



European Union
European Social Fund
Investing in jobs and skills

2007-2013 Action Note

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State Aids in ESF – Reminder

Who

Managing Authority, ESF Co-financing Organisations (CFO) ESF non-Co-financing Organisations (non-CFO), Innovation and Transnationality Mainstreaming projects, ITM Unit, European Secretariat Government of Gibraltar, London Intermediate Body, Audit Authority, and DG Emploi.

What

This action note reminds the appropriate providers and partners of their obligations when using the de minimis rule to ensure compliance with State Aid rules in ESF.

Cleared

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Head of the Managing Authority

Background

1. State Aid issues in ESF are dealt with using the de minimis rule. This rule is described in the de minimis regulation covering the 2007-2013 programme and it enables an enterprise to receive up to €200,000 euros in aid (any public resources including ESF) over three fiscal years without such aid being regarded as State Aid. Providing such aid is given within the de minimis rules there is no requirement to notify it to the Commission.
2. To ensure that the requirements of the de minimis regulation are met, scheme administrators must ensure that any award of ESF and other public match funding to an enterprise given under the terms of the de minimis regulation does not breach the €200,000 ceiling over three fiscal years. The Managing Authority requires the aided enterprise to keep detailed records of any de minimus aid received for 10 years. Checks are made at initial Article 13 meetings that CFO's are aware of these rules.
3. For most of the 2007-2013 ESF programme the ESF and public match funding provided to providers in Priorities 2 and 4 (Priorities 1 and 3 are not in scope for State Aid rules) does not constitute state aid. Where ESF activity is supporting individuals to improve their employability and help them move closer to the labour market the aid is being provided to the individual and there are no direct benefits for enterprises. However for those elements of the programme in Priority 2 and 4 which provide support to individuals in employment there may be state aid implications because their employers are receiving support towards the costs of training. Where ESF supports individuals in employment to achieve full or part qualifications this may constitute an aid.

Action

4. Organisations using the de minimis rules are reminded by this Action Note that they must put in place a monitoring system to ensure the limit is not breached. Typically, such a monitoring system will involve:
 - asking enterprises receiving support under their scheme to identify all other sources of support (either in cash or in kind) that they have received in the last three years;
 - checking if previous de minimis aid is involved, to ensure that the combined assistance does not exceed €200,000 over any three-year rolling period. If the limit is breached, the aid may have to be reduced or refused to ensure the limit is not breached.
5. ESF providers should write to each recipient in the following terms:

"The assistance for [...] constitutes State Aid as defined under Articles 87 and 88 of the Treaty of Rome and is being granted as 'de minimis' aid under Commission Regulation EC/1998/2006. European Commission rules prohibit any undertaking from receiving more than €200,000 euros (approximately £170,000) 'de minimis' aid over a rolling three-year period. Any 'de minimis' aid granted over the €200,000 limit may be subject to repayment with interest. If you have received any 'de minimis' aid over the last three years (from any source) you should inform us immediately with details of the dates and amounts of aid received. Furthermore, information on this aid must be supplied to any other public authority or agency asking for information on 'de minimis' aid for the next three years."
6. This action note is a reminder to those organisations who are supporting enterprises through ESF that they should be using this process. Full details are at paragraph 2.22 onwards of Manual 2 of the ESF Guidance to be found at dwp.gov.uk/esf.

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