conditions for government aid for innovations with a social impact

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Text of the conditions

Considerations

1. On 19 January 2018, Stichting Brainport offered a “Brainport Eindhoven Proposition for Region-Envelope” (hereinafter: Proposition) to the government to promote the economic international position of the Brainport region. This Proposition lists the projects that are eligible for financing. These projects can be distinguished based on 3 themes: 1) distinctive facilities, 2) attracting and maintaining talent, and 3) innovations with a social impact.
2. This Proposition has been developed into the Brainport Eindhoven Region Deal (hereinafter: Region Deal). This Region Deal consists of two agreements:
 - a management agreement between the government and the Municipality of Eindhoven;
 - an agreement between the government, as one party, and Stichting Brainport and Brainport Development N.V., as the other party.
3. The management agreement contains agreements on the transfer of funds to the Municipality of Eindhoven as a decentralisation payment. The municipality will forward this

- contribution to Regiofond's Brainport BV as a grant. The substantive acceptance of project application is the sole responsibility of Regiofond's Brainport BV (Stichting Brainport);
4. Based on a decision of 27 September 2018, the Board has provided a grant to Regiofond's Brainport BV for the implementation of the Region Deal.
 5. Regiofond's Brainport BV has drawn up General Terms and Conditions and Assessment Criteria Brainport Eindhoven Region Deal projects (V7-181210) for the implementation of the Region Deal.
 6. These General Terms and Conditions stipulate that payments by Regiofond's Brainport BV must comply with rules on state aid.
 7. One of the pillars of the Region Deal is "Innovations with a Social Impact".
 8. This pillar covers a broad scope of activities that are eligible for financing by Regiofond's Brainport BV. The contribution by Regiofond's Brainport BV can be used to finance various separate projects (within the framework and agreements related to the Region Deal).
 9. Regiofond's Brainport BV believes that, for the best possible realisation of the goals of the Proposition, that the financing of these projects, where state aid¹ is provided, must comply with:
 - the Regulation (EU) No. 651/2014 of the Commission of 17 June 2014 in which certain categories of aid are declared compatible with the internal market pursuant to Articles 107 and 108 of the Treaty, OJ L 187/1 of 26 June 2014;
 - the Regulation (EC) No. 1407/2013 of the Commission of 18 December 2013 concerning the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union for de minimis aid, OJ L 352/1 of 24 December 2013;

Decision Regiofond's Brainport BV

Regiofond's Brainport BV decides to adopt the following Supplementary Conditions on Innovations with a Social Impact:

Article 1 Definitions

These Conditions use the following definitions:

- General Group Exemption Regulation: Regulation (EU) No. 651/2014 of the Committee of 17 June 2014 in which certain categories of aid are declared compatible with the internal market pursuant to Articles 107 and 108 of the Treaty, OJ L 187/1 of 26 June 2014;
- General Terms and Conditions: the conditions adopted by Regiofond's Brainport BV used to determine the eligibility for a contribution from Regiofond's Brainport BV;
- Board: the Board of Mayor and Aldermen of the Municipality of Eindhoven;
- De Minimis Regulation: aid based on Regulation (EC) No. 1407/2013 of the Committee of 18 December 2013 concerning the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union for de minimis aid, OJ L 352/1 of 24 December 2013;
- The Region Deal: Brainport Eindhoven Region Deal, the covenant and agreements on the implementation of the region envelope between the Brainport Region and the Ministries;

¹ Article 107(1) of the Treaty on the Functioning of the European Union

- Ministries: The Ministry of Agriculture, Nature and Food Quality, the Ministry of Economic Affairs, and the Ministry of Domestic Affairs;
- Supplementary Conditions: these Supplementary Conditions on Innovations with a Social Impact;
- Project: projects as referred to in Article 4 of these Supplementary Conditions that are financed using public funds;
- Project Plan: the project plan as referred to in Article 5 of these Supplementary Conditions;

Article 2 Applicability of General Terms and Conditions

1. The General Terms and Conditions will remain in full force and effect. In case of conflicts between the General Terms and Conditions and these Supplementary Conditions, the General Terms and Conditions will prevail.
2. In case of ambiguities or differences in interpretation between these General Terms and Conditions and the Supplementary Conditions, Regiofonds Brainport BV will have the sole authority to express the correct interpretation.

Article 3 Grounds for refusal

1. Without prejudice to the provisions of the General Terms and Conditions, a financial contribution from the Region Deal will always be refused and/or recovered, if:
 - a) the financial contribution does not have a beneficial impact as referred to in Article 6 of the General Group Exemption Regulation;
 - b) the applicant or the company which carries out the Project experiences financial difficulties at the time the financial contribution is awarded, as referred to in the Guidelines for recovery and restructuring aid to non-financial companies in difficulties (2014/C249/01);
 - c) the project application does not meet the conditions set out in the General Group Exemption Regulation or the De Minimis Regulation;
 - d) the application or the company which carries out the Project violates the General Terms and Conditions, generally accepted legal principles, or laws or regulations in any way;
 - e) a recovery order has been levied vis-à-vis the project applicant based on a (previous) decision of the European Commission in which the aid was declared unlawful and incompatible with the common market.

