

**GENERAL TERMS AND CONDITIONS FOR COMPANIES' R&D PROJECTS****Table of Contents**

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## **1 Scope of application and publicity of funding decision**

These terms and conditions shall apply to grants and loans (hereinafter funding) granted by Tekes by virtue of the Act on Discretionary Government Transfers (688/2001), the Act on State Lending and State Guarantees (449/1988), Government Decree on Research, Development and Innovation Funding (298/2008). These terms and conditions have been laid down by virtue of section 11, paragraph 4 of the Discretionary Act on Government Transfers and section 3 of the Act on State Lending and State Guarantees.

With regard to funding, public information shall be the name of the recipient and the amount of funding granted and remitted.

## **2 Monitoring of project costs**

The recipient shall arrange project accounting in a manner that makes it possible to itemise the costs that have arisen from the project and verify their connection to accounting and the cost statement template. Hourly monitoring of working time used in the project shall be arranged in accordance with section 3.2.

## **3 Eligible costs**

### **3.1 Principles**

Eligible costs shall be expenditure related to research, development and innovation activities arising during the project duration, which is included in the recipient's accounting records, based on net cost and not liable for value-added tax. Costs shall be deemed as VAT-eligible in the event that the recipient is not subject to VAT or the costs arise through VAT-exempt activities and where any VAT is eventually paid by the recipient.

The cost item specific amounts in the cost estimate appended to the funding decision determine the maximum amount of individual eligible cost items. The maximum amount may only be exceeded subject to a separate decision by Tekes. Tekes shall have the right not to accept costs presented in a statement if their relevance to the project is not clearly substantiated or they are too large in view of the project results or the recipient's financial situation.

Expenditure allocated to the project relating to an order placed before commencement of the project phase is an eligible cost only when the order can be cancelled if the project does not begin.

All expenditure shall be paid prior to being declared to Tekes. Costs shall be based on the corresponding expenditure payment records. This does not apply to calculatory costs allocated to the project. Upon request, the recipient shall provide the information required for monitoring costs, such as copies of receipts, an invoice itemization and the principles for selecting purchased services.

Tekes may at its discretion accept certain cost statement items according to an accounting practice that is based on unit costs calculated using the recipient's own expenditure records. The use of such a method shall be agreed on a project-specific basis.

When necessary, Tekes or a party authorised by Tekes shall be entitled to audit the reliability of the accounting system or Tekes can require a statement of accounting system reliability from the recipient's authorised external auditor (APA, CA, CPFA).

### **3.2 Wages and salaries**

#### **a) Working time monitoring and verification**

The recipient may declare the proportion of a person's wage or salary corresponding to the effective working hours contributing to the project. The salaries declared shall be based on hourly monitoring of working time performed for the project. The hours worked for the project shall be recorded at least once a week and systematically verified at least once a month unless an alternative monitoring arrangement has been approved by Tekes. A breakdown of the employee's total working hours shall be presented upon request.

The material associated with working time monitoring, hourly monitoring reports and verified monthly summaries shall be kept for a period of five (5) years after completion of the project.

#### **b) Project wages and salaries**

Salaries which are subject to withholding tax and paid for effective working hours (maximum of 11 months/year/person) of persons who have contributed to the project shall be deemed eligible costs (Wage / salary specification template Y4).

Wages and salaries stated to Tekes may not significantly differ from the levels paid to employees for equivalent work carried out prior to commencement of the project. The salaries shall also be equivalent in

value to those paid for other equivalent work carried out for the recipient during the project period. Tekes may approve higher salaries arising to the recipient where a higher salary is paid to employees seconded abroad for the purpose of the project or if a higher level of remuneration is required in order to hire a new member of the staff for the purpose of the project.

The recipient shall notify Tekes if performance-related and/or other exceptional salary components are included in the salaries stated to Tekes.

If the remuneration paid is classified as income from independent services and not as a wage or salary, it must be stated under the Purchased services from SMEs cost item.

