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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 1996/79
of 11 September 1979
on a Community support mechanism in the field of data processing

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Aricle 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas, by Decision 79/783/EEC (3), the Council adopted a multiannual programme (1979 to 1983) in the field of data processing;

Whereas, in its resolution of 15 July 1974 on a Community policy on data processing (4), the Council considered it desirable to provide for Community financing in appropriate fields of joint European interest;

Whereas industrial innovation in the field of data processing involves high technical and financial risks which can exceed the capacity of undertakings;

Whereas, since cooperation between undertakings and users from different Member States is a factor in more efficient development and an essential adjunct to national efforts, it is important that Community support for projects carried out by undertakings in cooperation with one another and involving several Member States be granted;

Whereas Community support should take the form of repayable aid where the results of the projects in question can be exploited;

Whereas the granting of such aid is necessary if certain Community aims in the operation of the common market are to be achieved; whereas the Treaty establishing the European Economic Community has not however provided the necessary powers,

HAS ADOPTED THIS REGULATION:

Article 1

Under the multiannual programme (1979 to 1983) in the field of data processing, adopted by the Council in its Decision 79/783/EEC, and to satisfy certain of its objectives, the Community may conclude contracts for Community support with undertakings or users in the Community and, where appropriate, in non-member States (hereinafter referred to as 'beneficiaries of the contract').

Article 2

The contracts may cover feasibility studies, predevelopment studies, development projects and pilot projects in accordance with the aims and criteria of the multiannual programme (1979 to 1983). In the framework of these criteria, the Commission shall, after obtaining the opinion of the Advisory Committee for the Management and Coordination of Data-Processing Programmes, set up by Decision 79/784/EEC (5) (hereinafter referred to as 'the Committee'), periodically lay down more detailed guidelines for the award of support, taking into account developments in the field of data processing.

Article 3

The contracts may be awarded for projects of Community interest which are likely to foster both the development, in the Community, of a stronger and more competitive European data-processing industry and a more efficient application of data processing and which stem from:

(a) users in at least two Member States;

(1) OJ No C 241, 10. 10. 1977, p. 41.
(2) Opinion delivered on 27 October 1977 (not yet published in the Official Journal).
(3) See page 23 of this Official Journal.
(4) OJ No C 86, 20. 7. 1974, p. 1.
(5) See page 29 of this Official Journal.

(b) users and undertakings in at least two Member States ;

(c) undertakings, in particular associations comprising at least who undertakings established in different Member States.

Article 4

The Commission may propose projects of Community interest.

Article 5

Community financial aid shall be suited to the nature of the project :

(a) feasibility studies with a ceiling of 100 000 European units of account, pilot projects and predevelopment studies in which commercial interest is not the dominant factor and development projects of public interest launched on the Commission's initiative shall receive up to 100 % of the total cost of financing the project ;

(b) predevelopment studies, development projects and pilot projects stemming from undertakings or users may not receive more than 50 % of the total cost of financing the project.

Article 6

Applications shall be addressed to the Commission by the undertakings or users concerned. They shall show evidence that they are justified under the terms of Articles 2 and 3 and shall provide any other relevant information.

In the case of predevelopment studies or development projects or pilot projects, the applications shall be accompanied by information which might have a bearing on the potential market for the product, the programme or timetable for completion of the project, a detailed cost estimate and a financing plan which includes in particular any national aid obtained or requested.

The Commission may request any documents and additional information required for constituting the dossier.

Article 7

The Commission shall, seeking the opinion of independent experts on technical and scientific aspects, ensure that the dossier is constituted under conditions suited to guaranteeing industrial secrecy.

Article 8

If, following constitution of the dossier, the Commission proposes taking favourable action on it, the Commission shall submit to the Committee a draft Decision, accompanied by a report.

The Committee shall give its opinion on the draft Decision within two months. Its decisions shall be taken by a majority of 41 votes. Within the Committee the votes of the Member States shall be weighted in accordance with Article 148 (2) of the Treaty. The Chairman shall not vote.

The Commission shall adopt the draft where it is in accordance with the opinion of the Committee. Where the draft Decision is not in accordance with that opinion or where no such opinion is issued, the Commission shall without delay make a proposal to the Council, in the form of a draft Decision. The Council shall act by a qualified majority.

