

ORDER ESTABLISHING THE FUNDING RULES FOR AWARDING SUBSIDIES AS PART OF THE “INNOVA INVEST PROGRAMME” AT ICEX ESPAÑA EXPORTACIÓN E INVERSIONES, E.P.E. AND LAUNCH OF THE FIRST CALL FOR PROPOSALS, WITHIN THE FRAMEWORK OF THE EUROPEAN REGIONAL DEVELOPMENT FUNDS (ERDF).

I

ICEX Spain Trade and Investments, E.P.E. (hereinafter, ICEX) is a public body whose purposes include attracting foreign investments to Spain. This state jurisdiction forms part of the general planning of economic activity, and governing trade.

As regards research subsidies, in Ruling 175/2003, page 8, the Constitutional Court indicated that “starting with subsidies for the ‘promotion and general coordination of scientific and technical research’, this matter is reserved for the State, pursuant to the provisions of Article 149(1) (15) of the Spanish Constitution.

This authority includes the regulatory and executive actions required for the full performance of promotional activities (included in rulings SSTC 90/1992, page 2, and 190/2002, page 8, in addition to others), ensuring full compliance with the constitutional system for allocating authorities by which “the State regulates, under the aforementioned Article 149(1)(15) of the Spanish Constitution, the conditions for granting subsidies in a properly organised manner in order to promote research and development of technical innovations [...] (including the procedural rules), and it assumes the administrative management of these subsidies’ (STC 190/2000, page 12)”.

ICEX does in this regard seek to establish, as part of the INNOVA INVEST Programme, pursuant to Article 3 of its Articles of Association, approved by Royal Decree 1636/2011 of 14 November, and approving the Articles of Association of the public body ICEX España Exportación e Inversiones, the conditions for granting subsidies aimed at promoting foreign investment, with the purpose of attracting innovative, technological companies with a marked RD&I component to Spain. Pursuant to the provisions of Article 149(1)(15) of the Spanish Constitution, providing the State with authority for the “promotion and general coordination of scientific and technical research”, the order is sufficiently protected under the Constitution for it to be approved.

The European Union participates in the financing of this aid through the Spanish ERDF Multi-Regional Programme for the period 2021-2027 (hereinafter referred to as PPE 2021-2027). This programme is mainly co-financed by Public Administration. Its territorial scope covers the whole of Spain. The INNOVA INVEST Programme, whose funding rules are approved by this Order, is included in Priority P1A. Digital and Smart Transition, and in Specific Objective 1.1: “Developing and enhancing research and innovation capacities and integrating advanced technologies” under the 2021-2027 PPE. The actions to be carried out in this are part of the National Plan for Scientific and Technical Research and Innovation (2024-2027).

III

This Order is structured into 3 Chapters, consisting of 44 articles, and which, pursuant to Article 61 of Royal Decree-Law 36/2020 of 30 December, approving urgent measures for modernising Public Administration and for implementing the Recovery, Transformation and Resilience Plan, contain the funding rules, such as the non-regulatory call for subsidies. Finally, three final provisions are included, relating to competence, the non-regulatory status of the call and its entry into force.

As a result of the mandate established by Additional Provision 26 of Law 38/2003 of 17 November, on General Subsidies, this subsidy programme is regulated in its entirety by the aforementioned Law.

Article 17 of Law 38/2003 of 17 November establishes that, within the scope of Public Administration, as well as public bodies and other public entities with their own legal status linked to or dependent on it, the corresponding ministers shall establish the appropriate funding rules for awarding subsidies by ministerial order. Taking into account that ICEX is attached to the Ministry of Economy, Trade and Enterprise through the Secretary of State for Trade, the person in charge of the Ministry shall have the power to establish these rules. The procedure for awarding subsidies shall be competitive tendering.

These subsidies are considered as State aid and are awarded pursuant to Commission Regulation (EU) No. 651/2014 of 17 June 2014, declaring certain categories of aid compatible with the internal market and in application of Articles 107 and 108 of the Treaty Text. They are in particular intended for industrial research and experimental development projects, in accordance with Article 25 of the above-mentioned Regulation, and subject to the maximum aid intensities in Article 25(5) and (6), the eligible costs in Article 25(3), the thresholds in Article 4(1)(i) and the annual budget ceiling set out in Article 1. The maximum annual budget for these grants, taking into account all the calls made in a year, may not exceed EUR 150 million.

In relation to compliance with the “do no significant harm” principle in respect of the six environmental objectives within the meaning of Article 17 of Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on establishing a

framework to facilitate sustainable investments and amending Regulation (EU) 2019/2088 (Taxonomy Regulation), it should be noted that, during the programming phase of the Spanish ERDF Multi-Regional Programme 2021-2027 it was determined that aid to attract investment in R&D by foreign companies in Spain, by supporting projects with a high innovative component, is compatible with the DNSH principle, given that it is not expected to have significant environmental impact due to its nature.

This Order complies with the principles of proper regulation, necessity, effectiveness, proportionality, legal certainty, transparency and efficiency set out under Article 129 of Law 39/2015 of 1 October, on the Common Administrative Procedure for Public Administration.

The principles of necessity and efficiency are thereby satisfied, as the regulatory initiative is justified within the framework of promoting investment by companies with foreign participation and a marked innovation component, contributing to improving the competitiveness and productivity of the Spanish economy. Pursuant to the principle of proportionality, the rule is also limited to the regulations considered essential for establishing the funding rules.

Pursuant to the principle of legal certainty, this Order is consistent with the entirety of legal rules and principles within its scope. Consideration has in addition been given to the principle of transparency, defining the purpose and scope as well as involving the competent authorities in its processing.

Finally, by applying the principle of efficiency, and by establishing objective and clear criteria for the complete management cycle as regards the processing of subsidies, this Order pursues the correct use of public resources.