Managerial and administrative personnel salaries are classified as overheads. Such salaries may exceptionally be admitted as direct costs if the work carried out is directly related to the project. A breakdown of managerial and administrative personnel's total working hours shall also be provided upon request.

### **3.3 Indirect personnel costs**

Indirect personnel costs are defined as indirect salary costs (including holiday pay, sick pay, holiday bonus), social security payments and other employment costs (such as workplace training, fringe benefits, work and protective clothing). A percentage of actually paid, project-approved salaries based on effective working hours set out in the cost estimate can be accepted as eligible indirect personnel costs. Tekes shall be entitled to verify all indirect personnel costs and pay funding on the basis of actual indirect personnel costs when these remain under the level approved in the cost estimate. Indirect personnel costs shall be calculated using the indirect personnel cost template available on the Tekes website.

Tekes shall be entitled to intervene in eligible indirect personnel costs arising from atypical employment arrangements, as these are not liable for the same indirect personnel costs as the conventional arrangements. Atypical employment arrangements are owner-managed businesses (businesses with a minimum 50% stake owned by a single individual or family) and employees seconded or based outside of Finland. Such salaries charged to the project shall be declared in the Wage / salary specification template (appendix Y4).

### **3.4 Overheads**

Costs eligible as overheads shall consist of a percentage of the project salaries and indirect personnel costs as set out in the project cost estimate. Tekes shall be entitled to verify all overheads and pay funding on the basis of actual overheads when these remain under the level approved in the cost estimate. Overheads shall be calculated using the overhead cost rate calculation available on the Tekes website.

Costs of overhead type shall not be eligible under other cost categories. Such costs include IT, office and facilities costs and the related depreciation as well as annual patent payments.

### **3.5 Travel expenses**

Travel expenses included in the project plan are eligible in accordance with the valid Decision of the National Board of Taxes on the compensation of tax-exempt allowances for travel expenses and the instructions of the National Board of Taxes on the compensation for travel expenses.

### **3.6 Material and supplies costs**

Material and supplies costs based on procurement from an external supplier shall be eligible as specified in the invoice. The company's internal material and supplies costs shall be eligible at cost price.

### **3.7 Machinery and equipment costs**

Where the technical or financial use life of machinery and equipment and computer programs and other licences mainly pertaining to the project is less than three (3) years, the project-related part of the purchase price may be accepted as machinery and equipment costs. Other acquisitions may be accepted as depreciations.

Fixed assets acquired through a part payment agreement concluded in accordance with the Hire Purchase Act or equivalent arrangement may be eligible when the value of instalments paid is equivalent to the Tekes funding share of the fixed asset. In such instances the fixed asset shall be in the possession of the recipient.

### **3.8 Machinery and equipment depreciation/rental costs**

Depreciations of machinery shall be eligible when they are based on planned depreciations in the bookkeeping, provided that no national or European Union subsidies have been received for purchasing the relevant assets.

Depreciation and rental costs of machinery and equipment shall be eligible in so far as they are used for the purposes of the project.

The costs of rental equivalent to the cost of fixed assets that have arisen during the duration of the project shall be eligible up to the value of equivalent purchase costs. Other rental costs, such as administration, financing, insurance, repair and other equivalent costs, shall not be eligible. If the above costs cannot be itemised, a maximum of 50% of the total rental cost to the project over the entire rental period shall be eligible as project costs.

The terms and conditions concerning equipment depreciation and rental costs shall also apply to R&D facilities costs, where acquisition of these is essential to the project.

### **3.9 Purchased services**

Services purchased externally shall be eligible as invoiced and as set out in the project plan.

Project-related auditing, information acquisition, patent application, licence acquisition and training costs can be included under purchased services. Large companies shall not be entitled to claim patent-related costs. A large company is defined as a company that remain outside the scope of the definition of an SME contained in European Commission recommendation 2003/361/EC.

#### **Services purchased from SMEs**

For these purposes, a small and medium-sized enterprise (SME) is defined as a Finnish company with less than 250 employees.

#### **Services purchased from public research organisations**

For these purposes, a research organisation is defined as a Finnish university, university of applied sciences or public research institute.