Article 4 Target company, scope, and laws and regulations

1. A financial contribution from the Region Deal will exclusively be granted to the parties designated by Regiofonds Brainport BV. This party must ensure that the individual Projects it finances using public funds comply with laws and regulations (including European and national laws and regulations on government aid), the General Terms and Conditions, and these Supplementary Conditions.

Article 5 The Project Plan

1. The Project must be based on the following:
 - a) a Project Plan which at least sets out how the requirements of these Supplementary Conditions are met, including requirements related to state aid legislation;
 - b) a budget and business case for the Project.

2. Before the project applicant can actually implement a Project, he must submit the Project Plan to Regiofonds Brainport BV for approval. This is required because Regiofonds Brainport BV considers it useful to assess the business case in the context of government aid before the implementation of the Project starts.

Article 6 Requirements

1. Without prejudice to the provisions of the General Terms and Conditions, the following requirements must be complied with:
 - a) the Project must be carried out in the Brainport Region;
 - b) the Project revolves around making the best possible use of innovative potential;
 - c) the Project complies with all of the following criteria:
 - the Project contributes to the goals of the Region Deal;
 - the Project has one or more innovative aspects;
 - the business case of the Project has been substantiated, taking into account the nature of the intended innovation;
 - the Project Plan is of sufficient substantive, financial, and legal quality;
 - the Project contributes to sustainable development.
2. Without prejudice to the provisions of the first paragraph, one of the following requirements must be met to qualify for a financial contribution from the Region Deal in case the funding qualifies as state aid:
 - a) the Project revolves around obtaining consultancy services and the applicant is an SME, as referred to in Article 18 of the General Group Exemption Regulation;
 - b) the Project revolves around participating at fairs and the applicant is an SME, as referred to in Article 19 of the General Group Exemption Regulation;
 - c) the Project revolves around starting enterprises as referred to in Article 22 of the General Group Exemption Regulation;
 - d) the Project is mainly focussed on industrial research, experimental development, or feasibility studies as referred to in Article 25(2) of the General Group Exemption Regulation;
 - e) the Project revolves around building or upgrading research infrastructure as referred to in Article 26 of the General Group Exemption Regulation;
 - f) the Project revolves around building, upgrading, or the operation of innovation clusters as referred to in Article 27 of the General Group Exemption Regulation;
 - g) the Project revolves around innovation and the applicant is an SME, as referred to in Article 28 of the General Group Exemption Regulation;
 - h) the Project revolves around process or organisation innovation as referred to in Article 29 of the General Group Exemption Regulation;
 - i) the Project revolves around training as referred to in Article 31 of the General Group Exemption Regulation.
3. Without prejudice to the provisions of the first paragraph, in case of state aid where the Project does not meet one of the requirements set out in the second paragraph a financial contribution from the Region Deal will only be granted if the conditions set out in the De Minimis Regulation are met.

Article 7 Maximum financial contribution from the Region Deal per project or company

1. In case of state aid, the total amount of the financial contribution per Project or company will not exceed:
 - a) the amount allowed pursuant to the exemptions set out in Article 4(2) of the General Group Exemption Regulation, or
 - b) the amount allowed pursuant to the De Minimis Regulation.

Article 8 Costs that are eligible for financing from the Region Deal

1. In case of state aid, the costs that are eligible for a contribution from the Region Deal will qualify for financing insofar as these costs are in line with the relevant provision of the General Group Exemption Regulation, including increases, if any (eligible costs as referred to in the General Group Exemption Regulation).

Article 9 Report

1. Companies that are eligible for financing from the Region Deal are obliged to cooperate with providing information about the Project. They must enable Regiofond's Brainport BV to comply with its reporting obligations vis-à-vis the relevant authorities upon request and at all times.

Article 10 Effective date

1. These Conditions take effect from the day after the adoption by Regiofond's Brainport BV.
2. Regiofond's Brainport BV may amend these Supplementary Conditions. This will only be possible in consultation with the project applicants who have already been awarded financing and after adoption by the Board of Stichting Brainport, or if a change in the laws of the Netherlands, European legislation, or changes by the government that affect the Region Deal, demand this adjustment with immediate effect.

Article 11 Reference title

1. These Conditions will be cited as: Supplementary Conditions for Innovations with a Social Impact;

Adopted by Regiofond's Brainport BV on 10-12-2018

These Supplementary Conditions are governed by the laws of the Netherlands.

In case of any conflict between the original Dutch version of these Supplementary Conditions and any translation in any other language, the original Dutch version will prevail.