This subsidy is not included in the Strategic Subsidy Plan of the Ministry of Economy, Trade and Enterprise 2024-2026. However, it is considered necessary to establish this subsidy to support the attraction of investments with a high innovative content in Spain by companies with a majority of foreign capital.

Finally, consideration must be given to the fact that Article 61 of Royal Decree-Law 36/2020 of 30 December, approving urgent measures for modernising Public Administration and for implementing the Recovery, Transformation and Resilience Plan, addresses the processing of the funding rules and the call for subsidies that can be financed jointly using European funds. While the INNOVA INVEST Programme is funded through the European Regional Development Fund (ERDF), these INNOVA INVEST Programme Funding Rules incorporate the call for proposals for this programme.

In line with the article indicated above, this Order has been subject to the mandatory report from the State Attorney and auditing by the National Audit office at the Ministry of Economy, Trade and Business.

It is hereby decreed:

CHAPTER 1

General provisions

Article 1 *Object and purpose of the subsidies.*

1. The purpose of this Order is to approve the funding rules of subsidies aimed at promoting investments in Spain with a marked innovation component that are undertaken by companies with foreign participation, and within the framework of the INNOVA INVEST programme at ICEX España Exportación e Inversiones, E.P.E. (hereinafter, ICEX).

2. ICEX's INNOVA INVEST programme aims to promote investments in Spain by foreign companies with a marked innovation component, promoting their integration into the national production and research fabric, as well as companies that contribute to improving the competitiveness and productivity of the Spanish economy.

The aid granted under the INNOVA INVEST programme is part of Specific Objective 1.1: “Developing and improving research and innovation capacities and integrating advanced technologies” under the Spanish ERDF Multi-Regional Programme 2021-2027.

3. The activities to be subsidised must be carried out in one or more of the Autonomous Communities listed below, in accordance with the categories established in the Community regulations:

- a) From the “less developed” regions category: Andalusia, Castile-La Mancha, Ceuta, Extremadura and Melilla.
- b) From the “in transition” regions category: Asturias, the Balearic Islands, the Canary Islands, Cantabria, Castile and Leon, Valencia, Galicia, La Rioja and Murcia.
- c) From the “more developed” regions category: Aragon, Catalonia, Madrid, Navarre and the Basque Country.

The budget available for each region category shall be set out in each call for proposals.

CHAPTER 2

Funding Rules

Article 2 *Applicable regulations.*

1. The subsidies regulated in these funding rules shall be governed, in addition to the provisions thereof, by the provisions of Law 38/2003 of 17 November on General Subsidies, in Royal Decree-Law 36/2020 of 30 December, approving urgent measures for modernising Public Administration and for implementing the Recovery, Transformation and Resilience Plan, the regulation in Law 38/2003 of 17 November on General Subsidies, approved by Royal Decree 887/2006 of 21 July, and by any current regulations that are applicable.

2. The following also apply to this aid:

- Regulation (EU) 2021/1058 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and the Cohesion Fund.
- Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund, as well as the financial rules for those Funds and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy.
- Regulation (EU) No. 1303/2013 of the Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund, and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund, and repealing Council Regulation (EC) No. 1083/2006.
- Regulation (EU) No. 1301/2013 of the European Parliament and of the Council of 17 December 2013 on the European Regional Development Fund and on specific provisions relating to the Investment for Growth and Jobs goal and repealing Regulation (EC) No. 1080/2006.
- Commission Regulation (EU) No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.

- Regulation (EU) 2021/1237 of 23 July 2021 amending Regulation (EU) No. 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty.
- Any other applicable legislation.

Article 3 *Incentive effect of aid.*

1. The subsidies must incentivise the activity to receive funding, i.e. the subsidies must change the behaviour of the company receiving the subsidy in such a way that it performs additional activities that it would not normally carry out, or that, without the subsidy, it would perform in a limited or different way.

2. In accordance with the provisions of Article 6 of Regulation (EU) No. 651/2014 of 17 June 2014, aid shall be considered to have an incentive effect if the application for aid has been submitted before work on the project has started.

Article 4 *Advertising.*

These funding rules, which, in accordance with Articles 46 to 50 of Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021, include the first call for the Programme, shall be published on the ICEX and Invest in Spain (www.icex.es/www.investinspain.org) websites, as well as in the National Subsidies Database (hereinafter, BDNS) and in the Official State Gazette, in accordance with the provisions of Article 17(3)(b) and 20(8) of Law 38/2003 of 17 November.

The calls for applications shall be published in the National Subsidies Database and an extract shall be published in the Official State Gazette, in accordance with the procedure established in Article 20(8) of Law 38/2003 of 17 November.

Article 5 *Requirements for beneficiaries.*

Companies that meet the following requirements may obtain the status of beneficiaries for the subsidies regulated under this Order in the following cases:

- a) If they are in a position to perform an economic activity, whatever its legal form, at the time the subsidy is awarded.
- b) At the time of the award, the beneficiary companies must have a legal status, be validly constituted, they must also have at least one permanent establishment or branch in Spain at the time the aid is awarded.
- c) They must be classified as an SME in accordance with Annex I of Commission Regulation (EU) No. 651/2014. Small mid-cap companies (undertakings with up to

499 employees that are not SMEs) covered by Art. 2(6) of the EU Regulation 2015/2017 on the European Fund for Strategic Investments of 25 June 2015 may also be beneficiaries.

