

Conditions and procedure for the grant of large investor

Chapter 1 General provisions

§ 1. Scope of application

The grant is a regional aid intended for investments within the meaning of Article 14 of European Commission Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (OJ L 187, 26.6.2014, pp. 1–78, as amended by Commission Regulation (EU) 2017/1084 (OJ L 156, 20.6.2017, pp. 1–18)) (General Block Exemption Regulation, hereinafter the “GBER”) and it is subject to the provision of the said Regulation and section 342 of the Competition Act.

§ 2. Objective of grant and expected result

(1) The purpose of the grant is to direct investments towards the manufacturing industry, which contribute to creating higher added value and to the growth of the international competitiveness of an undertaking.

(2) As a result of the grant, the added value of the project promoter per employee will increase, exceeding the Estonian average recently published by Statistics Estonia before the submission of an application on the target group established in subsection 11 (1) during the second year after the end of the eligibility period.

§ 3. Definitions

(1) “Intangible assets” – non-monetary assets without physical substance that cannot be distinguished from other assets, which an undertaking plans to use over a longer period than one year.

(2) “Investment” – the acquisition or rental of assets in connection with the establishment of a new undertaking or the manufacturing of a new product with higher added value by an existing undertaking.

(3) “Tangible assets” – assets used by an undertaking for manufacturing goods and providing services over a longer period than one year.

(4) “Project plan” – a document covering all aspects of the project, the preparation of which is published on the website of Enterprise Estonia (hereinafter “EE”).

(5) “Urban area of Tallinn” – the city of Tallinn as well as the rural and urban municipalities immediately adjacent thereto: Maardu urban municipality and Harku, Saue, Saku, Kiili, Rae, Jõelähtme, and Viimsi rural municipalities.

(6) “Relocation” – the transfer of the same or similar operation or part thereof from one enterprise of the contracting party to the Agreement on the European Economic Area (hereinafter “EEA”) to another enterprise located in other contracting party to the EEA Agreement in which the supported investment is made. Relocation takes place when the product or service has, at least in part, the same purpose both in the original and supported enterprise,

and corresponds to the requirements and needs of the same type of consumer, and jobs are lost in one enterprise of the aid recipient in the EEA in the same or similar area of activity.

§ 4. Implementation of grant

The grant applications are processed, payments are made, and monitoring is carried out by EE.

§ 5. Transmission of information

The transmission of information and documents related to the application of grant and its use between the applicant or project promoter and EE is carried out through the e-service portal on the EE website.

§ 6. Filing a challenge

(1) Before filing an action with an administrative court, a challenge may be filed against a decision or operation of EE with the Ministry of Economic Affairs and Communications via EE within 30 days of the date when the person became aware of the contested decision or operation, or should have become aware of it.

(2) The Ministry of Economic Affairs and Communications will settle the challenge in accordance with the procedure established in the Administrative Procedure Act.

(3) The information concerning the challenge proceedings, the documents, and the decision on challenge will be sent to the person who has filed the challenge.

Chapter 2 Conditions for providing grant

§ 7. Amount and proportion of a grant

(1) The amount of a grant is 1 000 000 euros per project.

(2) The proportion of grant is up to ten percent of the eligible costs of the project.

(3) The own contribution of the project covers a part of the eligible costs of the project that is not financed from the grant. Own contribution does not include other repayable or non-repayable grants provided by the state, local authority or an institution of the European Union.

§ 8. Supported activities

A grant is provided for investments, which contribute to the objective of providing a grant and the achievement of a result as established in section 2.

§ 9. Eligible and non-eligible costs

(1) Eligible costs must be justified, documented, incurred during the supported activities carried out during the eligibility period of the project and paid by the project promoter before submitting a payment application to EE.

(2) Upon verification of eligible costs and own contribution, only costs paid on the basis of original accounting documents and by means of bank transfer will be taken into account.

(3) Eligible costs do not include VAT, fines, default interest, and other pecuniary punishments and legal costs, depreciation and the cost of transactions between the persons related within the meaning of section 8 of the Income Tax Act.