#### **Purchases from other companies in the same group and associated companies**

##### *General principles*

An associated company is a company that is not part of the group. However, a least 20% of its entire share capital or comparable equity is directly or indirectly owned or controlled by the funding recipient or some other association exists between the recipient and the company. Tekes may at its discretion deem that there is no association regardless of the above conditions being met.

Purchases from group and associated companies shall be eligible without profit. Eligible costs include the costs to the seller resulting from provision of the service and paid by the recipient in accordance with these general terms and conditions. However, a fixed rate based on the seller's staff numbers shall be used to calculate the overhead cost rate. The fixed rates are specified on the Tekes website.

The recipient shall ensure that the seller arranges project accounting and working time monitoring and uses the cost statement template to declare its costs in a manner that complies with the provision laid out in these terms and conditions. The seller's cost statement shall include a declaration from the Accountable Project Leader signed by an authorised signatory. The recipient's final report shall include an auditing statement regarding the seller's costs drawn up by an authorised auditor (APA, CA, CPFA).

##### *Purchases from foreign companies in the same group, foreign associated companies and costs arising in an overseas office*

Tekes may also accept as project costs purchases from foreign companies in the same group and foreign associated companies and costs to the recipient arising in an overseas office. This shall be specified in the special terms and conditions to the funding decision. Eligible costs shall only include direct project costs, with the exception of indirect personnel costs. Exchange rates on the date of payment shall be applied to invoices submitted in a foreign currency.

A statement of project costs from an authorised external auditor appointed by the foreign company shall be provided in conjunction with the final statement. The cost statement and the auditor's statement shall, where required, be written in the Finnish or Swedish language or a Finnish or Swedish translation provided.

**Purchased services from other companies/organisations**

This cost category shall include purchased services from organisations other than those specified above.

**3.10 Ineligible costs**

Ineligible costs are, for example,

- a) entertainment expenses, donations, stipends or grants;
- b) costs related to production, advertising, marketing or sales, such as travel, brochures, advertising expenses, exhibitions or trademarks;
- c) financing costs;
- d) patenting costs for large companies;
- e) the recipient's funding share for a project implemented in a research organisation funded by Tekes;
- f) costs that include other public funding;
- g) any financing, administration, insurance, repair, maintenance or equivalent costs arising from acquisitions financed through a part payment agreement;
- h) costs (administration, financing, insurance, repair or equivalent) related to machinery and equipment rental that have arisen during the duration of the project to the extent that they exceed the equivalent purchase price;
- i) costs not included in the project plan.

**3.11 Consideration of income**

Project income shall not as a rule be taken into consideration as a cost-reducing factor. However, where during the course of the project the recipient receives income from the sale of a prototype produced in the project, demonstration project or the results of experimental production, it shall immediately inform Tekes of such income. If the income is deemed to be significant, it shall be considered a cost-reducing factor. Possible overpayment shall be specified on the basis of the funding already remitted and the amended cost statement, and it shall be returned within six (6) months of the date of sales.

Tekes may also deduct any income that has arisen immediately upon completion of the project from the project costs when it is apparent that the income is generated through the project costs.

Overpayment shall be allocated to different forms of funding in relation to the funding decision.

**4 Other public funding to the project**

The recipient shall in the cost statement declare any other source of public funding to the project, including funding from the government, municipality or other public organisation or foundation. Funding from the European Union shall also be reported.

The total funding intensity received by the project from Tekes and other public funding may not exceed the maximum amount of public funding permitted for the project. If necessary, Tekes shall reduce its own contribution to ensure that the maximum amount is not exceeded.

**5 Project reporting to Tekes**

Payment of the funding is subject to the provision of project reporting by the deadline set out in the schedule in the funding decision.

The recipient shall provide Tekes with a report signed by the Accountable Project Leader confirming project progress and the costs allocated to the project via the Internet or using templates available on the Tekes website (reporting template Y2 and cost statement template Y3, Wage /salary specification template Y4, Accountable Project Leader declaration Y5).