- d) When at least 50% of their share capital is foreign owned. Foreign shareholders owning share capital may be either legal entities domiciled abroad or natural persons not resident in Spain.
- e) They have no outstanding debt with ICEX.
- f) They are not in any of the circumstances detailed in sections 2, 3 and 3 bis of Article 13 of Law 38/2003 of 17 November, General Law on Subsidies. In relation to Article 13(3bis), compliance with the payment deadlines established in Law 3/2004 of 29 December must be demonstrated, which establishes measures to combat late payment in commercial transactions.
- g) They are not considered a “company in difficulty”, pursuant to Article 1(4)(c) of Commission Regulation (EU) No. 651/2014 of 17 June 2014, and in line with the definition of a “company in difficulty” set out in Article 2(18) of that Regulation.
- h) They satisfy current regulations on foreign investments.
- i) They satisfy current regulations on equal treatment and opportunities between men and women in employment and the workplace.
- j) They are not subject to any outstanding repayments of subsidies or loans with the Administration and are not subject to an outstanding recovery order following a preliminary decision by the European Commission that has declared a subsidy unlawful and incompatible with the common market.
- k) The funded project does not include any of the activities listed in Article 8(5) of this Funding Order, whether they are carried out by the beneficiary company or a subcontractor.

Article 6 *Obligations of beneficiaries.*

The following shall be considered obligations of the beneficiaries receiving the subsidy:

- a) The obligations set out in Article 14 of Law 38/2003 of 17 November.
- b) Maintain a separate accounting system that makes it possible to distinguish the recording of all transactions relating to the project for which the subsidy is granted, and using a dedicated accounting code for this purpose.
- c) Inform ICEX of any application or obtainment of other subsidies for the performance of the financed activities.
- d) Agree to its inclusion in a list of beneficiary companies published on the ICEX and Invest in Spain websites (www.icex.es and www.investinspain.org).

- e) Demonstrate, at any time upon request, that it complies with the current regulations on equal treatment and opportunities between women and men in employment and the workplace.
- f) They shall be responsible for the reliability and monitoring of how the subsidised activities are implemented, making it possible to ascertain to what degree each activity has been achieved at all times.
- g) They shall assume responsibility for maintaining an adequate audit trail of the activities performed, within the framework of this subsidy and as part of the obligation to keep the supporting documents. The information shall be provided under the terms established by the Ministry of Finance, in accordance with national and European Union regulations.
- h) Ensure the consistency of the underlying expenditure and the adoption of measures aimed at preventing, detecting, reporting and correcting fraud and corruption, preventing a conflict of interests and double funding.
- i) Comply with the publicity and information obligations in Article 50 (Responsibilities of beneficiaries) of Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021.

Article 7 Subcontracting.

1. For the purposes of this subsidy, a beneficiary shall be considered to subcontract activities when it agrees with third parties that they shall perform part or all of the activity that constitutes the object of the subsidy. This concept does not apply to contracting costs that the beneficiary incurs when performing the subsidised activity on its own account.

2. The subcontracted activities must be described and a financial estimate included in the application for the subsidy. At the request of ICEX, the beneficiary companies shall support these estimates by using documents that show the subcontracting agreements entered into with third parties at the expense justification stage.

3. The beneficiary may subcontract a percentage amounting to no more than 50% of the value of the subsidised activity.

Under no circumstances may activities be subcontracted when they increase the cost of the subsidised activity without adding value to its contents

4. When the activity agreed with third parties exceeds 20% of the value of the subsidy and this amount exceeds 60,000 euros, the subcontracted activity shall be required to comply with the following requirements:

- a) The agreement is entered into in writing.
- b) The agreement is authorised in advance by ICEX.

5. An agreement may not be divided with a view to reducing its value in order to avoid complying with the requirements set out in the above paragraph.

6. Subcontractors shall only be answerable to the beneficiary, who shall assume full responsibility for performing the subsidised activity on behalf of the Administration.

For the purposes of the provisions in the above paragraph, the beneficiaries shall be responsible for ensuring that, as part of the performance of the subsidised activity outsourced to third parties, the limits established in the regulations governing the subsidy are satisfied in terms of the nature and value of eligible expenses and contractors shall be subject to the duty to collaborate provided for in Article 46 of Law 38/2003 of 17 November, allowing proper verification of compliance with these limits.

7. In the event that the beneficiary subcontracts part of the project, it must ensure that the subcontractors do not carry out the activities mentioned in Article 8(5) of this Order. Furthermore, when the amount of the eligible expenditure for the subcontracted aid exceeds the amounts established in Law 9/2017 of 8 November on Public Sector Contracts, for the minor contract, subcontractors must request at least three bids from different suppliers prior to agreeing to the work, the provision of the service or the delivery of goods under the terms established in Article 31. 3. Law 38/2003 of 17 November on General Subsidies.

8. Under no circumstance may the beneficiary agree for the subsidised activities to be performed by:

- a) Persons or companies affected by any of the prohibitions under Article 13 of Law 38/2003 of 17 November.
- b) Persons or companies that have received other subsidies for performing the outsourced activity.
- c) Intermediaries or advisers when the corresponding payments are defined as a percentage of the total cost of the transaction, unless this payment is justified by reference to the market value of the work performed or services rendered.
- d) Companies related to the beneficiary, unless under the following circumstances:
 - 1) Prior authorisation is obtained from ICEX
 - 2) The eligible amount does not exceed the direct cost incurred by the related company. The cost shall be shown in the explanation under the same terms established for proving the beneficiary's expenses.
- e) Persons or companies applying for subsidies as part of the same call and programme who have not obtained a subsidy because they do not meet the requirements or have not met the corresponding assessment.

Article 8 Eligible expenditure.

1. The subsidy shall be awarded to cover expenses relating to experimental development or industrial research projects that fall within the following scope of eligible expenses:

- a) staff costs: researchers, technicians and other auxiliary staff, insofar as they work on the project. Beneficiaries are required to prepare timesheets signed by their employees;
- b) the costs of instruments and equipment, provided that they are used during the period for the project. When the instruments and equipment are not used throughout their useful life for the project, only depreciation costs incurred during the project's time span shall be considered eligible, calculated using generally accepted accounting principles,;
- c) the costs of buildings and land, provided that they are used during the period for the project ; as regards buildings, only depreciation costs incurred during the project's time span shall be considered eligible, calculated using generally accepted accounting principles, ; in the case of land, the commercial transfer costs or capital costs actually incurred shall be considered eligible;
- d) the costs of contractual research, knowledge and patents acquired or licensed from external sources under conditions of full competition, as well as the costs of consultancy and equivalent services dedicated exclusively to the project;
- e) overheads and other additional operating expenses, including the cost of materials, supplies and similar products directly attributable to the project.