(4) The following costs required for carrying out the activities specified in section 8 are eligible:

- 1) the acquisition costs of tangible assets required for the manufacturing process of the applicant;
- 2) the rental costs of tangible assets required for the manufacturing process of the applicant;
- 3) the construction costs of a new building to be used in the manufacturing industry;
- 4) the purchasing costs of intangible assets.

(5) The installation costs, the transport costs, and the insurance costs required for transport as specified in clause (4) 1) are eligible if they are included in the acquisition costs of the corresponding assets.

(6) The acquisition of assets in the form of financial lease under clause (4) 1) is eligible within the meaning of Article 14 (6) (b) of the GBER and the rental of assets under clause (4) 2) is eligible within the meaning of Article 14 (6) (a) of the GBER.

(7) The costs established in clause (4) 4) are eligible in the case set out in Article 14 (8) of the GBER.

(8) The assets referred to in subsection (4) are acquired or leased at market conditions from a third party who is not related to the buyer.

(9) The assets acquired or leased under subsection (4) must be new, unless the assets are acquired from an undertaking that has ceased or would have ceased its operations if it had not been purchased, and it is purchased by an applicant not related to the seller, provided that the new activity performed with the acquired assets is not the same or similar to the field of activity the applicant was engaged in prior to the acquisition of the assets.

(10) For the purposes of subsection (9), the assets are new if these have not previously been used in economic activities.

(11) The right of ownership of the purchased assets must be transferred to the applicant during the eligibility period of the project. In the event of leasing in the form of financial lease, the period of leasing contract may be longer than the eligibility period, but the contract must contain a clause establishing the transfer of the right of ownership to the application upon payment of all lease payments.

(12) If a grant is provided for the manufacturing of a new product with higher added value, the eligible costs must exceed by at least 200 percent the book value of the assets that are reused as registered in the fiscal year preceding the start of the works.

(13) The applicant must be the owner of the assets acquired during the eligibility period and the user of the leased assets for at least five years from the end of the eligibility period of the project.

§ 10. Eligibility period of project

- (1) The eligibility period of the project is the period specified in the decision to approve the application, when the activities of the project begin and end, and the costs required for the implementation of the project occur.
- (2) The eligibility period of the project begins on the date of submission of the application to EE or on a later date specified in the decision to approve the application and ends on the date specified in the decision to approve the application.
- (3) The duration of the eligibility period of the project is up to 24 months.
- (4) It is not allowed to start with the activities of the project or assume any obligations to implement such activities prior to the submission of the application to EE.
- (5) In justified cases, based on the corresponding application of the project promoter, EE may extend the eligibility period of the project by up to 12 months, in which case the eligibility period of the project may exceed the period specified in subsection (3).
- (6) The project promoter may apply for the completion of the project before the date specified in the decision to approve the application, provided that all activities of the project have been completed. The project promoter must apply for the completion of the project before the date specified in the decision to approve the application if circumstances occur that prevent the project from continuing.
- (7) The project is completed once EE has approved the final report and made the final payment to the project promoter.

Chapter 3 Applying for a grant and processing of applications

§ 11. Requirements for an applicant

- (1) A grant may be applied for by an enterprise:
 - 1) whose principal activity falls under the fields of activities indicated in section C “Manufacturing” of Annex 16 “Classification of Economic Activities (EMTAK)” (hereinafter “EMTAK 2008”) of Regulation No 59 of the Minister of Justice of 28 December 2005 “Procedure for submitting documents to the court” or whose project to which a grant is applied for belongs under the field of activity indicated in section C “Manufacturing” of EMTAK 2008 and
 - 2) who or whose parent company or a group to which the enterprise belongs has consolidated sales amounting to at least 50 million euros in accordance with the last approved annual report.
- (2) A grant is not allocated to an applicant in cases specified in Article 1 (2)–(5) and Article 13 of the GBER and if:
 - (1) a decision for recovery of the grant has been made with regard to the applicant on the basis of a previous decision of the European Commission, declaring the grant unlawful and incompatible with the internal market, and this decision has not been complied with in due time;
 - 2) the applicant is an undertaking in difficulty within the meaning of Article 2 (18) of the GBER;

3) at least one of the grounds for refusal of the grant specified in subsections (3)–(6) has occurred.

