

**GUIDELINE**  
**of the Federal Minister for Agriculture, Regions**  
**and Tourism for a**  
**Protective Shield for Events I**

from the 26<sup>th</sup> January 2021  
in the version of the 31<sup>st</sup> of March 2021

**according to the Federal Act on special support for small-and  
medium-sized enterprises (SME Promotion Act), Federal Law  
Gazette No 432/1996, as amended**

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## **Preamble**

Events are very much affected by the COVID 19 crisis. Due to the uncertainty with a view to the future infection situation and the related restrictions, the planning of events entails considerable risks at the moment. The fact that the conception of events will be reluctant in the further course of events in all fields - congresses, fairs, markets, cultural events, and sports events - will lead to a stagnation in the upstream and downstream value added chain. In particular the hotel industry, catering enterprises, artists, and artist's agencies, event agencies, event technology, but also travel agencies and tour operators depend to a high degree on events.

The present Guideline aims at compensating financial disadvantages due to restrictions or cancellations of events as a consequence of the COVID 19 crisis. In this way, incentives for the organisation of events shall be set and the negative effects of the Covid 19 crisis on the event industry shall be mitigated.

If the rules of the present Guideline do not contain any detailed provisions or no deviating detailed provisions, the Ordinance of the Federal Minister for Finance on General Framework Guidelines for awarding Federal Support (ARR 2014 Allgemeine Rahmenrichtlinie für die Gewährung von Förderungen aus Bundesmitteln), Federal Law Gazette II No. 208/2014, as amended shall be applied to the extent to which it is compatible with the special character of the subsidy.

## **1 Objectives**

- 1.1 The funding aims at enabling the planning and implementation of events in spite of the COVID 19 crisis.
- 1.2 For the internal evaluation of the Guidelines according to Section 18 of the Federal Act on Management of the Federal Budget (Federal Organic Budget Act 2013 ), (Bundesgesetz über die Führung des Bundeshaushalts 2013) Federal Law Gazette I No 139/2009, as amended, the indicators defined in the effect-oriented impact assessment are applied.

## **2 Object of funding**

- 2.1 The subsidy consists of the compensation for the financial disadvantage resulting from a cancellation due to the COVID 19 crisis or from a considerable restriction of the event.
- 2.2 All events complying with the requirements of point 4 of this Guideline (subsequently called "event or "events") are considered to be events for the purposes of this Guideline.
- 2.3 Excluded are financial disadvantages, which have already occurred before the submission of the aid application.

## **3 Personal requirements**

- 3.1 Applicants can be physical or legal persons as well as other companies under corporate law, which intend to carry out an event for the purposes of point 4 and bear the economic risk for this event. Alternatively, with reference to point 4.3.3 such physical or legal persons as well as other companies under corporate law can be considered as event organisers for the purposes of this Guideline, which bear the risk, which is covered by the present Guideline.
- 3.2 The business accounting of the applicant must be well ordered in order to enable at any time an audit of the turnover and of the assets and earnings. All incomes and expenditures related to the event, to which the subsidy is applied, shall - to the extent possible - be represented by a separate company code, or, at least a separate subaccount shall be kept.
- 3.3 At the time of application neither insolvency proceedings against the applicant may be opened nor may the requirements for the opening of insolvency proceedings upon application of his creditors be met.
- 3.4 In case of a subsidisation on the basis of Section 3.1 of the limited framework according to point 7 of the present Guideline the applicant - with the exception of small and micro enterprises according to EU state aid law - must not have been in difficulties on 31 December 2019 for the purposes of Article 2 (18) of 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 on the functioning of the European Union (General Block Exemption Regulation GBER) (Allgemeine Gruppenfreistellungsverordnung).

- 3.5 Federal Government, Federal Provinces, and municipalities are not taken into consideration as applicants.
- 3.6 Enterprises, which are according to the European System of National Accounts (ESNA 2010), registered by Statistics Austria as "government unit" with the identifier S. 13 are not taken into consideration as applicants. Exempt are those enterprises and/or parts of enterprises, which are in competition with other enterprises active on the market.
- 3.7 Enterprises, which are to be assigned to the fields of fisheries, aquaculture, primary production of agricultural products, coal industry, shipbuilding, steel industry, synthetic fibres industry, are not eligible as applicants. The definitions published by the European Commission, in particular Regulation (EU) No 1379/2013 shall apply.
- 3.8 Credit and financial institutions are exempt from a subsidisation on the basis of point 7.2 of the present Guideline.
- 3.9 Applicants who have not complied with a recovery order due to a former decision of the Commission on the determination of the inadmissibility of an aid and its incompatibility with the internal market are excluded from subsidisation.

