

**ORDINANCE OF THE MINISTER OF REGIONAL DEVELOPMENT<sup>1</sup>**

of 2 June 2010

**amending the Ordinance on granting financial aid for the support of creation and development of e-commerce under the Operational Programme Innovative Economy 2007-2013 by the Polish Agency for Enterprise Development<sup>2</sup>**

Pursuant to Article 6b (10) of the Act of 9 November 2000 on the establishment of the Polish Agency of Enterprise Development (Dz.U. of 2007, No 42, item 275, as amended<sup>3</sup>) it is hereby ordained:

Article 1. Ordinance of the Minister of Regional Development of 13 August 2008 on granting financial aid for the support of the creation and development of e-commerce under the Operational Programme Innovative Economy 2007-2013 by the Polish Agency for Enterprise Development (Dz.U. No 153, item 956 and of 2009 No 21, item 115) is hereby amended as follows:

(1) Article 1 (3) (1) shall read as follows:

“(1) granted to entrepreneur meeting the criteria of enterprise in difficulty, within the meaning of 9-11 of Community guidelines on state aid for rescuing and restructuring firms in difficulty (OJ EU C 244, 1.10.2004, p. 2);”;

(2) Article 2:

(a) Paragraph 1 (2) shall read as follows:

“(2) 8.2. Support for implementation of electronic business - B2B, in the scope of expenditure related to information about the financial share of the European Union budget funds in the project implemented, handling of instruments securing the implementation of contract for granting support and for covering the costs related to opening and handling by the beneficiary of a separate bank account or sub-account on the bank account intended to handle the project or advance payments”;

(b) Paragraph 2 shall read as follows:

“2. Support under Measure 8.2. Support for implementation of electronic business - B2B, in the scope of investment, shall be public aid and be granted in accordance with the conditions specified in the provisions of Chapter I, Article 13, Chapter II and Chapter III of the Commission Regulation (EC)

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<sup>1</sup> Pursuant to Article 25 (1) of the Act of 6 December 2006 on the principles of the development policy making (Dz.U. of 2009 No 84, item 712 and No 157, item 1241), the minister competent for regional development shall be the body managing the Operational Programme Innovative Economy, 2007-2013.

The Minister of Regional Development manages the government administration branch – regional development, pursuant to Article 1 (2) of the Ordinance of the President of the Council of Ministers of 16 November 2007 on the detailed scope of activity of the Minister of Regional Development (Dz.U. No 216, item 1600).

<sup>2</sup> The text of the Operational Programme Innovative Economy, 2007-2013 has been approved by the European Commission Decision No K (2007) 4562 of 1 October 2007 concerning the Operational Programme Innovative Economy within the Community aid of European Regional Development Fund under the ‘convergence’ objective in Poland and subsequently adopted by way of an Act of the Council of Ministers of 30 October 2007 concerning Operational Programme Innovative Economy 2007-2013.

<sup>3</sup> Amendments to the consolidated text of the above mentioned Act have been published in Dz.U. of 2008 No 116, item 730 and 732 and No 227, item 1505 and of 2010 No 96, item 620.

No 800//2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) (OJ EU L 214, 09.08.2008, p. 3), hereinafter referred to as the “block exemption Regulation”.”;

(3) Article 3 (1) (14) shall read as follows:

“(14) expenditure eligible for support – should be understood as:

(a) expenditure determined in the Regulation, actually incurred and documented, directly related to the project and necessary for its implementation, decreased by the calculated goods and services tax, except if the separate provisions provide that entities referred to in Article 4 (2) and Article 9 (2) shall have no right to its recovery or deduction from due goods and services tax,

(b) general expenditure settled as lump sum referred to in Article 6 (2) (4) (b).”;

(4) Article 4:

(a) Paragraph 1 shall read as follows:

“1. The Agency may provide support for business activity in the area of e-economy for the implementation of Project consisting in providing at least one e-service, and at the same time the project may cover the production of digital products necessary to provide e-service.”,

(b) Paragraph 2:

- Subparagraph 2 shall read as follows:

“(2) submitted application for granting support no earlier than on the day of entry of the entrepreneur in the National Court Register or the records of business entities and no later than in a year calculating from the day of making the entry”;

- Subparagraphs 5 and 6 shall be added:

“(5) next to the application for granting support, submitted declaration that from the day of submission of application for granting support to 3 years after the day of project completion is not or will not be controlled by the entrepreneur active on the appropriate market, within the meaning of the provisions of the Act of 16 February 2007 on competition and consumer protection (Dz.U. No 50, item 331, as amended<sup>4</sup>);

(6) submitted no more than one application for granting support as part of a given invitation to tender.”;

(5) Article 5 (2) (2) and (3) shall read as follows:

“(2) for projects aimed at the provision of services of electronic mail, hosting services and services related to the registration and maintenance of Internet domains;

(3) for projects consisting in trade in products.”;

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<sup>4</sup> Amendments to the above mentioned Act have been published in Dz.U. of 2007 No 99, item 660 and No 171, item 1206, of 2008 No 157, item 976, No 223, item 1458 and No 227, item 1505 and of 2009 No 18, item 97 and No 157, item 1241.

