

**EU state aid law:** The Deutsche Bundesstiftung Umwelt's funding activities are subject to EU state aid regulations. The funding guidelines have therefore been notified to the EU Commission. In practice, the categorisation of funding as state aid means that the admissibility of funding projects must first be measured against European state aid law.

In the case of research and development (R&D) projects, the assessment from an EU law perspective must be measured against the Union framework for state aid for research, development and innovation. Depending on the type of project, the EU framework allows for

- up to 100 % for basic research,
- up to 50 % for industrial research,
- up to 25 % for experimental development

be granted. In terms of funding intensity, a lower funding rate is envisaged as market relevance increases. Pure basic research projects are generally not funded by the German Federal Environmental Foundation.

Depending on the project constellation, certain surcharges are permitted for the above funding intensities if the SME criteria are met or if the project is carried out in a regional funding area. If projects belong to different R & D levels, a mixed quota can be formed. For universities and certain research institutions, funding can be granted on an expenditure basis.

In the area of support under the Guidelines on State aid for climate protection, environmental protection and energy, the additional costs to reduce or eliminate pollution and pollutants or to adapt production processes and products accordingly are eligible for support.

For the DBU, projects where the state of the art or binding environmental standards are exceeded are relevant in this area for reasons of public utility law. The funding rate is limited to different levels depending on the aid group, with additional funding available for SMEs.

Provided that a subsidy amount of **€300,000** is not exceeded within three years in relation to a single company, the Commission does not see any noticeable effect on trade and competition in the member states and allows the so-called "**De minimis**" aid under more detailed conditions. The de minimis rule applies regardless of the size of the beneficiary company.

The definition of micro, small and medium-sized enterprises (**SMEs**) set out in the Commission Recommendation on the definition of micro, small and **medium-sized enterprises** has an impact on the assessment of the level of support. According to the aforementioned regulation, a SME exists, if cumulatively:

- less than 250 people are employed,
- annual turnover of no more than € 50 million or annual balance sheet total of € 43 million is not exceeded,
- the independence of the company is given, i.e. companies that do not belong to 25 % or more of the capital or voting shares are jointly owned by one or more companies and no other affiliated or partner companies that do not fulfil the definition of SMEs are to be taken into account.

The question of a project's relevance to state aid is examined and clarified by the German Federal Environmental Foundation as part of the project processing. If applicants are confronted with EU legal issues, the German Federal Environmental Foundation offers its assistance.