(3) The tax arrears or payment in arrears plus interest may not exceed 100 euros or these should be rescheduled. In the event of rescheduling the payment of tax arrears, the taxes must be paid in accordance with the schedule. The applicant has duly fulfilled the obligation to submit tax returns as specified in the Taxation Act by the time of submission of the application.

(4) If the applicant has previously received a grant that has been subject to repayment, the repayments due must be made in the required amount.

(5) An applicant or a person exercising control over the applicant shall not be subject to liquidation, compulsory dissolution or bankruptcy proceedings and no bankruptcy orders shall not have been issued with regard to them.

(6) The shareholders or partners of the applicant, who are legal persons and whose total shareholding exceeds six percent of share or unit capital, except for publicly quoted undertakings, must be registered either in Estonia or in a territory not considered to be a low tax rate territory within the meaning of the Income Tax Act, or in a Member State of the European Union or in a country that has a valid association agreement with the European Union.

§ 12. Requirements for application

(1) An application must comply with the objectives of providing a grant and the following requirements:

- 1) the application has been submitted in the prescribed manner and form;
- 2) the application complies with the objectives for providing a grant and results as established in the Regulation;
- 3) the grant is applied for the eligible costs specified in section 9 of the Regulation;
- 4) the grant to be applied for complies with the amount and proportion of grant as established in section 7 of the Regulation;
- 5) the activities of the project are completed during the eligibility period of the project;
- 6) the budget of the project includes, inter alia, the required own contribution;
- 7) the information provided in the application is complete and correct.

(2) An application must contain the following documents:

- 1) a project plan that has received a positive preliminary rating from EE;
- 2) a copy of the last annual report of the applicant if the report is not available in the Commercial Register;
- 3) the balance sheet and income statement of the applicant for the current financial year as of the quarter preceding the submission of the application;
- 4) the scheme of the members of the group of the applicant and the consolidated economic indicators, which prove the compliance of the applicant belonging to the group with the requirement established in clause 11 (1) 2);
- 5) the calculation of the budget of the project and copies of the documents on which it is based;
- 6) an authorisation document if the representative of the applicant is acting on the basis of an authorisation;
- 7) a declaration of the applicant that, within two years prior to the submission of the application, no relocation activities have taken place with regard to the undertaking in which the initial investment is made on the basis of the applied grant;

8) a declaration of the applicant that no relocation activities will take place within two years after the initial investment has been made on the basis of the applied grant.

§ 13. Submission of application

(1) Applications are submitted on an ongoing basis. A grant is provided to the applicant on a one-off basis.

(2) EE announces the commencement and end of the receipt of applications on its website.

(3) Prior to applying for a grant, the applicant must participate in preliminary consultation, as a result of which the project plan receives a preliminary rating.

(4) EE gives a positive preliminary rating to a project plan if it complies with the objectives and results established in section 2. A positive preliminary rating is not binding on EE upon approval of the application.

(5) The project plan submitted by the applicant during the preliminary consultation process must contain the following information:

- 1) the strategic objective of the applicant;
- 2) the description and schedule of the activities of the project;
- 3) the expected results of the activities of the project based on section 2 and the financial forecast in the form specified by EE;
- 4) the budget volume and financing sources for the activities of the project;
- 5) an overview of the previous experiences and competences of the team responsible for the activities of the project.

(6) EE terminates the receipt of applications and notifies of this on its website if the balance of the budget intended for financing the applications becomes equal to the volume of applications being processed and which have not yet been approved or refused. EE informs the Ministry of Economic Affairs and Communications of the need to stop accepting applications in advance.

§ 14. Processing of application

(1) The processing of an application covers the following operations:

- 1) review of the application;
- 2) asking for explanations and additional information;
- 3) declaration of the application and the applicant as compliant or non-compliant;
- 4) evaluation of an application declared to be compliant;
- 5) approval of an application, partial approval, approval with ancillary conditions or refusal to approve.