The cost statement shall indicate the costs for the current accounting period and the cumulative costs from the beginning of the project itemised by cost categories. Actual costs are reported at full value. Costs that receive preliminary acceptance on the basis of the interim report shall be processed again in conjunction with final reporting and accounting. No additional costs are to be presented following approval of the final statement.

The recipient shall submit the annual accounts and auditing statement to the National Board of Patents and Registration in Finland as required by law.

**6 Auditor's report**

An auditing report from an authorised external auditor (APA, CA, CPFA) covering the entire duration of the project shall be submitted in conjunction with final reporting using the template provided by Tekes. The report template is available on the Tekes website.

The audit is to focus on, in particular, the project accounting and the implementation and reliability of working time monitoring procedures as well as audit trail continuity. With regard to payment of wages and salaries, verification shall be based on the information reported in the total wages and salaries paid for the reporting period section in the Pay specification template (appendix Y4). The auditing report need not address indirect personnel costs, overheads or the net amount of expenditures.

Tekes shall be entitled to deliver the auditing statement to other authorities for the purposes of supervising funding.

## **7 Payment of funding**

Payments shall be made in accordance with progress made in the project on the basis of acceptable reports and costs statements. Tekes shall deposit the funding into the bank account indicated by the recipient. This notification shall be signed by an authorised signatory for the organisation.

The sum paid shall be a percentage of the eligible costs for the accounting period in accordance with the funding decision.

At least 10% of the grant shall be withheld until acceptance of the final report subject to the condition that the project has accumulated a sufficient amount of eligible costs.

The first instalment of a loan may be paid in advance. The final instalment, amounting to 20% of the loan capital granted, shall only be paid after acceptance of the final report provided that the eligible costs for the project enable such payment to be made. If the final statement indicates that loan amount, including prepayment, exceeds the amount payable on the basis of eligible costs, the recipient shall return the excess funds. Tekes shall be entitled to withhold payment of the full loan amount also in the case of interim reporting if the project costs do not accrue as planned.

The State Treasury shall administer the loan and the related practical payment arrangements. The loan recipient shall comply with the terms and conditions set out in the bond issued by the State Treasury.

The final funding instalment shall be applied from Tekes in conjunction with final reporting and accounting. Funding applied for after this shall not be paid. The loan is to be drawn at the State Treasury a maximum of six (6) months from the date of the payment decision letter issued following the final report and statement.

## **8 Reporting after completion of the project**

Tekes will evaluate the impact of the projects even after their completion. When requested within five (5) years of completion of the project, the recipient shall provide data concerning how all plans and forecasts presented during processing of the application and project implementation have been realised as well as a report on development of the business that was the objective of the project. Tekes shall also be entitled to audit the recipient's annual accounts and auditing statements that are stored with the National Board of Patents and Registration in Finland for a period of five (5) years following completion of the project and commission an analysis of the recipient's annual accounts from another public funding agency.

## **9 Changes to project implementation**

In the event that the project deviates from the plan, the recipient shall apply to Tekes in advance for permission to:

- change the project plan;
- change cost categories;
- change the schedule; additional time shall be requested before the end of the reporting period;
- change a report deadline;
- appoint a new Accountable Project Leader or
- change bank details.

Tekes shall be immediately informed of any other changes in personnel resources or other significant changes that are essential to project implementation.

Changes shall be initiated in writing by sending a change request by e-mail to kirjaamo@tekes.fi or by regular mail to Tekes, Kirjaamo, P.O. Box 69, 00101 Helsinki.

## **10 Project transfer, sale of business, results transfer and corporate reorganisation**

If the recipient wants to transfer the funding decision to a third party, written consent is required from Tekes. Prior to the transfer, the original recipient shall report and declare its share of the project.

The recipient shall inform Tekes in advance in the event that, during the project, within five (5) years of payment of the final funding instalment or before the principal and interest on a loan have been settled in full, it:

1. sells, gives as security or otherwise assigns business or any part thereof generated in the project;
2. sells, gives as security or otherwise assigns intellectual property rights or other rights generated in the project;
3. moves its business activities abroad, or
4. undertakes other significant business changes or reorganisation activities (including merger, division, significant changes in ownership, and significant personnel cutbacks, which are directed at functions funded by Tekes).