#### **4 Factual requirements**

- 4.1 A requirement for the granting of a subsidy is the planning and implementation of an event in Austria.
- 4.2 Events, for the purposes of this Ordinance, shall mean planned meetings and activities, for the purposes of entertainment, amusement, physical and mental exercise, and the delight of the participants. This includes business-to-business and business-to-consumer events, congresses<sup>1</sup>, fairs, opportunity markets<sup>2</sup> as well as cultural events and sports events<sup>3</sup>. The same applies to meetings of corporate bodies of legal entities.
- 4.3 An event is considered to be eligible if the following conditions are cumulatively met:
  - 4.3.1 Existence of a conclusive implementation and financing concept, which includes, apart from the presentation of the project from the content-related and financial points of view, also the following information:
    - a) The number of participants taking into consideration the upper limits of participants according to points 4.4 and 4.5 or the number of participants according to point 4.6,
    - b) Other licensing conditions in particular those under event law,
    - c) Announcement of all financing components;

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<sup>1</sup> A congress is, as a rule, an event lasting for several days, where persons from one or several technical fields meet at a place in order to present and/or exchange scientific and specific professional insights.

<sup>2</sup> By opportunity markets we mean sales events, where seasonally or not regularly traders, operators of gastronomic enterprises or fairground operators join together in order to sell goods, food or drinks or to offer services.

<sup>3</sup> The organisation and implementation of journeys, even if they are destined to get to an event location do not constitute an event for the purposes of this Guideline.

- 4.3.2 promising implementation (ex-ante evaluation), which means that in the course of planning terms and conditions as well as reference values for costs of events of a similar dimension, customary in the industry, shall be applied, and that the plan calculation, if it is an event where incomes are to be expected, shows at least a balanced ratio between revenue and expenditure;
- 4.3.3 expected overall revenue of at least € 15,000.00. Events, where typically no incomes, for the purposes of an exchange of services, are generated are only eligible for funding if they are organised by an enterprise whose commercial activities include the professional planning and implementation of events and if the overall expenditure for the event amounts to at least € 15,000.00. In case of events in the field of private life this enterprise must take over the risks covered by the present Guideline for the purposes of point 3.1 last sentence;
- 4.3.4 existence of a draft of a COVID 19 prevention concept, which must contain the following information:
- Requirements concerning the training of staff members
  - Measures to minimize the risk of infection based on a risk analysis
    - Information on the planned participants on the spot (visitors, actors, speakers, own staff members, and service providers, etc.),
    - Regulation on the guidance of visitor flows,
    - Specific hygiene requirements,
    - Regulation on the behaviour in case of a SARS CoV 2 infection,
    - Regulation concerning the use of sanitary facilities,
    - Regulation concerning the provision of food and beverages,
    - Regulation concerning contact tracing,
    - Nomination of a COVID 19 official,
    - For events which are to take place until 30 June 2021: Measures to ensure the distance between persons not living in the same household.
- 4.4 Subsidisation of an event can only be granted if the following upper limits for participants<sup>4</sup> are complied with<sup>5</sup>:

	With assigned seats indoor	Without assigned seats indoor	With assigned seats outdoor	Without assigned seats outdoor
1 March 2021 - 31 March 2021	500	-	750	-
1 April 2021 - 30 April 2021	2,500	200	5,000	500
1 May 2021 - 31 May 2021	2,500	200	5,000	500
1 June 2021 - 30 June 2021	5,000	500	10,000	1,000
As of 1 July 2021	Unlimited	Unlimited	Unlimited	Unlimited

#### 4.5 Not applicable

<sup>4</sup> In case of events lasting for several days, where due to the selected dates of events different upper limits for participants would apply, the respective higher upper limits for participants shall apply to the whole event.

<sup>5</sup> One can proceed on the assumption that the test strategy for rapid tests (such as antigen tests) of the Federal Government will have an impact on the event industry. This dynamic development permits to assume from the present point of view that the present upper limits in 4.4 shall apply.