(2) The term for processing an application is up to 30 working days of the submission of the application.

(3) EE publishes the documents concerning the application process on its website by the time of notification of the opening of the receipt of applications, at the latest.

§ 15. Review of application

- (1) EE reviews the application within three working days of the submission of the application.
- (2) If any deficiencies are discovered during the verification of the compliance of the applicant and the application, the applicant shall be notified thereof and up to ten working days will be granted for elimination of the deficiencies by which the term for processing the application is extended.
- (3) EE will make a decision to refuse the application without evaluating the merits of the application if the applicant or the application does not meet the requirements of this Regulation.

§ 16. Conditions for declaring an applicant and an application compliant

- (1) EE declares an applicant to be compliant if the requirements of the applicant established in section 11 are met.
- (2) An application is declared compliant if all the requirements of the application established in section 12 are met.
- (3) An application is not declared compliant if at least one of the following circumstances exists:
 - 1) the application does not comply with the requirements established in section 12 and the deficiency cannot be eliminated within the term established in subsection 15 (2);
 - 2) the application contains incorrect or incomplete information or the applicant unlawfully affects the decision-making process;
 - 3) the applicant does not allow to verify the compliance of the application or carry out on-the-spot inspection.

§ 17. Selection criteria and evaluation of an application

- (1) An application declared to be compliant is evaluated in accordance with the selection methodology, which EE prepares on the basis of the evaluation criteria established in subsection (4). EE has the right to form advisory selection committees for the evaluation of an application and involve independent experts in the evaluation of an application. The formation and composition of the selection committees will be coordinated with the Ministry of Economic Affairs and Communications.
- (2) The selection methodology for the evaluation of applications is made available on the EE website before the opening of the application process.
- (3) An application is evaluated based on the criteria established in clauses (4) 1)–3) on a scale of 0–4 and in case of the criterion established in clause 4) with a score of 0 or 4. The total score of the application is based on the weighted average of the scores of the evaluation criteria.
- (4) The evaluation criteria of an application and their proportions are the following:
 - 1) the impact of the project on the achievement of the objectives and expected results of the Regulation – 40 percent of the total score;
 - 2) the ability of the applicant to achieve the objectives of the project – 30 percent of the total score;
 - 3) the impact of the project on the Estonian economy – 20 percent of the total score;
 - 4) the site of the project is located outside the urban area of Tallinn – ten percent of the total grade.

§ 18. Approval of an application, partial approval, approval with ancillary conditions, and refusal to approve

(1) The decision on approval of an application, partial approval, approval with ancillary conditions or refusal to approve is made by EE.

(2) The compliant applications, which have been rated with a minimum total score of 2.50 on the basis of the evaluation criteria and at least 2.00 with regard to each evaluation criterion established in clauses 17 (4) 1)–3) and not exceeding the financing budget, will be subject to approval.

(3) An application is subject to approval in full, in part or with ancillary conditions.

(4) A decision on partial approval is made if the application cannot be fully approved due to the exhaustion of the budget for financing the applications or if it is not justified, taking into account the applied amount of grant and the activities of the project.

(5) An application may be partially approved under the condition that the applicant agrees with the proposal of EE to reduce the applied amount of grant or change the activities planned in the project. If the applicant does not agree with the proposal of EE, the latter makes a decision to refuse the application.

(6) Partial approval of an application is permitted in the following cases:

- 1) the grant has been applied for activities or covering expenses that are not relevant or justified in the context of the implementation of the project;
- 2) ensuring own contribution is not possible or realistic in the amount of the budget provided in the application;
- 3) the financial volume of the application exceeds the available balance of the budget for financing.

(7) A decision to approve an application may be made with an ancillary condition within the meaning of section 53 of the Administrative Procedure Act if the applicant is required to submit additional documents or carry out additional operations.

(8) A decision to approve an application with an ancillary condition does not give rise to the right of the project promoter to receive the grant before fulfilment of the ancillary condition. If the ancillary condition is duly fulfilled, the relevant information is added to the decision to approve an application.