When the funding is granted in the form of a grant, the above arrangements require advance consent from Tekes if the arrangement is implemented outside the European Common Market area or if the arrangement may undermine realisation of the desired project impacts. When the funding is granted as a loan, advance consent from Tekes is always required.

If licensing of access rights has been a significant part of the business activity as originally sought in the project, consent from Tekes as set out above is not required.

### **11 Amendments to lending terms**

In the event of significant delays in the commercialisation of the project results, the loan term may be extended, in exceptional conditions, to a maximum of twenty (20) years. The grace period may not exceed ten (10) years. In exceptional circumstances, the principal and interest may also be converted into a capital loan meant in section 12 of the Limited Liability Companies Act (624/2006). In the event that the project does not generate commercially viable business activity, the borrower may in exceptional circumstances be exempted from repayment of the principal and interest.

Changes to lending terms shall remain within the maximum funding intensity for the project as set out in paragraphs 7 and 8 of the Government Decree on Research, Development and Innovation Funding (298/2008). In cases where the funding contribution is less than or equal to the maximum funding intensity, the full principal and interest may be waived.

The loan and interest may be waived for exceptional reasons only if the recipient has neglected its repayment obligations.

A loan cannot be extended, waived or converted into a capital loan solely on the grounds that the desired impacts of the project as declared by the recipient and set out in the funding decision have not been realised.

In the event that the provisions in this section differ from those on non-recovery of loans by Tekes set out in the annual state budget of the year in which the loan was granted, the budget provisions shall take precedence.

### **12 Monitoring by the authorities**

The recipient shall provide Tekes with correct and sufficient information for the purpose of overseeing that the terms and conditions of the funding decision are observed and the project implemented in accordance with the funding decision

Tekes, the European Commission and the European Court of Auditors shall be entitled to audit the finances and operations of a recipient as necessary as required by the payment of funding and supervision of its use.

Tekes may grant another authority or an authorised external auditor (APA, CA, CPFA) the authority to carry out the audits referred to in the paragraph above. Outside experts may assist in audits at Tekes' request.

The right to audit shall remain in force for five years from the completion of the project. All project documentation and other material subject to supervision and audit shall be stored for the same minimum period. The recipient shall make available to the auditor, free of charge, any such information and assistance needed for the purposes of the audit.

The auditor shall be entitled to seize the material subject to audit if auditing so requires. A record shall be made of the seizure of material during an audit. The record shall state the purpose of seizing the material and indicate what has been seized. Seized material shall be returned without delay when no longer needed for the audit.

The auditor shall be entitled to have access, to the extent warranted by the audit, to the business, storage and other such premises used in the practice of a profession or in business and other areas in the possession or use of the recipient, which may have a bearing on the granting of the funding or supervision of its use. Audits may not be carried out in premises covered by domestic peace.

### **13 Interruption of payment**

Tekes may decide to temporarily interrupt payment of funding if:

1. Grounds exist to suspect that the recipient is neglecting its duty to provide information or uses the funding in breach of the funding decision;
2. The grounds on which the funding was granted have essentially changed; Such changes include deviation from the project plan without written authorisation from Tekes, a significant deterioration in the company's financial position in relation to the forecasted development, a complete loss of the company's own capital, tax debts and payment defaults related to Tekes loans;
3. The interruption of payment is required under European Union legislation.

If the grounds for the interruption are not remedied within the time specified in the decision to interrupt funding, Tekes is entitled to discontinue funding and to claw back funding already paid in whole or in part.

### **14 Repayment of funding**

The recipient shall be obliged to repay without delay any funding or part thereof received through error, in excess or manifestly without cause. Amounts of less than EUR 10 shall not be returned.