- 4.6 Persons who are required for the implementation of this event shall not be included in the calculations of the upper limits for participants according to points 4.4 and 4.5. The upper limits for participants according to points 4.4 and 4.5 shall not apply to events whose number of participants is not regulated by an Ordinance of the Federal Minister of Social Affairs, Health, Care and Consumer Protection at the time of the submission of the aid application.<sup>6</sup> In these cases the upper limits for participants result from the draft of the COVID 19 prevention concept of the respective event to be submitted according to point 4.3.4, the plausibility of which shall be validated by the applicant, among other things by means of the indication of reference projects.
- 4.7 In the course of the process of planning the event the development of the pandemic and the respective Ordinances of the Federal Minister for Social Affairs, Health, Care and Consumer Protection shall be taken into consideration irrespective of the points 4.4 and 4.5. Furthermore, the state of knowledge about the infection risk at the time of the submission of the aid application at the Austrian Hotel and Tourism Bank (ÖHT Österreichische Hotel- und Tourismusbank) shall be included in the considerations. If possible, this shall take place in comparison to reference projects before and during the pandemic.
- 4.8 The upper limits for participants according to points 4.4 and 4.5 shall refer to persons being at the same time at the same place respectively. With events taking place at different venues, the upper limit shall apply to each venue individually.
- 4.9 In case of events where a part of the participants follows the event virtually (livestream) the upper limit for participants is calculated only on the basis of those participants who are physically participating in this event.
- 4.10 Touring events<sup>7</sup> and types of events that are held regularly at the same venue (event cycle, theatre season, programme cycle etc.) are to be treated as a single event with respect to point 6. If such an event has already started, funding is only possible if the financial disadvantage has not yet occurred.
- 4.11 For touring events which were already completely planned before the entry into force of this Guideline, and/or touring events, which have already started as well as identical events regularly taking place at the same venue, aid applications can only be filed if they are again calculated on the basis of the requirements of this Guideline, and if the calculation meets the requirements of point 4, and complies also with all other requirements of this Guideline.
- 4.12 The funding applicant and/or the beneficiary shall take harm-reducing measures within the framework of an overall strategy in order to keep the financial disadvantages in case of a cancellation or considerable

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<sup>6</sup> e.g. Trade and public fairs according to the 197<sup>th</sup> Ordinance of the Federal Minister for Social Affairs, Health, Care and Consumer Protection on the relaxation of measures taken to combat the dissemination of COVID 19 (COVID 19 Relaxation Ordinance) Federal Law Gazette II No 197/2020.

<sup>7</sup>Touring events are all performances and undertakings that have a similar event programme, use similar event facilities, and are set up to be performed on different venues alternately.

restrictions as low as possible. This comprises, apart from the contract negotiations with third parties, also the examination of a reasonable postponement of the event in case of an impending case of damage.

4.13 Non-eligible are, in any case, the following events:

- Team sports events that take place in national and international leagues and championships;<sup>8</sup>
- Political events which, being an assembly, fall within the scope of the competence provisions of Article 10, para. 1 (7) Federal Events Act (BVG Bundesveranstaltungsgesetz), including all activities of political parties and associations and any other parts of such events related to it aiming at political advertising, if the overall event serves first and foremost political advertising;
- School events and school-related events for the purposes of the Federal Act on the Organisation of Teaching and Education in the schools regulated by the School Education Act (Schulunterrichtsgesetz - SchUG), Federal Law Gazette, No 472/1986, as amended;
- Events where it is already known at the time of application that their implementation is planned for a date on which the participation in this event will not be possible due to official restrictions.

## **5 Eligible and ineligible costs**

5.1 Eligible are all those expenses for services provided by third parties in the value-added chain (e.g. suppliers, service providers of event technology, stewards and control services, translation and interpretation services, tent rental, technology, hotels, catering, artists, bar, services, florist, event location, ticketing and reverse transaction costs, marketing costs, agencies), which are related to the planning and implementation of the eligible event, as well as separate staff costs of the event organiser, which have served exclusively the preparation and the implementation of the eligible event.

5.2 Non-eligible costs are:

5.2.1 VAT

The VAT incurred for the costs of the eligible project is not an eligible expense. However, if there is evidence that the VAT has to be born in fact and finally by the beneficiary (and thus there is no entitlement to deduct input tax) it can be taken into consideration as eligible component of costs. The VAT, which is recoverable, no matter in which way, is not eligible, even if it is not actually returned to the beneficiary.

5.2.2 Investment costs, to the extent to which they concern commodities, which are not to be classified as being of low value for the purposes of Section 13 of the Federal Act from 7 July 1988 on the taxation of the income of natural persons (Income Tax Act Einkommensteuergesetz 1988 – EStG 1988), Federal Law Gazette No 400/1988 as amended.

