

The procedure for state incentives for industrial parks in Ukraine

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1. The new procedure

Resolution of the Cabinet of Ministers of Ukraine No. 644 dated 4 June 2024 approved a new Procedure for the provision of funds for the development of industrial parks and/or the construction of engineering and transport infrastructure facilities necessary for the creation and operation of industrial parks, as well as compensation for the costs of connection to engineering and transport networks (hereinafter referred to as the "Procedure").

The Procedure defines the mechanism of state incentives for industrial parks in Ukraine, in particular:

- provision of funds on a non-refundable basis - for the development of industrial parks and/or ensuring the construction of engineering and transport infrastructure facilities (roads, communication lines, heat, gas, water and electricity supply, engineering communications, etc.) necessary for the creation and operation of industrial parks;
- compensation of expenses for connection and linkage to engineering and transport networks, in particular in the de-occupied territories, at the expense of the state budget.

2. Amounts of state incentives

State incentives may be provided to a single applicant for each type of state incentive (for one industrial park):

- in the amount not exceeding UAH 150 million (approx. USD 3,707,900);
- in the amount of 50% of the estimated cost of the development project and/or the cost of connection to engineering and transport networks (including VAT), in the de-occupied territory – in the amount of 80% (including VAT).

3. Applicant criteria

To be eligible for state incentives, applicants must meet the following criteria as of the date of application:

- 1) the industrial park is included in the Register of Industrial Parks;
- 2) an agreement on the creation and operation of the industrial park is available;
- 3) reports on the functioning of the industrial park for the last 2 reporting periods have been submitted to the authorised state body (newly created industrial parks enjoy some relief);
- 4) no legal restrictions on the initiator, management company, participants and other entities of the industrial park;
- 5) no pending bankruptcy (insolvency) proceedings and/or no termination/liquidation;
- 6) no seizure of assets of the applicant and/or its founder and/or ultimate beneficial owner;
- 7) no facts of confiscation of assets (of the applicant and/or its founder and/or ultimate beneficial owner by a court decision that has entered into force);
- 8) no entries about the applicant and/or its founder and/or ultimate beneficial owner in the Unified State Register of Persons Who Committed Corruption or Corruption-Related Offences;
- 9) no arrears in payments by the applicant, the control over the collection of which is entrusted to the controlling authorities, as of the 1st day of the month in which the application is submitted.

The ultimate beneficial owner of the applicant shall be verified by an authorised bank in accordance with the requirements of the Law of Ukraine "On Prevention and Counteraction to Legalisation (Laundering) of the Proceeds of Crime, Terrorist Financing and Financing of the Proliferation of Weapons of Mass Destruction".

4. Submission of documents for state incentives

No later than 15 August of the year in which the state incentive is to be received, the applicant shall submit to the authorised bank in paper or electronic form the following:

1) an application for receiving funds on a non-refundable basis, which shall be accompanied by, inter alia:

- a copy of the agreement on the creation and operation of the industrial park;
- a copy of the document confirming the client's approval of the project documentation for the construction of the engineering and transport infrastructure facility and a copy of the report on the results of the examination of the project documentation for the construction of the facility, including its cost estimate;
- information on the existing engineering and transport infrastructure facilities of the industrial park and other facilities ensuring its operation;
- a letter from the applicant confirming the applicant's financial capacity to co-finance the development project in the amount of at least 50%, or at least 20% for de-occupied territories;
- supporting documents confirming the applicant's financial capacity to co-finance the development project in the amount declared by the applicant;
- the ownership structure of the applicant, which is a legal entity (with some exceptions).

2) an application for the compensation of expenses, which shall be accompanied, inter alia, by:

- copies of technical specifications and design and cost estimate documentation (if its drafting is required by law) for construction;
- a copy of the agreement on connection to engineering and transport networks;
- a copy of the document confirming the completion of works and receipt by the applicant of the service of connection to the engineering and transport networks in full.

An application for the compensation of expenses shall be submitted by the applicant not later than 9 months from the date of connection to the engineering and transport networks.

5. Verification by an authorised bank

An authorised bank shall verify, with the help of software and information sources used by it in its activities, the list of which is specified in the interaction agreement, the following:

- the applicant's compliance with the criteria;
- the completeness (availability) of the submitted documents;
- the applicant's business reputation.

Based on the results of the verification, a report is drawn up in 2 copies and signed by the bank's authorised representative.

The application with attachments and the report on the verification results shall be submitted to the Ministry of Economy (hereinafter referred to as "MinEconomy") within 10 working days from the date of receipt of the application with attachments by an authorised bank in accordance with the procedure stipulated by the interaction agreement.