### **15 Claw-back of funding**

#### **15.1 Statutory claw-back**

Tekes shall issue a decision ordering the discontinuation of the payment of funding and the claw back of funding already paid if the recipient has:

1. Neglected to repay funding or part thereof which under section 14 of these terms and conditions shall be repaid;
2. Used the funding for a purpose essentially different from that for which it was granted;
3. Provided Tekes with false or misleading information in a matter that was critical to the granting of the funding, its amount or terms, or concealed such information;
4. Otherwise essentially violated provisions concerning the use of funding in a manner comparable to paragraphs 1-3.

#### **15.2 Discretionary claw-back**

Tekes may order the discontinuation of funding and the claw back of funding or part thereof already paid:

1. False or misleading information has been provided for the purpose of payment or supervision of funding, information has been concealed or the provision of the required information has been refused;
2. The funding has not been used in compliance with the funding decision;
3. The recipient has refused to assist with the project audit;
4. The recipient has terminated the project for which the funding was granted, reduced or altered it substantially or transferred it to another party;
5. The recipient has been subjected to recovery proceedings, placed into liquidation or bankruptcy, or made subject to reorganisation proceedings;
6. The condition of granting of funding to large companies based on section 9 of the Government Decree on Research, Development and Innovation Funding (298/2008) is significantly amended or the section 8 condition on funding intensity bonuses is not met;
7. The claw-back of funding is required under European Union legislation;
8. The recipient otherwise acts in a manner comparable to the matters in this section.

#### **15.3 Interest**

The recipient shall pay an annual interest in accordance with section 3, paragraph 2 of the Interest Act (633/1982) plus three percentage points on the amount to be repaid or clawed back from the date the funding was paid.

#### 15.4 Penalty interest

If the sum clawed back is not repaid by the due date set by Tekes, an annual penalty interest shall be payable on the sum in accordance with the interest rate referred to in section 4, paragraph 1 of the Interest Act (633/1982).

#### 15.5 Moderation of grant claw-back

Tekes may, in cases of repayment or claw-back of grant, decide that a part of the sum to be repaid or clawed back, and any interest or penalty interest on it, will not be clawed back if repayment in full is unreasonable in light of the financial standing and circumstances of the recipient or in relation to the type of property acquired with the grant or in relation to the procedure on which repayment or claw-back is based or because of a change in circumstances.

For an extremely pressing cause, Tekes may decide not to collect the sum to be repaid or clawed back and the interest or penalty interest on it at all.

#### 15.6 Claw-back time limitation

The funding and interest or penalty interest on it shall not be clawed back if ten (10) years have lapsed since payment of the final instalment of funding for the project.

### 16 Tekes' right of offsetting

A grant and any interest to be repaid or clawed back subject to this funding decision may be collected by deducting it from any other Tekes grant to be paid to the same recipient. The State Treasury shall be entitled to exercise the same right of offsetting in relation to loans granted by Tekes.

### 17 Misuses

If, in connection with the project, there is reason to suspect that the recipient or a person acting on its behalf has committed a criminal offence under the Penal Code (19.12.1889), with Tekes as the injured party, Tekes shall take action on the matter.

### 18 Order of application

In the event of a conflict between the funding decision and these appendices, the following order of application shall be applied: In the event of a conflict between the funding decision and its appendices, the following order of application shall be applied:

- |  |  |
|--|--|
| 1) The funding decision and any special terms and conditions thereof | 4) The project plan                                      |
| 2) These general terms and conditions                                | 5) The funding application and its appendices            |
| 3) The cost estimate   | 6) Any other documents relevant to the funding decision. |

### DISCLAIMER

This English translation of these general terms and conditions is provided for guidance only. Tekes shall not guarantee the accuracy of the translated text. For interpretation purposes the Finnish-language version shall apply.

### APPENDICES

**Appendix Y1** Acceptance notification template

**Appendix Y2** Company funding reporting template

**Appendix Y3** Company funding cost statement template

**Appendix Y4** Wage / salary specification

**Appendix Y5** Accountable Project Leader declaration

The "Special terms and conditions for funding" section of the funding decision specifies if other appended terms and conditions shall apply to this project