



GUIDELINES FOR THE FUNDING OF COMPUTER GAMES IN BAVARIA

Guiding principles on the basis of Section 1.3.8 of the Guidelines for Bavarian Film and Television Funding (Award Guidelines)

As of 1 July 2015

1. GENERAL PRINCIPLES

1.1 Objectives

Funding is intended to support the development of high-quality computer games of educational or cultural value. In addition, it should enhance the efficiency of the Bavarian development and production sector, thus ensuring cultural diversity and supporting innovations. Furthermore, funding is also intended as a contribution to the strengthening of the audiovisual sector in Europe. Guiding principles on the basis of Paragraph 1.3.8. of the Guidelines for Bavarian Film and Television Funding (Award Guidelines)

1.2 Object of funding

The funding will cover the following sectors:

- Content & concept development
- Prototype development
- Production

1.3 General funding prerequisites

- 1.3.1 The granting of funds according to these guidelines shall only be effected within the scope of the funds explicitly made available for this purpose in the budget of the State of Bavaria. There is no legal entitlement to funding.

Funding is awarded on the basis of the provision (EU) No. 1407/2013 of the Commission dated 18 December 2013 in application of the directives 107 and 108 of the contract regarding the operating principles of the European Union according to the De-minimis Regulation (ABL EU L 352, 24 December 2014, p.1).

- 1.3.2 All application documents (with the exception of Game Design 1.0 and 2.0) shall be submitted in German to the FilmFernsehFonds Bayern (FFF = Bavarian Film and Television Fund). The conclusion of a funding contract (in accordance with Paragraph 5.1) is based on the condition that overall financing of the project, for which an application for funding has been submitted, is documented. In the case of loans, the interest rate will be based on the money market rates prevailing at the time of approval.

- 1.3.3 The costs of the project, for which an application for funding has been submitted, shall adhere to industry standards and be calculated in line with the principle of cost-efficient business management.

- 1.3.4 Work on the project may not have commenced at the time of application submission.

- 1.3.5 Any projects funded in compliance with these guidelines must promise a game worthy of being funded based on various quality criteria and economic potential. No funds will be granted for projects which potentially violate the constitution or any laws or offend ethical or religious sensibilities or portray sexual or brutal acts in an obtrusively coarse, speculative manner. Funds are only granted for games, where the expected maximum age rating is “16 years upwards”.
- 1.3.6 Development studios and companies primarily developing or distributing games shall be entitled to submit applications. Of the parties entitled to apply for funding under these guidelines, precedence shall be given to companies which have their headquarters or economic center of activity in Bavaria. Where possible, the game should be manufactured in Bavaria. The applicant shall provide a reasonable share of its own financing.
- 1.3.7 Unless otherwise provided in these guidelines, the Allocation Committee Games set up at FFF Bayern shall make recommendations on the individual funding measures.
- 1.3.8 Under these guidelines, funds can be accumulated with funds from other funding institutions. If maximum limits have been established by German or European laws for the accumulation of state funds, such limits must also be observed for funding based on these guidelines.
- 1.3.9 Upon completion, a copy of the game produced should be placed free of charge at the disposal of FFF Bayern for archiving purposes.
- 1.3.10. In the case of games funded in compliance with these guidelines, reference must clearly be made in the credits to the fact that funding has been provided by the FFF Bayern.

2. FUNDING OF CONCEPT DEVELOPMENT

- 2.1. For the concept development of computer and video games a grant may be awarded.
- 2.2 A High Concept must be enclosed with the application providing an overview of the game, unique selling proposition (USP), rough competitive analysis and feasibility study.
- 2.3 The grant, not exceeding 20,000 Euros per application, shall be paid in two installments: 50% upon recommendation of funding by the Allocation Committee Games, and 50% upon presentation of the completed concept. Granting of the first installment does not constitute entitlement to approval of the second installment. The Allocation Committee Games decides on the funding *per se*, while the management of FFF makes decisions on the release (disbursement) of the second installment.
- 2.4 The deadline for submitting the completed concept shall be four months from payment of the first installment. The deadline can be extended in justified exceptional cases. The loan recipient agrees to offer the funded concept to a publisher and/or a developer for further development – unless it intends to further develop the concept itself.
- 2.5 Concept funding does not give rise to any legal entitlement to funding to cover production costs or prototype development.