(9) In addition to the rights and obligations of the project promoter, the decision to approve an application establishes the following:

- 1) the name of the project promoter and the name of the project;
- 2) the total cost of the project and the amount of the grant;
- 3) the eligibility period of the project;
- 4) the conditions for implementing the project;
- 5) the reporting periods, terms and procedure for submitting reports;
- 6) the conditions for paying the grant;
- 7) the fact that the grant is regional aid within the meaning of Article 14 of the GBER.

§ 19. Amendment and revocation of the decision to approve an application

(1) EE amends the decision to approve an application on its own initiative or based on the application of the project promoter.

(2) The project promoter is obligated to apply for the amendment of the decision to approve an application from EE if the activities of the project are to be changed or the eligibility period extended.

(3) In cases not established in subsection (2), the project promoter may amend the project by notifying EE thereof before making the amendment.

(4) EE has the right to refuse to amend the decision to approve an application if the expected results of the project are unlikely to be achieved due to the requested amendment.

(5) A decision to approve an application may be amended retrospectively if it contributes to the achievement of the results of the project and the amendment is justified.

(6) EE makes a decision on amending the decision to approve an application within 20 working days of the receipt of the corresponding application.

(7) EE revokes the decision to approve an application in full or in part in the following cases:

1) circumstances have become evident under which the application would not have been approved;

2) inaccurate or incomplete information has been provided knowingly during the application process or during the implementation of the project;

3) an ancillary condition is not met in the event of a decision to approve an application with an ancillary condition;

4) the application of the project promoter for amending the decision to approve an application is not approved and it is not possible for the project promoter to continue using the grant under the required conditions;

5) the project promoter submits an application on renouncing the use of grant.

Chapter 4 Payment of grant, rights and obligations of project promoter and EE

§ 20. Submission of reports

(1) The project promoter provides EE with the digitally signed interim and final reports of the project via e-service no later than by the term specified in the decision to provide a grant.

(2) The project promoter submits the interim reports of the project twice within 12 calendar months during the eligibility period of the project. The final report of the project is submitted by the project promoter within two months of the end of the eligibility period of the project.

(3) The interim report contains an overview of the implementation of the activities of the project and an evaluation of the progress of the project during the corresponding reporting period.

(4) The final report contains an overview of the implementation of the activities of the entire project and an evaluation of the progress made and the results achieved during the eligibility period.

(5) EE establishes the forms of the interim and final reports of the project and makes them available to the project promoter.

(6) EE approves or rejects the report of the project within 35 working days of the submission thereof if the report does not meet the requirements established in this Regulation.

(7) The project promoter submits reports after the implementation of the project at the request of EE.

§ 21. Payment of a grant

(1) A grant is paid to the project promoter in accordance with the conditions established in the decision to approve an application or approve an application in part on the basis of actual costs. The prerequisites for the payment of grant is the implementation of the activities of the project, the incurring of eligible costs, and the approval of the interim or final report as provided in section 20.

(2) A grant is paid on the basis of a payment application submitted by the project promoter up to twice a year.

(3) A payment application is submitted within the terms established in the decision to approve an application.

(4) EE processes the payment application for up to 35 working days.

(5) EE may make a decision to partially or fully refuse to pay the grant if:

- 1) the submitted expense receipts do not comply with the period of the project, the activities, and the objectives provided in the application;
- 2) the activities carried out do not comply with the activities specified in the application or the performance thereof has not been proven;
- 3) EE did not approve the interim or final report for the corresponding reporting period;
- 4) the project promoter has not repaid the grant that is subject to repayment.

§ 22. Rights and obligations of project promoter

(1) The project promoter has the right to receive information and advice from EE concerning the performance of the obligations of the project promoter as established in this Regulation.

