



GUIDELINES FOR THE FUNDING OF DIGITAL GAMES IN BAVARIA

Preamble

The Free State of Bavaria provides financial support for the funding of digital games in accordance with these Guidelines, as well as in compliance with the general budgetary provisions, in particular Articles 23 and 44 of the BayHO (Bavarian Budgetary Regulations) and the administrative regulations adopted therefor.

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 Free State of Bavaria. There is no legal entitlement to funding. Funding is provided on the basis of the approval of the European Commission according to its notice of 4 September 2017 (SA. 46572).

1. The Purpose of the Funding

Funding is intended to support the development of high quality, culturally or educationally valuable digital games and innovative, interactive media projects with a game's character ("Games" hereinafter).

In addition, it should enhance the efficiency of the Bavarian Games development and production industry, ensure a diverse cultural landscape, and support innovation. Furthermore, funding is also intended as a contribution to the strengthening of the audiovisual sector in Europe.

2. The Object of the Funding

The funding of Games according to Section 1 above will cover the following project stages:

- a) Concept development
- b) Prototype development
- c) Production.

3. Funding Recipients

Development studios or firms, which primarily develop or distribute digital Games, with a registered or branch office or a permanent establishment in Bavaria, or studios and firms that make it credible upon submission of the application that they will have their registered or branch office, or permanent establishment in Bavaria at the time of disbursement of the first instalment, are eligible to apply for financial support. A prerequisite for the payment of the first instalment is the actual existence of the registered office, establishment or branch in Bavaria.

4. General Eligibility Requirements

- 4.1 The costs of the project, for which a funding application has been made, are expected to adhere to industry standards, and to be economically cost-efficient. The conclusion of a subsidy agreement according to Section 6.2.2 presupposes that the total financing of the project for which funding is requested has been proven. In the case of an interest-bearing loan, the interest rate will be based on the capital market rates that apply at the time of approval.
- 4.2 Work on the project may not have commenced at the time of submission of the application.
- 4.3 Any projects funded in compliance with these guidelines are expected to be worthy of being funded based on various criteria for quality and economic potential.

No funds will be granted for projects that potentially violate the German Constitution, or any laws, or offend ethical or religious sensibilities, or portray sexual or brutal acts in an obtrusively coarse and speculative manner.

Funds are only granted for Games, where the expected maximum age-rating is "16 years upwards" (according to the German Entertainment Software Self-Regulation Body USK) and according to other applicable regulatory systems (such as for example the IARC - the International Age Rating Coalition) for the German market.

- 4.4 Any funding recipient may subcontract only up to a maximum of 50% of the eligible recognized production cost per project.
- 4.5 The funding applicant must state in the appendix to the application which of the criteria in the catalogue of criteria are met.
- 4.6 On completion of the project, a copy of the Game produced should be made available to the FFF Bayern free of charge for archival purposes.
- 4.7 For 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.
- 4.8 Funds under this directive can be combined with funds from other funding institutions. Insofar as maximum limits are set under German or European law for the aggregation of state subsidies, these limits must also be observed for any

finance provided under these guidelines. Support under these guidelines is ruled out if funding is provided by other parts of the Free State of Bavaria.

- 4.9 No financial support can be given to a company in difficulties.
- 4.10 A company that has not complied with a previous clawback order due to an earlier decision of the European Commission within the provisions of its declaration, in order to establish that the aid granted by the same Member State was inadmissible and incompatible with the EU internal market, may not access any finance under these guidelines.