2. On the basis of Article 54(b) of Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021, indirect costs may be financed by calculating a flat rate of up to 15 % of the eligible direct personnel costs.

3. Taxes are eligible expenditure when they are actually paid by the beneficiary of the subsidy. Indirect taxes, where they are recoverable or offset, and personal income taxes, are not considered eligible expenses under any circumstances.

4. When the amount of the eligible expenses exceeds the amounts set out in Law 30/2007 of 30 October on Public Sector Contracts for minor contracts, the beneficiary must request at least three bids from different suppliers, prior to entering into the agreement for the work, provision of the service or delivery of goods, unless there are an insufficient number of companies in the market to carry out, provide or supply such work, service or goods due to their special characteristics, or unless the expenses have been incurred prior to the subsidy. The choice between the bids submitted, which must be provided in the explanation or, where appropriate, in the subsidy application, shall be made on the basis of efficiency and economy criteria, and the choice shall be expressly justified in a memorandum if it is not the most economically advantageous proposal.

5. The following shall not be eligible for funding, insofar as they are applicable to the expenses items for which these subsidies are intended:

- a) Investments relating to fossil fuels (including subsequent use).

- b) Activities under the Emissions Trading System (ETS) with projected greenhouse gas emissions that are not substantially lower than the benchmark values set for free allocation.
 - c) The treatment of waste generated using mechanical biological treatment (MBT), incineration or landfills.
 - d) Activities where the long-term disposal of waste may cause long-term damage to the environment (e.g. nuclear waste).
6. Furthermore, only activities that comply with the relevant national and European environmental legislation may be selected.

Article 9 *Duration of the actions to be financed, amount of the subsidies and criteria for determining them.*

1. Eligible projects within the framework of these subsidies shall last a maximum of 24 months, with their specific duration established in each call for applications.
2. The maximum subsidy per beneficiary shall not exceed 800,000 euros. In the event that several beneficiaries of the programme belong to the same business group, this maximum limit shall apply to the total subsidies granted to them. If this amount is surpassed, the subsidy amount shall be awarded to the projects with the highest valuation until this limit is exhausted. A business group shall be considered as per the provisions of Article 42 of the Commercial Code.
3. Likewise, each call for proposals shall establish the minimum amount of all eligible items included in each application, which must be at least 250,000 euros of eligible expenses.
4. The subsidy shall be determined as a percentage of the eligible items. Each call shall establish the maximum percentage of the subsidy level depending on the size of the company and the type of project, which may in no case exceed the following percentages established in European regulations:

Project typology	Company size		
	SME		Small mid-cap companies
	Small companies	Medium-sized companies	
Industrial research	70%	60%	50%
Experimental development	45%	35%	25%

In order to determine the project typology referred to in the table above, industrial research projects and experimental development projects, the definitions contained,

respectively, in Articles 2(85) and 2(86) of Commission Regulation (EU) No. 651/2014 of 17 June 2014 shall be followed.

For determining the company size referred to in the table above, the provisions of Regulation (EU) No. 651/2014 shall be followed, as amended by REGULATION (EU) No. 2021/123. In particular, the SME categories defined in Annex I of Regulation (EU) No. 651/2014) shall apply. The category of “small mid-cap company” referred to in the table above corresponds to the definition in Article 2(103)(sexies) of Regulation (EU) 2015/1017, as amended by Regulation (EU) No. 2021/1237.

In application of the ERDF rules, governed by Regulation (EU) 2021/1058, and in accordance with its Article 5(2), eligible projects by “small mid-caps” are eligible to receive support for innovation and research activities which meet the specific objective of “developing and improving research and innovation capacities and implementing advanced technologies” as referred to in Article 3(1), first subparagraph, point (a), section (i) of that Regulation.

5. Under no circumstances shall self-invoicing by the beneficiary company or invoicing by natural persons or self-employed persons having a direct relationship with the foreign parent company or with the beneficiary company (shareholders, directors, staff, etc.) be accepted.

6. The granting of subsidies is conditional on the existence of adequate and sufficient credit at the time of the award. The maximum annual budget for these grants, taking into account all the calls made in a year, may not exceed EUR 150 million.

7. The amount of financing may not in any case exceed the cost of the activity.

Article 10 *Guarantee scheme.*

The beneficiaries shall not be required to provide a guarantee.

Article 11 *Bodies responsible for managing and deciding on subsidies.*

1. Instructing and organising the subsidy award procedure is the responsibility of the Research and Innovation Funding Department at the Funding and Investor Relations Department attached to the Executive Office for Invest in Spain at ICEX. This department shall also be responsible for monitoring the actions financed.

2. The Assessment Committee shall be appointed by the Chief Executive Officer and shall be made up of:

- a) The Head of Invest in Spain's Executive Management, who shall act as Chair, although this position may be delegated to the Head of the Management team in charge of the programme.
- b) The Head of the Management team in charge of the programme who may delegate this position to the Head of the corresponding department.

- c) The Head of the Foreign Investment Projects Office, who may delegate a head of department at the Office.
- d) Up to a maximum of four public sector experts in the field of foreign investment, EU programmes and R&D activities.
- e) The General Secretary, who may delegate this position to the Deputy Head of the Legal Advice Department, who shall act as Secretary.

Decisions shall be taken by a simple majority of the members with the right to vote. The Secretary shall have the right to speak, but not to vote.

Its functioning shall comply with the provisions set out in Chapter II, Section 3 of the Preliminary Title of Law 40/2015 of 1 October, on the Legal System for the Public Sector, using the human and material resources currently available to ICEX, and pursuant to the provisions of Article 2.2 of Royal Decree 776/2011 of 3 June, abolishing certain collective bodies and establishing criteria for standardisation in the creation of collective bodies in Public Administration and Public Bodies.