Article 9

In the case of development projects or predevelopment studies culminating in a commercial product, contracts shall be concluded in the forms of loans with or without interest. The duration and terms of such loans shall be fixed on the basis of the particular features of the project.

Article 10

At the request of the beneficiaries of the contract, the Commission may agree to postpone the due dates if commercial exploitation is delayed. Similarly, during repayment, the Commission may defer or cancel the payments outstanding if the results obtained differ substantially from those envisaged when the contract was concluded. Where there is delay in repayment in cases of commercial success, interest shall be charged for late repayment.

Article 11

If the work does not result in commercial exploitation within a five-year period and if the Commission is satisfied with the reasons submitted by the beneficiaries of the contract, the latter shall be released from their obligation to repay the loan.

If, however, the beneficiaries resume work in the same field within seven years of completing the projects, their repayment obligation shall once more obtain and the terms shall be negotiated with the Commission.

Article 12

In the case of feasibility studies, contracts shall be concluded in the form of non-repayable aid.

The same may apply in the other cases referred to in Article 5, where the initiative for launching the project is vested in the Commission.

Article 13

The Commission shall see to the implementation of each contract.

The beneficiaries of the contract shall appoint a correspondent responsible for coordinating implementation of the contract administratively and for maintaining contract with the Commission. Where the main beneficiaries of the contract are users, contracts shall lay down the procedure by which the Commission may inform itself of the progress of the work entrusted to subcontractors by the beneficiaries of the contract.

If, during implementation of the contract, the objectives and implementation procedure require to be altered, the Commission shall obtain the opinion of the Committee and invoke the procedure laid down in Article 8.

The beneficiaries of the contract shall forthwith communicate to the Commission in writing any important fact concerning the execution of the contract. They shall periodically submit a report on the progress of the project. They shall comply with any request for information or inspection at the premises at which the contract is being executed, in accordance with the procedure laid down in the contract.

Article 14

Contracts may be terminated by the Commission in the event of non-completion of all or part of the contract by one of the beneficiaries of the contract or if one of the beneficiaries of the contract has, either deliberately or through negligence, provided incorrect information when submitting the application for the contract or if the provisions of the contract concerning use of the loan, the progress of the work, the submission of reports and inspection have not been honoured by one of the beneficiaries of the contract. In such event, the balance of the sums to be repaid shall become immediately payable, without prejudice to any claim for damages and interest which might be entered.

If one of the beneficiaries of the contract has deliberately provided incorrect information when submitting the application for the contract or during the period of its execution and has, as a result, received a sum exceeding the amount required for completion of the work, the Commission may also, without necessarily exercising its right to terminate the contract, demand repayment of the sums wrongly collected, plus interest at current financial market rates.

Article 15

The advantages conferred by the Community shall not alter the conditions of competition in a manner incompatible with the pertinent provisions of the Treaty.

Article 16

Property rights shall be vested in the beneficiaries of the contract.

The latter shall utilize the results of the contract to a significant extent within the Community and under conditions consistent with the general interest. In this case and if, one year after the completion of the contract, the results of the contract have not been utilized, the Commission may require the beneficiaries of the contract to grant licences on commercial terms to persons or organizations of the Community who apply for them.

If Community funding takes the form of non-repayable grants and exceeds 80 % of the total cost, the contracts shall provide for an obligation on the beneficiaries of the contract to make available to the competent persons and undertakings concerned in the Community the knowledge, whether or not patented, which is necessary for the introduction of products or processes that are the subject of the contracts. The making available of such knowledge shall be subject to conditions laid down in the contracts, which shall take into account the financial and technical contribution made by the beneficiaries of the contract.

Article 17

The appropriations required to finance contracts shall be entered annually in the budget of the European Communities.

Repayments shall be entered as revenue in the budget of the European Communities in accordance with their expected rate of receipt.

Article 18

In accordance with the Financial Regulation, the Commission shall draw the budgetary consequences of decisions which it takes under this Regulation.

Article 19

The Commission shall submit an annual report to the Council on the implementation of this Regulation.

Article 20

The contracts shall provide that the Court of Justice of the European Communities has jurisdiction in all disputes arising between the contracting parties out of the aforesaid contracts.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 11 September 1979.

For the Council

The President

R. Mc SHARRY