5. Detailed Regulations for the Project Stages

5.1 Concept Development

- 5.1.1 For the concept development of a Game, a grant may be awarded by way of part-financing.
- 5.1.2 The grant in individual cases may not exceed 20,000 Euros.
- 5.1.3 The application must include a High Concept providing an overview of the project, its unique selling proposition (USP), and a preliminary analysis of the competition.
- 5.1.4 The grant shall be paid in two instalments: the first 50% on the recommendation of funding by the Allocation Committee Games, and the remaining 50% on presentation of the completed concept. Granting of the first instalment does not constitute entitlement to approval of the second instalment. The Allocation Committee Games decides on the funding per se, while the management of FFF Bayern makes decisions on the disbursement of the second instalment.
- 5.1.5 The deadline for submitting the completed concept shall be four months from payment of the first instalment. The deadline can be extended in justified exceptional cases. The funding recipient agrees to offer the funded concept to a publisher and/or a developer for further development - unless the recipient intends to further develop the concept into a prototype by him- or herself.
- 5.1.6 Concept funding does not give rise to any legal entitlement to further funding of prototype or production development costs. The costs of a funded concept cannot be claimed as part of the budget calculation for a subsequent prototype or production support application.

5.2 Prototype Development

- 5.2.1 For the development of a prototype (which could qualify for later production funding support), the funding will be granted as a conditionally repayable, non-interest bearing loan in the form of part-financing.
- 5.2.2 The loan may amount to a maximum of 80% of the calculated development costs, but shall not exceed 80,000 Euros per project. For particularly complex projects

with a complicated Game design, or above average production-values, this amount can be raised to 120,000 Euros. The applicant shall provide a reasonable share of private financing.

- 5.2.3 An application requires the enclosure of a Game Design 1.0, a risk assessment and a calculation of the production preparation costs, as customary in the industry. A calculated profit is not recognized as a development cost. A contingency of up to 10% may be claimed. Ten months after payment of the first loan instalment, a report on the expenditure of funds (final report) shall be submitted to the LfA Förderbank Bayern (the specialist promotional bank of the Free State of Bavaria) to check the final development costs. This deadline can be extended upon request in justified exceptional cases.
- 5.2.4 The loan will be paid on request in the following instalments: 50% after the recommendation of the Allocation Committee, 30% according to project progress, and 20% after presentation of the final report and acceptance of the prototype by the FFF Bayern. The loan is to be repaid on 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. For the repayment of the loan the repayment conditions as stated in Section 5.3.7 apply. The obligation for repayment ends five years after payment of the last loan instalment.
- 5.2.5 Any funding recommendation will expire if the overall financing is not closed within nine months of the announcement of the decision of the Allocation Committee. It will also expire if work has not commenced within twelve months of the announcement of the decision by the Allocation Committee. In justified cases, the management of FFF Bayern may, on request, extend the deadlines.
- 5.2.6 The granting of prototype development funding does not give rise to any legal entitlement to further funding of the production.

5.3 Production

- 5.3.1 For the production of Games, conditionally repayable and interest-bearing loans can be granted by way of part-financing. The loan shall cease to bear interest on expiry of the twelfth month after the market release of the funded Game.
- 5.3.2 The production of a Game can receive funding of up to 50% of eligible costs according to Section 4.1, but may not exceed 500,000 Euros, if the refinancing of the funded portion on the national and international market appears to be a possibility.
- 5.3.3 The applicant shall provide a reasonable share of his or her own financing for production, commensurate with his or her net assets, cash resources and earnings position. The private financing may take the form of private funds, royalty advances and distribution guarantees. Private funds will include the developer's own private financial contribution as well as third-party funds obtained by the developer by way of a loan with an unconditional obligation for repayment, such as bank credits. The private funds should amount to a minimum of ten percent. Other subsidy funding may not be set off against the applicant's own share.
- 5.3.4 All applications should include a High Concept and Game Design 2.0, a cost calculation as is customary in the industry and a financing plan. A calculated profit

is not recognized as a legitimate production cost. A contingency of up to 10% may be claimed. In addition, funding can only be granted, if a conclusive marketing concept with a revenue cashflow is submitted, and, if available, all investor and marketing contracts must be submitted under the requirement to disclose all partners involved.