5.2.3 Staff costs going beyond point 5.1, which are in particular those of the ongoing operations of the event organiser

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<sup>8</sup> This includes for the purposes of this Guideline also all those events which serve the preparation for leagues (e.g. friendly matches).



- 5.2.4 Material costs going beyond 5.1, which are in particular those of the ongoing operations of the event organiser
- 5.2.5 Costs resulting from low-value invoices under EUR 100.00 (net).

## **6 Type and amount of grant**

- 6.1 The funding takes place in the form of a non-refundable allowance and is granted on the basis of an agreement under private law, and according to the funds available pursuant to Section 6 para. 2 SME Promotion Act (KMU-Förderungsgesetz). Aids are awarded chronologically in the order in which complete and evaluable aid applications are received until all available funds have been used. Authorized funds, which have not been paid according to point 10, can be used for further funding commitments according to this Guideline. There is no legal entitlement for the granting of this subsidy. The subsidy is granted by the Austrian Hotel and Tourism Bank (Österreichische Hotel- und Tourismusbank Gesellschaft m.b.H.ÖHT) as processing agency in the name and for the account of the Federal Government.
- 6.2 An allowance to the amount of a maximum of 90 % of the eligible costs of the event according to point 5 is granted (funding amount). The maximum funding amount in individual cases is € 2.000.000.
- 6.3 If the grant is taken over on the basis of the "De-minimis" Regulation according to point 7.1 of the present Guideline the maximum amount of funding is € 200,000. Subsidies can only be granted per enterprise to the extent to which the "de-minimis" framework has not been exploited within the last three fiscal years.
- 6.4 If the subsidy is granted on the basis of section 3.1 of the temporary framework according to point 7.2 of the present Guideline the maximum amount of funding is € 1.800,000. Subsidies can only be granted per enterprise if the temporary framework is not yet fully exploited.
- 6.5 If required the legal bases according to State Aid Law pursuant to point 6.3 and point 6.4 can be accumulated.
- 6.6 Moreover, a subsidy granted according to these guidelines may be accumulated with subsidies of the same or other subsidising agencies of the Federal Government and subsidies of other local authorities if the provisions of the EU State Aid Law are complied with. Subsidies granted according to this Guideline must not be accumulated with other subsidies, if the accumulation would lead to the fact that the highest respective intensity of funding or the highest respective amount of funding, which is laid down in the individual case in a Block Exemption Regulation or in a Decision of the European Commission or in the relevant provisions of EU law, is exceeded.

## **7 Limitations to the grant due to the EU State Aid Law**

- 7.1 "De-minimis" aid according to 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 (OJ No L 352 of 24 December 2013, p. 1ff). ("De minimis" Regulation).

- 7.2 Aids according to section 3.1 of the Communication from the European Commission - Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak (C(2020)1863 final from 19 March 2020) as amended.

## **8 Aid application**

- 8.1 The submission of aid applications has to take place at least four weeks before the planned implementation of the event via the website of ÖHT (Austrian Hotel and Tourism Bank) (customer portal). Per event only one aid application can be filed, irrespective of the actual number of event organisers.

Österreichischen Hotel- und Tourismusbank Gesellschaft m.b.H.,  
(Austrian Hotel and Tourism Bank)  
Parkring 12 a,  
1010 Vienna  
Phone: 01/51530  
Fax: 01/51530-30  
Email: oeht@oeht.at  
Internet: <http://www.oeht.at>

- 8.2 The information in the aid application must be complete in order to enable an assessment of the applicant as well as of the event. If the documents - which have to comprise at least the pieces of evidence mentioned in point 4.3 are not submitted within an appropriate period of time, to be determined by ÖHT, the aid application can be, after threat of action, removed from the files after further notice. The aid application shall contain in particular also the maximum amount of aid applied for, which must not exceed the predicted eligible costs of the event according to point 5 taking into consideration the subsidisation quota defined in point 6.2.
- 8.3 The applicant shall be obliged to include in the aid application relevant information on intended, current, or already settled applications of other federal agencies or other legal entities concerning the same project, and to inform about later changes. Insurances and other kinds of public support concerning the economic impacts resulting from the spreading of COVID 19 have to be indicated as well. Furthermore, the applicant shall indicate in the aid application whether and to which amount he/she has received an aid on the basis of a temporary framework and/or a "de minimis" aid in the course of the past few years or in the present year. ÖHT shall examine, on the basis of this information, whether, and if so, to which extent a subsidy can be granted according to the provisions applicable to accumulations.