The members of the Assessment Committee shall not receive any remuneration for performing their duties on this committee.

3. Responsibility for deciding on the procedure shall lie with the President of ICEX, notwithstanding any delegation of powers that may be in place at any given time.

4. The ethical performance of the investigating body, the assessment committee and the award body shall adhere to the Code of Ethics and Conduct published on the ICEX website: (<https://www.icex.es/es/quienes-somos/quienes-somos/codigo-etico-conducta>)

5. Generally speaking, and pursuant to the rules set out for the prevention of fraud, all persons involved in the procedure for selecting beneficiaries and ensuring compliance with the corresponding conditions, including the members of the Assessment Committee, shall reinforce their commitment to this objective by making a conflict of interest declaration, undertaking to keep this up to date in the event that the circumstances regarding the original declaration should change, and which shall prevent them from participating in the procedure.

Article 12 *Electronic processing.*

1. Pursuant to Article 14(2) of Law 39/2015 of 1 October, on the Common Administrative Procedure for Public Administration, companies shall interact with the Administration using electronic means, so the submission of applications must be in electronic format. Both the award procedure and the expense justification procedure and, where appropriate, the repayment procedure, shall be handled electronically using the ICEX electronic registry (<https://oficinavirtual.icex.es/oficinavirtual/>).

2. The applicant may access , the ICEX e-Office through the certificate used to submit their application at <https://oficinavirtual.icex.es/planesempresa/login> to consult the documents submitted and the status of their application.
3. The use of electronic notifications shall comply with the provisions of Article 43 of Law 39/2015 of 1 October. Furthermore, a complementary system of alerts by email shall be made available to the party concerned.
4. The provisional and final resolutions proposed, in addition to rejection, award and possible amendments decided, and in addition to any other instruments that are part of the procedure, shall be published at <https://www.icex.es/icex/es/index.html> and <https://www.investinspain.org/en/index>, and shall have all the effects of notifications made, pursuant to the provisions of Article 45 of Law 39/2015 of 1 October, in relation to competitive tender procedures.
5. Forms, declarations of compliance and any other electronic documents to be submitted during the different phases of the procedure shall be available on the ICEX and Invest in Spain websites and must be filled in when necessary.
6. During phases of the procedure in which, in the interests of administrative simplification, the submission of declarations of compliance is permitted instead of certain documentation, these declarations of compliance shall be submitted in electronic format, electronically signed by the declarant.
7. Applicants shall not be required to file documents already held by the competent body for the award, pursuant to the provisions of Articles 28(3) and 53(1)(d) of Law 39/2015 of 1 October. The time at which the documents were submitted, and the administrative body to which they were submitted to, must be specifically indicated in the application questionnaire, details of the application number indicated at the time being provided for this purpose, providing that no more than five years have elapsed since the end of the corresponding procedure. Pursuant to Regulation (EU) No. 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, express consent shall be requested by ICEX to process the data included in the questionnaire by the beneficiary. In cases where it is materially impossible to obtain the document or when the interested party refuses to allow their personal data to be viewed, the competent authority shall require the applicant to submit it, or, failing that, prove compliance with the requirements referred to in the document by other means.

Article 13 *Procedure for awarding subsidies.*

1. The system for granting subsidies shall be competitive tendering.
2. The award procedure shall begin ex officio by publishing the call for applications, as set out in Article 4.

Article 14 *Representation.*

1. Natural persons signing or electronically submitting the documents on behalf of the applicant or beneficiary companies must be awarded the necessary power of attorney for each intervention, as established under the terms in Article 5 of the aforementioned Law 39/2015 of 1 October.
2. The person signing the application shall be required to demonstrate when submitting the application that they have sufficient powers by law to act on behalf of the requesting legal person. Failure to comply with this obligation, when remedial action is not taken, shall result in the application being rejected, pursuant to the provisions of Article 68 of Law 39/2015 of 1 October.

Article 15 *Deadline for the submission of applications.*

1. The time period for submitting applications shall begin on the day following the date on which the extract of the call for applications is published in the Official State Gazette and shall end, at most, 2 months later (at 23:59:59 Spanish mainland time), to be counted from the day following the date on which the extract of the call for applications is published in the aforementioned Gazette.
2. Applications submitted after the deadline shall be considered inadmissible.

Article 16 *Formalisation, submission of applications and initiation phase*

1. Applications must be submitted through the ICEX e-Office (<https://oficinavirtual.icex.es/planesempresa/login>), which can be accessed through the ICEX www.icex.es and INVEST IN SPAIN www.investinspain.org websites, according to the model available for this type of aid. The process shall be performed electronically, a digital certificate recognised by ICEX being required for this (anyone signed up to the @firma platform).
2. Applicants must also include the following documentation in the e-Office, together with the completed online application form:
 - a) A Project Report, which includes a description and objectives of the project, as well as technical information.
 - b) Financial data, including economic and financial information.
 - c) Other documentation that the applicant considers of interest for assessing the project, e.g. collaboration agreements.
 - d) Acceptance of the transfer of data between the Public Authorities involved in order to comply with the provisions of the applicable European regulations and

in accordance with Law 3/2018 of 5 December, on the Protection of Personal Data and the guarantee of digital rights.

- e) Documentation on requirements for compliance with supplier payment deadlines, as set out in Article 13(3)(bis) of Law 38/2003 of 17 November, General Law on Subsidies:

1.- In the case of legal entities presenting an abridged profit and loss account, in accordance with accounting regulations, this documentation shall consist of a declaration of compliance in which they declare that they have reached the level of compliance with the payment deadlines established in Law 3/2004 of 29 December, which establishes measures to combat late payment in commercial transactions.