3. PROTOTYPE FUNDING

- 3.1** Funding may be granted for the development of a prototype.
- 3.2** The funding will be granted as a conditionally repayable, non-interest-bearing loan. The loan may amount to a maximum of 80 % of the calculated development costs, but shall not exceed 80,000 Euros per project. The applicant shall provide a reasonable share of its own financing. The amount of the funding shall be used in Bavaria wherever possible.
- 3.3** Game Design 1.0, a risk assessment, as well as a calculation of the production preparation costs, as customary in the industry, and an implementation concept shall be enclosed with the application. A calculated profit is not recognized as development costs. A contingency of up to 10 % may be claimed. A final report on the development measure shall be submitted to the Allocation Committee ten months after payment of the first loan installment. This deadline can be extended upon request in justified exceptional cases.
- 3.4** The loan will be paid in the following installments: 50% after recommendation by the Allocation Committee, 30% according to project progress, and 20% after presentation of the final report. The loan is to be repaid upon market launch or sale of all rights in and to the funded prototype. Costs for the development of a funded prototype may not be claimed in the budget calculation for further production funding. In the case of launching the project to the market without the involvement of production funding, the applicant is entitled to the repayment conditions as stated in Paragraph 4.9. The obligation to repayment ends five years after payment of the last loan installment.
- 3.5** The recommendation for the granting of funding will expire if the overall financing is not closed within nine months of announcement of the decision of the Allocation Committee. It will also expire if work has not commenced within twelve months of announcement of the decision by the Allocation Committee. In justified exceptional cases, the management of FFF Bayern may, upon request, extend the deadlines.
- 3.6** The granting of project development funding does not give rise to any legal entitlement to further funding.

4. PRODUCTION FUNDING

- 4.1** Conditionally repayable and interest-bearing loans can be granted for the production of computer and video games. The loan shall cease to bear interest on expiry of the 12th month after market entry of the funded game.
- 4.2** The production of a game can receive funding of up to 50% of eligible costs according to Paragraph 1.3.3., but not exceeding 200,000 Euros, if the refinancing of the funded portion on the national and/or international market appears to be a viable option.
- 4.3** The loan is paid out in installments commensurate with the project's documented
- 4.4** The applicant shall provide a reasonable share of its own to finance production, commensurate with its net assets, cash resources and results of operations. The equity stake may take the form of private funds, royalty advances and distribution guarantees. Private funds will include the developer's own private funds as well as third-party funds obtained by the developer by way of a loan with unconditional obligation of repayment, such as bank credits. The private funds should amount to

no less than 10 %. Other funding may not be set off against the applicant's own share.

- 4.5 A High Concept and Game Design 2.0, a calculation as customary in the industry and a financing plan shall be enclosed with the applications. A calculated profit is not recognized as production costs. A contingency of up to 10 % may be claimed. As a rule, funding can only be granted, if a legally valid marketing contract or a conclusive marketing concept is submitted. All partners must be disclosed.
- 4.6 An amount of no less than the loan granted is to be used in Bavaria (Bavaria effect).
- 4.7 During production of the game, the applicant shall guarantee vocational training and advanced education, to an appropriate degree.
- 4.8 The recommendation for the granting of funding will expire if the overall financing is not closed within nine months of announcement of the decision of the Allocation Committee. It will also expire, if work has not commenced within twelve months of announcement of the decision by the Allocation Committee. In justified exceptional cases, the management of FFF Bayern may, upon request, extend the deadlines.
- 4.9 The loan and the loan interest shall be repaid from the domestic and foreign profits from exploitation of the funded game. 50 % of the applicant's profits realized from exploitation of the game shall be used for interest payments and the repayment of the loan. Moreover, the order of priority set forth in the loan agreement shall apply. If a lower priority and/or a repayment time-frame has been agreed with another funding institution involved in the project, the same shall also apply to the loan according to these Guidelines. If the game has been funded by more than one funding institution, repayment shall be effected in line with the corresponding funding percentages. In such case, the 50% rule stated in Sentence 2 shall apply to the percentage falling to Bavaria. The obligation of repayment generally ends three years after market launch.