(6) Article 6 (2):

(a) Subparagraphs (3) and (4) shall read as follows:

“(3) purchase of preparatory analyses, translation services and other expert services;

(4) reimbursement of general costs covering the purchase of transport, telecommunications, utility and postal services, purchase of accounting, legal services, office and maintenance materials, rental and use of rooms, on the condition that their rates meet those widely applied on the market, to the amount of:

(a) 20% of total expenditure eligible for support referred to in 1-3, 7-12, in the case of settlement of general expenditure actually incurred and documented by the paid invoice or other accounting document of equivalent evidence value, or

(b) 15% of total expenditure eligible for support referred to in 1-3, 7-12, in the case of settlement of general expenditure as lump sum;”,

(b) Subparagraph (11) shall read as follows:

“(11) instalments of repayment of the initial value of fixed assets and tangible and intangible assets, incurred by the user to the day of project completion, to the amount of their initial value of the day of conclusion of the leasing contract resulting in the transfer of ownership, excluding lease back or repayment of the initial value of fixed assets and tangible and intangible assets, due on account of the leasing contract resulting in the transfer of ownership, excluding lease back;”,

(c) Subparagraph 11b shall be added after Subparagraph 11a:

“(11b) covering of costs related to the opening and handling by the beneficiary of a separate bank account or sub-account on the bank account intended to handle the project or advance payments;”,

(d) Subparagraph 12 shall read as follows:

“(12) purchase of trainings directly related to the launching and service of e-service for persons involved in the implementation of project covered by support, to the amount not exceeding 10% of the total expenditure eligible for support, referred to in 1-11b.”;

(7) Article 8 shall read as follows:

“Article 8.1. Amount of support referred to in Article 4 (1) may be up to 70% of expenditure eligible for support.

2. In the case of a micro-entrepreneur of a small entrepreneur being a natural person, aged no more than 27 years in the year of submission of application for support, the amount of support referred to in Article 4 (1) may be up to 80% of expenditure eligible for support. The entrepreneur’s age criterion should be met by any partner of general partnership.

3. The amount of expenditure eligible for support, referred to in Article 4 (1) cannot be smaller than PLN 20,000 and cannot exceed PLN 700,000.

4. Micro-entrepreneur or small entrepreneur receiving support referred to in Article 4 (1) shall ensure project financing in part not covered by support.”;

(8) Article 10 (2) shall read as follows:

“2. Article 5 (1), (2) (1) and Paragraph 3 shall apply to support referred to in Article 9 (1), in part relating to expenditure related to information about the financial share of the European Union budget funds in the project implemented, handling of instruments securing the implementation of contract for granting support and for covering the costs related to opening and handling by the beneficiary of a separate bank account or sub-account on the bank account intended to handle the project or advance payments.”;

(9) Article 11:

(b) Paragraph 2:

- Subparagraph 4 shall read as follows:

“(4) instalments of repayment of the initial value of fixed assets and tangible and intangible assets, incurred by the user to the day of project completion, to the amount of their initial value of the day of conclusion of the leasing contract resulting in the transfer of ownership, excluding lease back or repayment of the initial value of fixed assets and tangible and intangible assets, due on account of the leasing contract resulting in the transfer of ownership, excluding lease back;”;

- Subparagraph 7 shall be repealed,

- Subparagraphs 7a and 7b shall be added after Subparagraph 7:

“(7a) handling of instruments securing the implementation of contract for support, specified in the contract for support;

“(7b) covering of costs related to the opening and handling by the beneficiary of a separate bank account or sub-account on the bank account intended to handle the project or advance payments;”;

- introduction to enumeration in Subparagraph 8 shall read as follows:

“purchase of specialist trainings necessary to implement the e-business solution – B2B for persons involved in the implementation of project covered by support, to the amount not exceeding 10% of the total expenditure eligible for support, referred to in Subparagraphs 1-7b, including expenditure on:”;

(b) Paragraph 5 (c) shall read as follows: “9c) Subparagraphs 6, 7a and 7b shall be financed in accordance with the conditions specified in the provisions of the Commission Regulation referred to in Article 2 (1),”;

(10) Article 12 shall read as follows:

“Article 12. Support referred to in Article 9 (1), in part relating to expenditure related to information about the financial share of the European Union budget funds in the project implemented, handling of instruments securing the implementation of contract for granting support and for covering the costs related to opening and handling by the beneficiary of a separate bank account or sub-account on the bank account intended to handle the project or advance payments, shall be granted to the amount of 85% of expenditure eligible for support incurred in this regard.”;

(11) Article 17 (4) shall read as follows:

“4. The Agency shall grant support pursuant to the assessment made in accordance with the valid criteria of project selection.”.

Article 2. The current provisions shall apply to contracts for support concluded before the day of entry into force of this Ordinance and to contracts for support concluded pursuant to applications submitted before the day of entry into force of this Ordinance.

Article 3. The Ordinance shall enter into force on the day of its publication.

Minister of Regional Development: *E. Bieńkowska*