2.- Legal entities which cannot present an abridged profit and loss account, in accordance with accounting regulations, must prove compliance by means of:

1. Certification issued by an auditor registered in the Official Register of Statutory Auditors, containing a detailed transcription of the information on payments described in the notes to the last audited annual accounts when it can be deduced from these that the level of compliance with the payment deadlines established in Law 3/2004 has been achieved.

This certification shall be valid until the annual accounts for the following financial year have been audited.

2. In the event that it is not possible to issue the certificate referred to in the previous item, an "Agreed Procedures Report" must be submitted, drawn up by an auditor registered in the Official Register of Statutory Auditors. The latter, based on a review of a representative sample of the company's invoices pending payment to suppliers on a reference date, must conclude that no exceptions have been detected to compliance with the payment deadlines in Law 3/2004, or in the event that they are detected, they do not prevent the required level of compliance from being reached. This requirement shall be deemed to be met when the percentage of invoices paid by the company during the previous financial year in a period is lower the maximum established in the regulations on late payment, and as a percentage of total payments to suppliers, is less than 90%.

However, the documentation referred to in paragraph 2 may be replaced by a declaration of compliance. The documentation proving compliance must in any case be submitted prior to the final award of the subsidy, in accordance with the terms of each call for applications.

- f) In addition, declarations of compliance shall be required for the following matters:
- a. Compliance with funding rules
 - b. Declaration of compliance stating that they have no outstanding debts in relation to the repayment of subsidies, loans or advances with the Administration and that they are not subject to any outstanding recovery

order following a previous decision by the European Commission declaring the subsidy unlawful and incompatible with the common market.

- c. Declaration of compliance on the existence of potentially competing aid procedures.
- d. Not being subject to the prohibitions set out in Article 13(2) of Law 38/2003 of 17 November, General Law on Subsidies.
- e. Preventing fraud, corruption and conflict of interest
- f. Collaboration with the European Commission, OLAF and competent authorities, Court of Auditors
- g. Declaration of compliance that the subsidised project does not include activities listed in Article 8(5) of these Funding Rules.

3. Prior to the proposal for the final decision to award the subsidy, ICEX shall require submission of documentation proving the authenticity of the details contained in the declarations of compliance presented in the applications.

4. The contents and structure of the application form are set out in Annex 1) of these Funding Rules.

5. Once the deadline for submitting applications has elapsed, and once compliance with the requirements has been ensured, the body responsible for the procedure shall publish a provisional list of accepted applications that were submitted on time and shall, therefore, move on to the assessment phase on the ICEX and Invest in Spain websites (www.icex.es and www.investinspain.org).

In addition, and simultaneously, the body responsible for the procedure shall publish a provisional list of applications that have been rejected on the ICEX and Invest in Spain websites (www.icex.es and www.investinspain.org), with the reasons for their rejection, allowing the affected parties to submit the documentation required to rectify the corresponding shortcoming within ten working days from the day following the publication of the provisional list. If they fail to do so, they shall be deemed to have withdrawn their application.

Once the deadline for rectification has expired, a decision shall be published by the same means with the final list of accepted applications, and a resolution declaring the withdrawal of those applicants who have not rectified any defects.

Article 17 *Compatibility with other subsidies.*

Receipt of the subsidies provided for in this Order shall be incompatible with the receipt of any other subsidies which may be established for the same purpose and object by other authorities, or any other public or private, national, regional or local bodies.

Investments and eligible expenses financed in this way may not in particular be the subject of any other aid, public or private, co-financed by any other programme or instrument financed by European Union funds.

Article 18 *Criteria for assessing applications.*

1. The assessment shall be performed using the selection criteria set out below:

CRITERION	Score
a) Business capacity to execute investments in Spain	0-20
b) Employment impact	0-20
c) Investment in R&D technology resources	0-20
d) Promotion of partnership agreements with public and private stakeholders.	0-20
e) Contribution of the project to the green transition and digital transformation	0-20
Total score	

Applications that do not achieve a total score of 50 points, according to the table, shall be excluded straight away, being required to reach a minimum threshold of 10 points for criterion a) "Business capacity to execute investments in Spain".

In the event of a tie, priority shall be given to those awarded the highest score for criterion b) "Impact on employment" in the table above.

2. In the assessment of each assessment criterion, consideration shall be given to the following aspects:

- a) Business capacity of the company to execute its investments in Spain (20 points)

This criterion shall assess the capacity and business experience of the beneficiary company and its foreign investment group to carry out its investments in Spain. This assessment shall include the promoters' ability to continue the project in the medium and long term. To do this, the foreign owner's plans for further R&D activities following the implementation of the project for which funding is requested shall also be ascertained. Plans for opening new centres in Spain, which shall be used to carry out R&D projects in the future, shall be positively assessed.

A minimum threshold of 10 points must be achieved for the project to be eligible. If this threshold is not reached, it shall not be necessary to assess the other criteria.

b) Impact on employment (20 points)

1) Impact on job creation (10 points)

In the assessment of this sub-criterion, consideration shall be given to the intensity of the investment project in the generation of new recruits participating in the project. The recruitment of new workers with professional profiles shall be positively valued.

2) Impact on maintaining jobs (5 points)

In the assessment of this sub-criterion, consideration shall be given to the intensity of the investment project in the generation of a workload for workers already employed by the company. The participation of workers with professional profiles shall be positively valued.

3) Impact on the gender gap (5 points)

5 points shall be awarded for the participation of women in the project, both new recruits and workers already part of the company's staff.

c) Investment in new technological assets dedicated to R&D (20 points)

In assessing this criterion, the volume of the project's investment in technology-based capital goods shall be taken into account.

d) Promotion of partnership agreements with public and private stakeholders (20 points).

With respect to this criterion, the technological contribution made to the project by other agents, whether public or private, operating in Spain shall be taken into consideration. Consideration shall be given both to the weight of the work for which the collaborating party is responsible and for the technological quality of the work. To prove this collaboration, letters of intent, agreements and other documents detailing the work to be carried out with the collaborators may be submitted. Collaborations in which the collaborating party also contributes funding to the project shall be considered positively.

e) Contribution of the project to the green transition and digital transformation (20 points).