- 5.3.5 The loan is paid out in instalments commensurate with the project's proven progress.
- 5.3.6 The recommendation for the granting of funding will expire if the overall financing is not closed within nine months of the announcement of the decision of the Allocation Committee. It will also expire, if work has not commenced within twelve months of the announcement of the decision by the Allocation Committee. In justified exceptional cases, the management of FFF Bayern may extend the deadlines, on request.
- 5.3.7 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 corridor has been agreed with another funding institution involved in the project, the same repayment conditions 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 owing to Bavaria. The obligation for repayment ends three years after the Game's market launch at the earliest.
- 5.3.8 During production of the Game, the applicant should ensure an appropriate amount of vocational education and training.

6. Procedures

6.1 Application Requirements

- 6.1.1 To receive funding, an application must be submitted. All applications must be submitted on the appropriate forms of the FFF Bayern. The documents requested in the application forms should be enclosed in German or English (only for Game Design 1.0 and 2.0).
- 6.1.2 Applications must be submitted by the deadlines published by the FFF Bayern on its website.

6.2 Selection Procedure

- 6.2.1 Unless otherwise stated in these Guidelines, an Allocation Committee, organised within the FFF Bayern, gives recommendations of each individual project.
- 6.2.2 Based on the recommendations of the Allocation Committee, in accordance with the requirements of Section 6.3 below, the LfA Förderbank Bayern, Königinstraße 17, 80539 Munich approves and distributes the grants and loans.

6.3 Allocation Committee

- 6.3.1 The Allocation Committee Game consists of the managing director of FFF Bayern and a representative of the Bavarian Ministry of Economic Affairs and Media, Energy and Technology, and at least five other members of the industry and science in the field of Games development. The Allocation Committee is chaired by the managing director of FFF Bayern.
- 6.3.2 Committee Members are appointed by the Bavarian Ministry of Economics and Media, Energy and Technology for a term of three years each. The Allocation Committee is quorate when at least two thirds of its members are present.
- 6.3.3. The Allocation Committee makes its selection on the basis of the criteria outlined in Appendix 1.
- 6.3.4 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.
- 6.3.5 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 in making recommendations if they, or members of their family, are effected by the subject concerned.
- 6.3.6 The Allocation Committee makes recommendations about funding on a case-by-case basis. Regarding the overall scope of its recommendations, the Allocation Committee is bound by the funds provided for this purpose.
- 6.3.7 In urgent or time-sensitive cases, the Chairman has the right to expedite proceedings and make decisions on individual recommendations. In such a case, he must inform the members of the Allocation Committee about such decisions during the next meeting.
- 6.3.8 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.
- 6.3.9 For applications recommended by the Allocation Committee, the LfA Förderbank Bayern shall examine the calculation and the finance plan and the other conditions for authorizing the grant, and shall handle the disbursement of funds. To this end, the LfA Förderbank Bayern draws up the respective loan or grant agreement with funding recipient. The relevant provisions shall, unless otherwise provided in these Guidelines, be included correspondingly in the contracts of the LfA Förderbank Bayern with the funding recipient. In particular, the transfer of No. 3 ANBest-P is excluded from this.

Should the audit give rise to any doubts as far as the calculations or financing plan are concerned, the LfA Förderbank Bayern may refer the particular application back to FFF Bayern for resolution, if necessary.

6.4 Guarantees

Any loans granted by the LfA Förderbank Bayern for development and production must be adequately secured. Loan recipients shall grant the LfA Förderbank Bayern or its appointed trustee, in accordance with a special security agreement, security rights to the exploitation rights pursuant to Articles §§ 15 to 23 of the German Copyright Act or assign claims arising from the agreements concluded in the context of the exploitation, in particular any claims to transfer the exploitation revenues due to the loan recipients; moreover, any claims arising from insurance agreements are to be assigned.