## **9 Review and decision**

- 9.1 ÖHT will review the application for the purposes of the Guideline and decide on the approval of the aid application.
- 9.2 In case of a positive decision on the aid application ÖHT shall submit the applicant in writing a funding offer, which includes all the requirements, terms and conditions related to the aid. Furthermore, the funding offer shall include the maximum amount up to which an aid is granted. This

funding offer has to be accepted by the applicant within a certain period of time specified in the funding offer, otherwise the funding offer will be considered to be withdrawn. Furthermore, the funding offer shall contain the obligation of the event organiser to disclose the fact that the event is subject to funding according to this Guideline vis-à-vis potential or actual contracting partners.

- 9.3 In case of a partial or complete rejection of an aid application ÖHT shall explain the applicant in writing the reasons decisive for this decision indicating the respective provision(s) of the Guideline.
- 9.4 If an aid is granted as a "de minimis aid" ÖHT and/or the Federal Ministry of Agriculture, Regions and Tourism shall include in the funding offer – referring to the place where the "de-minimis" Regulation can be found in the Official Journal of the EU - the indication that the aid is granted in the form of a "de-minimis" aid.
- 9.5 If an aid is granted on the basis of a temporary framework, ÖHT and/or the Federal Ministry of Agriculture, Regions and Tourism shall include in the funding offer – referring to the place, where the temporary framework can be found in the Official Journal of the EU - the indication that the aid is granted on the basis of temporary framework.

## **10 Calculation of the amount of aid to be paid**

- 10.1. The prerequisite for the payment of the aid is that the event to which the aid refers is cancelled due to a situation resulting from COVID 19 according to point 10.3 or can only be carried out in a very restricted way.
- 10.2 In the case of events, where in the implementation and financing concept according to point 4.3.3 no revenues have been projected, an aid can only be paid if they have been cancelled.
- 10.3 The cancellation or considerable restriction should be in connection with COVID 19 in an objectively verifiable way. Objectively verifiable are in particular such reasons which concern a considerable number of actors, participants, speakers or individual persons, defined a priori as being objectively indispensable for the implementation of the event, restricting their travel to and from the event location or their stay, this includes also the infection with the SARS-CoV.2 pathogen and/or a COVID 19 disease or the mandatory isolation and/or quarantine or (dusk-to-dawn) curfew. Furthermore, such reasons are objectively verifiable which are based on legal or official measures entailing considerable restrictions going beyond the upper limit for participants laid down in points 4.4 and 4.5 or the number of participants defined in point 4.6.
- 10.4 In the following cases no aid can be paid:
  1. Bad economic planning and subjective reasons for a cancellation or a limited implementation of an event,
  2. Postponement of the event to another date.
- 10.5 If the event is cancelled, the financial disadvantage to be compensated is calculated according to point 2.1 within the framework of the maximum amount up to which the aid was granted, from the difference

between the non-cancellable (or no longer cancellable) eligible costs and any reasonable payments on account<sup>9</sup> on the one hand and the revenue generated despite cancellation, any insurance benefits and other grants on the other hand.

- 10.6 If the event is implemented only in a considerably restricted way, the financial disadvantage to be compensated is calculated according to point 2.1 within the framework of the maximum amount up to which the aid was granted, from the difference between the eligible costs incurred in spite of the limited implementation on the one hand, and the incomes accrued in spite of the limited implementation, any insurance benefits and other grants on the other hand.
- 10.7 For the calculation of the financial disadvantage to be compensated as well as for the payment of the aid the following requirements have to be complied with:
1. The existence of a funding offer (funding agreement) accepted by the company's authorized signature;
  2. the compliance with all terms and conditions formulated in the funding offer;
  3. a confirmation of the cancellation and the limited implementation of the event including reasons and pieces of evidence;
  4. a statement of expenditure including all the documents and pieces of evidence from which the financial disadvantage according to point 10.5 and 10.6 results. The statement of expenditure may only include paid invoices;
  5. as evidence for the company's own staff costs according to point 5.1 ÖHT shall provide a form, which shall be correctly and completely filled in by the beneficiary. On this form a tax consultant, and/or an auditor and/or a certified management accountant shall certify the accuracy of the facts and the accounts of the information provided by the beneficiary. Certified management accountants may only issue such a certification for enterprises whose balance sheets they would be permitted to draw up according to Section 2 para. 1 (2) Accounting Act 2014 (BiBuG Bilanzbuchhaltungsgesetz 2014), Federal Law Gazette I No 191/2013.
  6. For events whose eligible costs according to point 5.1 exceed € 100,000.00 the accuracy of the facts and of the accounts of the calculation of the financial disadvantage has to be certified by a tax accountant, an auditor or a certified management accountant. Certified management accountants may only issue such a certification for enterprises whose balance sheets they would be permitted to draw up according to Section 2 para. 1 (2) Accounting Act 2014 (BiBuG 2014) Federal Law Gazette I No 191/2013.
  7. If the certifications submitted according to (5) and (6) seem to be doubtful ÖHT shall consult a tax accountant, an auditor or a certified management accountant in order to review the calculation of the financial disadvantage according to point 10.5 and point 10.6.