In this criterion, the contribution of the project to facilitate sustainable investments shall be assessed. It shall be assessed to see whether the project contributes directly or indirectly to the green transition and digital transformation.

Article 19 Examination.

1. Examination of the subsidy award procedure corresponds to the Research and Innovation Financing Department at the Financing and Investor Relations Department attached to the Executive Office for Invest in Spain at ICEX.

2. The body responsible for the procedure shall carry out, ex officio, as many actions as it deems necessary to determine, know and verify the data on the basis of which the proposed decision must be made. The award proposal shall be made to the awarding body by the Assessment Committee through the body responsible for the procedure.

3. Examining activities shall comprise:

a) Requesting any reports it deems necessary to reach a decision or which are required by the rules governing the subsidy. The request shall state, where appropriate, the decisive nature of any reports that are mandatory. The deadline for issuing the report shall be ten days, unless the body responsible for the procedure requests that it be issued in a shorter or longer period, in view of the characteristics of the report requested or of the procedure itself, although it may not exceed two months in the latter case.

If the report classified by an express legal provision as being mandatory and decisive or, where appropriate, binding, has not been issued within the aforementioned period, the period for the successive formalities may be interrupted.

b) Assessment of the applications or requests, carried out in accordance with the assessment criteria, methods and priorities established in these Funding Rules.

4. Following the decision on the admission of applications, as set out in Article 16(5) of these Funding Rules, these applications admitted shall be assessed in accordance with the evaluation criteria set out in Article 18. After evaluation, the Assessment Committee referred to in Article 11 shall issue a report specifying the result of the assessment carried out.

5. The body responsible for the procedure, in view of the dossier and the report by the Assessment Committee, shall make the provisional decision proposal, duly reasoned, and which shall be published on the ICEX website www.icex.es and www.investinspain.org. A period of ten days shall be granted to contest the decision proposal.

After examining the arguments put forward by the interested parties, where appropriate, the proposal for a final decision shall be drawn up, which shall state the applicant or the list of applicants to whom it is proposed to award the subsidy, the amount of the subsidy, and specifying its assessment and the assessment criteria used to achieve this.

The subsidy award dossier shall contain the report by the body responsible for the procedure, stating that, on the basis of the information in its possession, it is clear that the beneficiaries meet all the necessary requirements for receipt of the subsidies.

6. The provisional and final decision proposals do not create any rights in favour of the proposed beneficiary vis-à-vis the Administration until the award decision has been notified.

7. The final decision proposal shall be published on the ICEX and Invest in Spain websites (www.icex.es and www.investinspain.org) and shall be notified to the interested parties who have been proposed as beneficiaries, so that they may communicate their acceptance within ten working days, as well as to the interested parties whose applications are rejected.

8. In the event that funds are released prior to the final decision as a result of a beneficiary company rejecting a subsidy or failure to provide adequate proof of eligibility to be a beneficiary, the funds released shall be allocated to the next applicant(s) without the need to reconvene the Assessment Committee, in accordance with their score with respect to the last beneficiary awarded the subsidy.

Article 20 *Award resolution.*

1. Once the proposal for a final decision has been approved, the competent body shall resolve the procedure. The decision shall be reasoned in accordance with the provisions of these Funding Rules, as provided for in Article 25(3) of Law 38/2003 of 17 November, General Law on Subsidies, and the grounds for the decision adopted shall be demonstrated.

2. In addition to listing the applicant(s) to whom the subsidy is awarded, the decision shall, where appropriate, expressly state that the remaining applications have been rejected.

3. The maximum period for issuing and notifying the award decision shall be six months from the date on which the extract of the call for applications is published in the Official State Gazette, unless the decision postpones its effects to a later date.

4. The expiry of this period without any notification of the decision confirms the interested parties' understanding that the application for the granting of aid has been rejected due to administrative silence.

5. The final award decision shall be published on the ICEX and Invest in Spain websites (www.icex.es/www.investinspain.org) and on the National Subsidies Database, and shall be communicated to the interested parties within ten working days from the date on which the instrument is issued. This publication shall be as provided for in Article 9 of Regulation (EU) 651/2004.

6. An appeal for reconsideration may be filed against the decision, which shall put an end to the administrative procedures as established in Article 114 of Law 39/2015 of 1 October, within a period of one month from the day following the notification of the decision, pursuant to the provisions of Articles 123 and 124 of Law 39/2015 of 1 October, or administrative proceedings may be initiated before the Administrative Court Judges, within two months from the day following the notification or publication of the decision, pursuant to the provisions of Law 29/1998 of 13 July regulating the Administrative justice system.

Appeals for reconsiderations to reverse decisions related to the award procedure shall be filed electronically, pursuant to Law 39/2015 of 1 October.

Article 21 *Explanation of compliance with the purpose of the subsidy and the expenses incurred, and payment of the subsidy*

1. Insofar as these subsidies are eligible for financing by the European Regional Development Funds (ERDF), these subsidies shall be justified in accordance with the national and European regulations governing these funds.

2. The project's compliance with the purpose of the subsidy and an explanation of the expenses incurred shall be shown once the project is complete, within the following three months, at a maximum, and with the possibility of extending this period for a maximum of an additional one and a half months, subject to a request for extension from ICEX. The late submission of any documents demonstrating the eligible investment shall lead to the withdrawal of the subsidy awarded.

3. Proof shall be given electronically and digitally using ICEX's e-Office, at <https://oficinavirtual.icex.es/justificacionayudas/inicio>.

4. As a general rule, expenses shall be justified by means of a supporting account with proof of expenses and payment, with the exception of indirect costs, where a calculation based on a flat-rate financing method of up to 15% of the eligible direct personnel costs shall be made. In both cases, it shall be necessary to take into account the provisions of the explanatory manual published on the ICEX and Invest in Spain website, which shall be available at www.icex.es/criteriosjustificacion.