6. Consideration of documents and decisions of MinEconomy of Ukraine

MinEconomy shall review submitted documents within 15 calendar days from the date of their receipt from an authorised bank.

MinEconomy may request additional information from the applicant or state and local authorities within 5 working days from the date of receipt of the documents. The information shall be provided within 3 working days.

Based on the results of the documents review within the approved budget allocations for the relevant budget period, taking into account the relevant actual revenues, MinEconomy makes one of the following decisions:

- to provide (partially provide) funds on a non-refundable basis;
- to provide (partially provide) a compensation of expenses;
- to refuse to provide state incentives.

The total period for documents consideration by MinEconomy may not exceed 30 calendar days.

7. Partial provision of funds or compensation

If the amount of funds required to provide state incentives is not available, MinEconomy may decide to provide partial funding on a non-refundable basis and/or compensation for expenses, subject to the applicant's consent.

In case of partial provision of the state incentives, the applicant has the right to reapply for funds in the following budget periods in the amount equal to the difference between the determined and actually provided amount of the state incentives.

8. Denial of state incentives

MinEconomy of Ukraine shall decide to deny state incentives in the following cases:

- absence of budgetary allocations approved for the relevant budget period under the budget programme "State Incentives for the Creation of Industrial Parks";
- the applicant's failure to meet the criteria stipulated by law;
- inaccurate information in the submitted documents;
- if the applicant has not eliminated the identified faults within the time limit set by the MinEconomy;
- establishing the fact that the applicant has previously received state incentives in full for the same industrial park.

This decision does not restrict the applicant from applying for funds in the following period.

9. Concluding agreements in case of a decision to provide funds

Within 35 calendar days (the period may be extended up to 45 days) from the date of MinEconomy's decision to provide/partially provide funds on a non-refundable basis, the applicant shall conclude (if not done earlier):

- a contractor agreement for the implementation of the development project,

and

- an agreement for the provision of engineering and consulting services.

Not later than 5 working days before the expiry of the term, the applicant shall apply to an authorised bank to open an escrow account. The authorised bank shall open an escrow account within 5 working days from the date of the application by concluding an escrow account agreement.

10. Joining a state incentive agreement

Within 10 working days from the date of the decision to provide/partially provide the compensation of expenses or within 10 working days from the date of opening the escrow account, the applicant shall submit to MinEconomy of Ukraine an application for accession to a state incentive agreement in writing or electronically and undertake to:

- implement the development project no later than 2 years after the conclusion of the state incentive agreement (in case of receiving funds on a non-refundable basis);
- commission buildings and/or structures for production purposes with a total area of at least 5,000 square metres and to attract two participants of the industrial park within 3 years from the date of conclusion of the state incentive agreement (in case of receiving non-refundable funds and/or compensation for expenses).

The state incentive agreement shall be deemed concluded from the moment the applicant submits an application for accession to the agreement to MinEconomy (in some cases, from the moment the decision of MinEconomy is amended).

11. Payment for works performed

Payment for the performed works under the development project (execution of the contractor agreement) is made in the respective shares:

- 50% at the applicant's expense and 50% on a non-refundable basis, or
- 20% at the applicant's expense and 80% on a non-refundable basis in case the industrial park is located in de-occupied territories.

If the contractor agreement stipulates the applicant's obligation to make an advance payment, the advance payment shall be made at the applicant's expense. The applicant's share shall be proportionally reduced by the amount of the advance payment.

The authorised bank shall transfer funds for the work performed from the escrow account on the basis of:

- certificates of works performed, signed by the consulting engineer, copies of the applicant's financial documents on payment of its part of the cost of works and/or services performed as part of the development project, including, inter alia, the applicant's advance payment for the works performed in accordance with the concluded contractor agreements, or
- payment of the applicant's share to an escrow account.

12. Refusal to further implement a development project

In case of refusal to further implement a development project, the applicant is obliged to notify Mineconomy and the authorised bank in writing within 10 days from the date of the relevant decision.

In this case, MinEconomy shall, within 3 working days:

- notify the authorised bank of the termination of financing under the escrow account;
- inform the applicant in writing about the obligation to return in full the paid budget funds for the work performed within one month.

13. Fulfilment of obligations by the applicant

The applicant shall fulfil all obligations under the state incentive agreement in full.

The fulfilment of the obligations to commission the completed production facilities and/or structures shall be confirmed by a certificate of commissioning. The applicant shall send a copy of the certificate to MinEconomy within one month from the date of signing.

In case of failure to fulfil the obligations in full, the applicant is obliged to return the received budget funds to the account of the Ministry of Economy of Ukraine within one month.