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<sup>9</sup> Only such payments on account can be recognized which refer to the risk to be covered by this Guideline, which were already agreed at the time of the respective conclusion of the agreement and are proportionate to the wasted expenditure of the third party.

- 10.8 Funding commitments shall be withdrawn in general, if the documents and pieces of evidence according to point 10.7 are, through the fault of the applicant, not submitted within a period of 8 weeks after the planned implementation date or the actual implementation of the event to which the subsidy refers.

## **11 Reporting**

- 11.1 The beneficiary shall be required with respect to the implemented measures to submit at any time the following documents upon requests by ÖHT:
1. Contracts and documents confirming the implementation of the planned measure(s);
  2. interim reports on expected participation figures and any deviations from the planned budget;
  3. financial management of the event (revenue and expenditure, number of participants, etc.) according to the structure laid down in the budget. Any deviations shall be explained;
  4. data and information, which are required by ÖHT for the internal evaluation of the Guidelines according to Section 18 of the Federal Act on Management of the Federal Budget (Federal Budget Act 2013), (BHG Bundesgesetz über die Führung des Bundeshaushalts Federal Law Gazette I No. 139/2009, as, amended.

## **12 Notification obligations**

- 12.1 If there is a change regarding information in the application before the acceptance of the funding offer, the applicant shall notify ÖHT immediately thereof on his/her own initiative in writing and comply with his/her notification obligations without delay. In such a case ÖHT can change or withdraw an already issued funding offer.
- 12.2 After the acceptance of the funding offer the applicant shall notify - without prejudice to other notification obligations - ÖHT in writing of the following circumstances without delay and on his/her own initiative:
- a) Intended change of the legal form of the enterprise, all restructuring processes, or other cases of universal succession or individual succession;
  - b) any withdrawal of the business licence or any other authorisation to carry out self-employed activities;
  - c) occurrence of insolvency proceedings according to Austrian law and/or the respective national legal provisions;
  - d) circumstances, which would delay the implementation of the subsidized project or would render it impossible or would require a change compared to the funding application or agreed requirements, terms and conditions; this comprises also a postponement of the event to which the subsidy refers;
  - e) change of the business purpose;
  - f) implementation of the event to which the subsidy refers.

- 12.3 If it becomes clear to the beneficiary that an event can only be carried out in a restricted way, and that it might be that the costs of the limited implementation of the events less the still achievable incomes will be higher than the costs of a cancellation of the event, he or she shall inform ÖHT about it and submit a respective calculation of the restricted implementation of the event as well as of the cancellation and obtain a decision of ÖHT whether the event shall be carried out in a restricted way or cancelled. ÖHT will base its decision on the question which of the options will be presumably be cheaper for the donor. This obligation does not apply to events to which a funding commitment has only been made in case of a cancellation of the event.

### **13 Review and provision of information**

- 13.1 The bodies of the Federal Government, the ÖHT as well as the institutions of the EU reserve the right to have a review of the use of the aid and the subsidized project carried out by its bodies and/or agents.
- 13.2 The applicant and/or the beneficiary recipient shall be obliged to submit, upon request all documents required for the assessment of the economic efficiency of the planned event and/or the event to which the subsidy refers, in particular documents on similar events already carried out in the past, as well as to permit authorities or representatives of the Federal Government, ÖHT or EU to inspect its accounting records and supporting documents as well as other documents serving the review of the implementation of the project - all of them, in principal, in their original versions - at his/her own place or at a third party, and to permit on-site inspections, provide them the required information and/or let appropriate respondents provide them information, with the respective controlling body deciding over the respective connection of the documents with the project. The applicant and/or the beneficiary shall be obliged to retain all documents on the subsidized project after the end of the subsidisation period in a save and orderly way until the end of the expiry period of ten years - subject to a reasoned extension of the deadline by the donor. In principle image or data media can be used for the storage in this context, if a reproduction, which is complete, orderly, identical in content and verifiable, is guaranteed at any time until the expiry of the retention period. In this case the beneficiary shall be obliged to make available all the tools which are necessary to make the accounting records, supporting documents, and other documents legible at his/her own expense, and, to the extent necessary, to provide without tools legible permanent reproductions, and, in the case of the generation of permanent reproductions, to make them available on data media.