6.5 Proof of Use of Funds

Proof of the use of the disbursed loans or grants must be submitted to the LfA Förderbank Bayern, which shall monitor their use for the intended purpose. In the case of multiple subsidies, the LfA Förderbank Bayern may agree on a joint review with other funding institutions.

7. Costs

The LfA Förderbank Bayern retains a processing fee from the loan amount for projects funded exclusively by the FFF Bayern. It amounts to 1% of the grant amount for the concept development, and 3% of the loan amount for the prototype development and production support, up to a maximum of € 300,000 plus 1% exceeding this amount. If several funding institutions are involved, then the LfA Förderbank Bayern can arrange for a different treatment of this matter.

8. Period of Validity

These guidelines are effective from 01.01.2018. They expire on 31.12.2020.

9. Notices

The information provided in the application and in the supplementary documents submitted are subsidy-relevant within the meaning of Article § 264 of the German Criminal Code in conjunction with Article § 2 of the German Subsidies Act of 29 July 1976 (BGBl I p. 2037) and Art. 1 of the Bavarian Subsidies Act of 23 December 1976 (GVBl p. 586).

Attention is drawn to the general audit law of the Bavarian Supreme Audit Office (ORH) in Art. 91 of the Bavarian Financial Regulations.

Appendix 1: Catalogue of Criteria for Paragraph 6.3.3

A Game may be funded if at least two criteria in each of the following categories Section I and II below (particularly from II.1 or II.2), and at least one criterion from category Section III below, are fulfilled.

I. Cultural Context and Content

1. The setting of the Game is located in Germany or the European Economic Area (EEA) or has historical references to it.
2. The main characters of the Game refer to Germany or the EEA, or represent a personality of the German or European time and world history or a fictional character of German or European cultural history.
3. The Game is at least also available in German.
4. The subject of the Game, its motives or ideas are related to Germany or the EEA, for example:
 - a. Game design, story or the design of the Game take up Germany's culture (everyday culture, pop culture, Game culture, youth culture, high culture, learning culture, media culture, etc.), society, identity, German history or aspects of life in Germany or the EEA.
 - b. The story of the Game relies on a literary, cinematic, television or other basis from the German or European (linguistic) area, for example including fairy tales, legends and science-fiction.
 - c. The Game originates in German Game traditions or develops them further.
 - d. The Game highlights aspects of regional diversity in Germany or the EEA, or the Game complies with or develops German Game traditions.
 - e. The Game reflects Bavarian/German cultural heritage.

The cultural context and content may, in exceptional cases, also be non-European if it is very clearly outlined and particularly creative or innovative in nature, and when particularly many criteria from Sections II and III below are met.

II. Cultural/Creative Platform

1. The project is expected to make a special promotional effect for the domestic cultural and creative industries, for example, because a significant proportion of creative work (concept development, programming, music recording) takes place in Bavaria.

2. At least 50% of the team-members have their primary residence in Bavaria, are taxed there or are otherwise familiar with the Bavarian culture, for example, because their qualifications were acquired in Bavaria, or by a corresponding stay in Bavaria or Germany. The following team members must in any case fulfil these criteria:

- a. Producer
- b. Leading Writer/Author/Concept Developer
- c. Leading Composer/Sound Designer
- d. Art Director
- e. Technical Director
- f. Leading Game Designer.

3. Cultural promotion of young talents: The team includes graduates from universities or institutes of higher education who graduated of up to 2 years ago like:

- a. Graduates of universities or institutes of higher education located in Bavaria or
- b. Graduates from foreign universities or colleges, if the graduates have their current residence in Bavaria.

III. Design, creative and technological innovation

The Game is particularly creative or innovative, for example in the following areas:

1. Narrative structure or Game structure
2. Design of the characters, the setting, the story and the environment
3. Game's music
4. Interactivity, multi-player functionality, user-interface, user-generated content
5. Application of artificial intelligence
6. Use of new technologies for the development, implementation or application of the Game.

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