5. PROCEDURE

- 5.1 Loans and grants are issued by the LfA Förderbank Bayern (LfA), Königinstrasse 17, 80539 Munich at the recommendation of the Allocation Committee Games or the management of FFF.
- 5.2 To receive funding, an application must be submitted. All applications must be submitted on the appropriate forms. The documents requested in the application forms must be enclosed in German or English (only for Game Design 1.0 and 2.0).
- 5.3 Copies of all applications as per Sections 2 to 4 of these guidelines must be submitted to FFF Bayern.
- 5.4 Applications shall be filed by the deadlines published by FFF Bayern.
- 5.5 **Allocation Committee Games**
 - 5.5.1 The Allocation Committee Games consists of the managing director of FFF Bayern and at least six members. The Allocation Committee is chaired by the managing director of FFF Bayern.
 - 5.5.2 Members are appointed by the Head of the Bavarian Ministry of Economics and Media, Energy and Technology for a duration of three years each. The Allocation Committee constitutes a quorum when at least two thirds of its members are present.
 - 5.5.3 Recommendations by the Allocation Committee require the approval of two thirds of

the members present. Exceptions to these guidelines are possible if all members present are in unanimous agreement.

- 5.5.4 The Committee members are independent and not bound by any orders or instructions. They are obliged to maintain secrecy regarding the contents of application documents, deliberations and recommendations. Members of the Allocation Committee do not participate in deliberations and recommendations if they, or members of their family, are affected by the subject of deliberation.
- 5.5.5 The Allocation Committee makes recommendations about funding on a case-by-case basis. As regards the overall scope of its recommendations, the Allocation Committee is bound to the funds provided for this purpose.
- 5.5.6 In urgent cases, the Chairman has the right to expedite proceedings and take decisions on individual recommendations. In such case, the Chairman will report on the matter at the next meeting of the Allocation Committee.
- 5.5.7 Based on the recommendations of the relevant bodies, LfA examines the other preconditions and handles the granting of funds. To this end, it enters into appropriate loan/grant agreements with the loan/grant recipient. The Bavarian Ministry of Economics and Media, Energy and Technology and the managing director of FFF Bayern will notify the applicants directly of the recommendations of the Allocation Committee Games.
- 5.5.8 In the case of applications which the Allocation Committee has recommended for funding, LfA reviews the calculation and the financing plan. Should the review give rise to any doubts regarding the calculation or the financing plan, LfA may refer the application back to the Allocation Committee Games for resolution, if necessary.

6. GUARANTEES

Any loans granted by LfA for development and production are to be secured in an appropriate manner. For each funded project, the loan recipients shall grant LfA or its appointed trustee guarantee rights in and to the exploitation rights pursuant to Articles 15 ff of the German Copyright Act under the terms of a special security agreement or assign claims arising from the agreements concluded within the scope of exploitation, in particular any claims to revenue from exploitation due to the loan recipients; moreover, any claims arising from insurance agreements shall be assigned.

7. PROOF OF USE OF FUNDS

Proof of the use of the extended loans or grants shall be furnished to LfA, which shall oversee their use for the intended purpose. In the case of multiple funding, LfA may agree on a joint review with other funding institutions.

8. COSTS

LfA will retain an examination fee of 3 % of the loan from the amount of the loan, but not more than 5,000 Euros, for projects funded solely by the State of Bavaria.

9. NOTICE

The data provided in the application and in the supplementary documentation submitted with the application are subsidy-relevant pursuant to Art. 264 of the German Criminal Code in conjunction with Art. 2 of the German Subsidy Act dated 29 July 1976 (Federal Law Gazette BGBl I p. 2037) and Art. 1 of the Bavarian Subsidy Act dated 23 December 1976 (Law and Ordinance Gazette GVBl p. 586). The State of Bavaria grants its funds in compliance with the general budgetary provisions, in particular Articles 23 and 44 BayHO (Bavarian Budgetary

Regulations) and the administrative regulations issued in connection therewith. The relevant provisions – so far as these guidelines do not contain any deviating ruling – will be incorporated in the contracts between the LfA Förderbank Bayern and funding recipients. In particular, the assumption of Nr. 3 ANBest-P is excepted.

No funding will be granted under these guidelines if funding has been granted from other funds of the State of Bavaria, in particular under the Bavarian SME Loan Program (Mittelstand-Kreditprogramm).