### **14 Suspension and repayment of funding**

- 14.1 The funding is discontinued if
1. the beneficiary doesn't comply with his/her information obligations laid down by the present Guideline within a period of four weeks and despite a written request by ÖHT indicating the legal consequence of non-compliance within a period of 14 days;
  2. the beneficiary permanently ceases his/her business activities;

3. the implementation of the event to which the subsidy refers doesn't seem to be possible for reasons related to the person of the beneficiary;

14.2 The beneficiary shall be obliged - subject to the assertion of further legal claims, in particular to a repayment obligation according to Section 30b of the Foreign Labour Act (AuslBG Ausländerbeschäftigungsgesetz) - upon written request of the Federal Minister for Agriculture, Regions and Tourism or ÖHT to pay back the subsidy completely or partly without delay, the claim to any promised funding not yet disbursed shall lapse.

1. Bodies or delegated agencies of the Federal Government or the EU have been incorrectly or incompletely informed of decisive circumstances,
2. stipulated reports of the beneficiary have not been made, or supporting records have not been provided, or required information has not been furnished, insofar as a written reminder providing a reasonable grace period and expressly mentioning the legal consequences of non-compliance in such cases have gone unheeded, and other notifications provided for were not made,
3. the beneficiary has failed to inform without delay and on its own initiative – in any case prior to an inspection or the announcement of an inspection – about events which would delay or render impossible or require modification of the implementation of the subsidised activities,
4. the beneficiary impedes or prevents stipulated auditing measures, in particular also a Transparency Portal query, or the eligibility for funding is no longer verifiable within the stipulated record-keeping period,
5. the funds granted have in full or in part been used by the beneficiary for any other purpose than the purpose for which they were awarded,
6. the contractual obligations cannot be performed or cannot be performed in due time or has not been performed or performed in due time by the beneficiary,
7. the beneficiary has not complied with the prohibition of assignment, and the transfer and pledging bans and other prohibitions of disposal,
8. the provisions of the Equal Treatment Act (Bundes-Gleichbehandlungsgesetz) have not been complied with by a subsidized enterprise,
9. the Federal Law on Equal Opportunities for Disabled Persons (Bundes-Behindertengleichstellungsgesetz) or the ban on discrimination according to Section 7 Disabled Persons Employment Act (BEinstG Behinderteneinstellungsgesetz) has not been taken into consideration,
10. bodies of the EU request the suspension or recovery, or
11. other eligibility criteria, requirements, terms and conditions, in particular those which aim at ensuring the achievement of the purpose of funding or the reporting requirements regarding other donors, have not been complied with by the beneficiary.

14.3 It shall be agreed that the amount of the subsidy return claim shall bear interest, at a rate of 4 percent per annum from the date of the disbursement of the funds calculated using the compound interest method. If this interest rate is below the interest rate stipulated by the European Union for subsidy recovery, the interest rate stipulated by the European Union shall apply. In the event of delay in the return of the subsidy, default interest shall be agreed. If enterprises are in default of payment, such default interest rates shall be fixed at 9.2 percentage points above the applicable base interest rate per annum from the commencement of the delay, otherwise at 4 percentage points above the applicable base interest rate, but shall in no case amount to less than 4 percent. The base interest rate applicable at the first calendar day of a half-year term shall prevail for the relevant half-year term.