(2) The project promoter is obligated:

- 1) to carry out the project in accordance with the terms and conditions specified in the application and the decision to approve the application;
- 2) to ensure the required own contribution;
- 3) to inform EE in writing of the need to amend the activities, budget, and the terms of the project;
- 4) to use the grant in accordance with the submitted application and the decision to approve the application;
- 5) to repay the grant in the amount and by the term specified in the recovery decision;
- 6) to answer the questions asked by EE about the project promoter and the implementation of the project;

- 7) to provide EE with the required information and reports on time;
- 8) to ensure that the costs of the supported project and the expense receipts and payment documents reflecting them are clearly distinguishable from other expense receipts and payment documents of the project promoter in the accounting of the project promoter;
- 9) to store documentation related to the application, the grant, and the implementation of the project for at least seven years of the end of the project;
- 10) to provide the person performing monitoring activities with an access to the premises and territories related to the performance of the project that are used by the project promoter;
- 11) to hand over all information and documents related to the performance of the project to the auditor and the person exercising monitoring activities within three working days of the request;
- 12) to provide full assistance to quickly carry out the audit and monitoring;
- 13) to indicate in the manner provided by EE that it is a grant when using the grant;
- 14) to immediately inform EE in writing of any changes in the submitted information or of any circumstances that affect or may affect the fulfilment of the obligations of the project promoter, the achievement of the established results, and the continuation of the implementation of the activities of the project.

(3) In the event of violation of the obligation to retain or use the assets specified in subsection 9 (13) for their intended purpose, the project promoter is obligated to repay the grant in accordance with the claim of EE in proportion to the period during which the obligation was violated.

(4) The applicant must ensure that upon replacing tangible assets with assets that have the same function before five years of the end of the eligibility period of the project, if tangible assets are damaged or outdated, the economic activity of the enterprise will be retained by means of the replaced assets for at least five years of the end of the eligibility period of the project.

§ 23. Rights and obligations of EE

(1) EE has the right to:

- 1) carry out the audit of expense receipts and monitoring operations;
- 2) inspect the use of the grant and own contribution;
- 3) request the submission of additional information and documents concerning the duration, activities, objectives, and costs of the project;
- 4) suspend the payment of the grant until a violation has been eliminated if the project promoter violates any conditions established in the Regulation or otherwise deviates from the provisions of the application or the decision to provide a grant;
- 5) suspend the grant payments to the project promoter until the final repayment of the amount to be recovered;
- 6) terminate the payment of grant and require partial or full recovery of the grant if the project promoter violates the conditions established in the Regulation or otherwise deviates from the provisions of the application or the decision to provide a grant;
- 7) refuse to pay the grant if the economic situation of the project promoter has deteriorated in a way that threatens the use of the grant or the implementation of the project.

(2) EE is obligated to:

- 1) make the application and reporting forms and instructional materials available to the applicant and the project promoter;
- 2) immediately notify the project promoter of any changes in the documents governing the use of grant;

- 3) publish the name of the project promoter, the name of the project receiving the grant, the amount of the grant, the total volume of the project, the objective and duration of the project on its website after making a decision to provide a grant;
- 4) not disclose any information or documents obtained during the processing of the application, except for information subject to disclosure in accordance with clause 3);
- 5) to retain the documents related to the grant for ten years of the last payment of the grant.

§ 24. Repayment of a grant

(1) The grounds for the partial or full recovery of a grant include the following:

- 1) the expenditure is not eligible;
- 2) inaccurate or incomplete information has been submitted upon application or project implementation;
- 3) the project promoter has failed to fulfil, either in part or in full, the obligation specified in this Regulation or the decision to provide a grant;
- 4) circumstances have become evident with regard to which the application would not have been approved.

(2) The project promoter shall repay the amount specified in the recovery decision within 60 calendar days of the date of entry into force of the decision.

(3) If the grant is not repaid by the due date, the project promoter shall pay a default interest of 0.1 percent for each day of delay in the repayment of the grant. The calculation of default interest shall be suspended if the amount of default interest exceeds the amount of the grant to be recovered, which serves as the basis for its calculation.

(4) EE may reschedule the repayment of grant at the request of the project promoter.

(5) If the project promoter fails to pay the instalments according to the rescheduling plan, EE may revoke the decision to reschedule the repayment of grant and demand that the project promoter repays the grant within 30 calendar days of the effective date of the corresponding decision.