## **15 Data protection**

- 15.1 The applicant shall take note of the fact that
1. the Federal Ministry of Agriculture, Regions and Tourism and ÖHT are entitled to process the personal data accrued in connection with the initiation and the execution of the contract if this is necessary for the conclusion and the execution of the contract (Article 6 para. 1, lit. b General Data Protection Regulation) (DSGVO Datenschutzgrundverordnung), for auditing purposes and for the performance of a task transferred to ÖHT (by law) which is in the public interest (Article 6(1) lit. e General Data Protection Regulation) for the compliance with a legal obligation (Article 6, para. 1 lit. c General Data Protection Regulation) or is otherwise required to safeguard the justified interests of the person responsible or of a third party (Article 6, para. 1, lit. f, General Data Protection Regulation);
  2. the Federal Ministry of Agriculture, Regions and Tourism and ÖHT can collect the personal data necessary for the assessment of the compliance with the eligibility criteria going beyond the information provided by the applicant himself/herself by means of queries at the relevant other institutions of the Federal Government (in particular at the Federal Ministry of Finance) or any other legal entity, which grants respective subsidies or manages them, or at any other third party or forward it to them, entitling them in turn to process the personal data required for the query and to provide information;
  3. the Federal Ministry of Agriculture, Regions and Tourism and ÖHT are obliged to make notifications in the Transparency Database and are entitled to make Transparency Portal queries according to Section 32 para. 5 Transparency Database Act 2012 (Transparenzdatenbankgesetz 2012);
  4. it could happen that in the course of data processing activities personal data have to be transmitted or disclosed, in particular vis-à-vis bodies or agents of the Federal Government (especially according to Sections 57 to 61 and 47 of the Federal Budget Act 2013, Federal Law Gazette I No 139/2009 as well as Section 14 of the General Guidelines for the Granting of Subsidies from Federal Funds (ARR 2014 Allgemeine Rahmenrichtlinien zur Gewährung von Förderungen aus Bundesmitteln), as amended, of the Court of



Auditors (especially according to Section 3, para. 2, Section 4, para. 2 and Section 13 para. 3 of the Court of Audit Act 1948 (Rechnungshofgesetz 1948), Federal Law Gazette No 144/1948, as amended, as well as bodies and institutions of the European Union according to the provisions of European Union Law with the legal basis for it being the compliance with a legal obligation (Article 6, para. 1, lit. c General Data Protection Regulation) or the performance of a task in the public interest (Article 6 para. 1, lit. e General Data Protection Regulation);

5. the processing shall exclusively be carried out for the purposes of the conclusion and the execution of a contract, for auditing purposes, as well as for monitoring and evaluation purposes;
6. data and information concerning assets, liabilities, and liquidity about the beneficiary and the enterprise are collected from third parties or their collection is ordered, and, in case of multiple subsidies the relevant institutions are informed, and in case of insolvency proceedings the bodies provided for under the law are informed.

15.2 Moreover, the applicant shall take note of the fact that the subsidies according to point 7.2 of the present Guideline, whose amount of funding exceeds € 100,000.00 are published on the website of the European Commission.

## **16 Declaration of Commitment**

A declaration of the beneficiary taking note of the provisions of all points mentioned in the funding guidelines and the obligations resulting from them for him/her, as well as taking note of the fact that subsidies are only granted to those enterprises complying with the Equal Treatment Act ("Gleichbehandlungsgesetz"), Federal Law Gazette I No. 66/2004 and the Federal Law on Equal Treatment of Disabled Persons ("Bundes-Behindertengleichstellungsgesetz"), Federal Law Gazette I No. 82/2005) - both as amended, shall also be included in the funding offer as well as the prohibition of disposing of the claim from the granted subsidy by assignment, transfer or pledging or in any other way.

## **17 Disclaimer of liability**

ÖHT shall inform the applicant verifiably about the fact that the Federal Government and ÖHT do not accept any strict or fault-based liability, including the liability of experts according to Section 1299 and Section 1300 of the Austrian Civil Code (ABGB Allgemeines Bürgerliches Gesetzbuch), for their activities in connection with support measures - in particular for economic and legal recommendations - unless mandatory legal provisions provide otherwise.

## **18 Place of jurisdiction**

To the extent legally permissible, an agreement according to which the beneficiary submits itself, concerning all disputes resulting from the granting of a subsidy, to the jurisdiction of the relevant court in Vienna having subject-

matter competence in this case, stating however, that the Federal Ministry of Agriculture, Regions and Tourism and ÖHT reserve the right to prosecute him/her at his/her general place of jurisdiction, shall be included in the funding offer.

### **19 Period of validity**

Applications can be accepted by ÖHT from 18 January 2021 to 01 December 2021. The deadline for the acceptance of the funding offers by the applicant shall be defined by ÖHT in the funding offer, with the 30 December 2021 being provided as the last possible day for the acceptance<sup>10</sup>. The events to which the subsidies refer have to be held between March 1, 2021 and December 31, 2022.

*Please note: The English translation is a work document. Solely the German version is legally binding.*

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<sup>10</sup> ÖHT must not authorize aid applications before the approval of the present aid scheme by the European Commission.