5. The beneficiary shall show compliance with the purpose of the subsidy by submitting a technical report of the activities carried out as part of the project.

6. The subsidy shall only be paid once the corresponding activities forming part of the project or activity are undertaken, having demonstrated compliance with the purpose for which the subsidy was awarded, and the review of the supporting documents filed as regards the expenses incurred. ICEX reserves the right to perform any checks it deems appropriate, including a physical verification of the project.

However, the call for applications may provide for the possibility of making partial payments of the total subsidy awarded, based on partial explanations, and depending on the expenses incurred up until a given date. The conditions for this partial payment shall be determined in the same way in the corresponding award decision.

7. Additional supporting documentation may be required to justify the expenses incurred, as well as to comply with the appropriate management and monitoring system of the European Regional Development Funds (ERDF), reporting on anything that needs to be provided, as well as the computer applications or databases that the national or European regulations provide for the management, monitoring and control of funding and objectives.

Article 22 *Modification of the conditions for performing the activity.*

1. The subsidised activities must be performed in the time and manner established in the award decision.

2. However, the beneficiaries may ask ICEX for the decision regarding the awarding of the subsidy to be changed. The person holding the presidency of ICEX, notwithstanding any delegations at any given time, is responsible for approving the decision that amends the decision originally awarding the subsidy. Any change in the conditions established for awarding the subsidy must satisfy the following criteria:

- a) The change does not affect the objectives pursued by the subsidy, its core aspects or the appointment of the beneficiary.
- b) The change is expressly accepted by ICEX-Invest in Spain.
- c) The rights of third parties are not adversely affected.
- d) The modification request is submitted before the end of the eligible period.

3. Any unauthorised modifications in line with this procedure in the approved fundable budget shall result in the loss of the amounts diverted. However, without changing the total amount of the approved subsidy, any discrepancy between approved items of expenditure amounting to up to 20% of the subsidy figure authorised for each item of expenditure shall be permitted without the need to request prior authorisation from ICEX, provided that the other conditions imposed by the programme for each item of expenditure are met. The maximum period for resolving and providing notification of the modification decision shall be thirty working days from the date on which ICEX is informed of the change in the conditions considered for the awarding of the subsidy.

Once this period elapses, without the interested parties having been informed of a decision, the request for modification of the subsidy shall be understood as having been rejected on the grounds of administrative silence.

4. An appeal for reconsideration may be filed against the decision, which shall put an end to the administrative procedures as established in Article 114 of Law 39/2015 of 1

October, within a period of one month from the day following the notification of the decision, pursuant to the provisions of Articles 123 and 124 of Law 39/2015 of 1 October, or administrative proceedings may be initiated before the Administrative Court Judges, , pursuant to the provisions of Law 29/1998 of 13 July.

5. No amendment may be made to any obligation affecting European or national legislation with respect to the European Regional Development Funds (ERDF).

Article 23 Advertising and information

1. Aid beneficiaries must comply with the advertising and information obligations laid down in Article 50 of Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021.

2. Firstly, beneficiaries shall recognise the aid from the Funds for the operation, including reused resources in accordance with Article 62 of the above Regulation, and for this purpose:

- a) They shall give a brief description of the operation on the beneficiary's official website, where such a website exists, and in its social media accounts, in a manner that is proportionate to the level of aid, its objectives and results, as well as highlighting the European Union's financial assistance.
- b) Provide a declaration highlighting the European Union assistance in a visible manner in documents and communication materials related to the implementation of the operation, and intended for the public or participants.
- c) Display sturdy plaques or billboards in a place clearly visible to the public, also bearing the emblem of the Union in accordance with the technical characteristics set out in Annex 9 of the Regulation. The above shall apply as soon as the physical implementation of operations involving physical investments begins, or the equipment purchased is installed, in the case of operations supported by the ERDF and for which the total cost exceeds 500,000 euros.

3. For operations not covered by point c), a minimum of one poster of at least A3 size shall be displayed in a place clearly visible to the public, or an equivalent electronic display with information on the operation highlighting the aid from the Funds.

Article 24 Control of aid.

1. During both the award stage and when paying the subsidy, or after this stage, the award body, in addition to the competent supervisory bodies, including those defined in Article 22(2)(e) of Regulation (EU) 2021/241 of 12 February 2021 and Article 129 of the Financial Regulation (Regulation (EU, Euratom) 2018/1046 of 18 July 2018, may perform any controls and inspections considered appropriate, with a view to ensuring the proper assignment of the subsidy awarded. The applicants will be required to collaborate and provide any other documentation and information deemed necessary

to ensure compliance with the conditions established in this order. Furthermore, the beneficiaries hereby agree to facilitate any inspections and checks that, as appropriate, are carried out.

2. Beneficiaries shall provide a written commitment to grant the rights and access necessary to ensure that the Commission, OLAF, the European Court of Auditors, the European Public Prosecutor's Office and the competent national authorities exercise their powers of control.

Opposing these checks and inspections may constitute grounds for repayment of the subsidy, notwithstanding any corresponding sanctioning proceedings that may be launched.

3. The Administration and any other body apart from those referred to in Article 22 of Regulation (EU) 2021/241 of 12 February 2021 may access the information set out in the Beneficial Ownership Registers, in addition to any other Government database, with a view to providing this information on beneficial owners.

The beneficiary shall be subject to the verification actions to be carried out by the managing body responsible for monitoring the actions financed, as well as to the financial control of the National Audit office and the auditing control of the Court of Auditors and any other applicable regulations. In the case of projects co-financed by the ERDF, the beneficiary shall also be subject to the controls laid down in the applicable Community rules.

4. For information purposes and in order to control these subsidies, the information shall be transferred between the systems established for the management and control of these subsidies with the European Funds Systems.

Article 25 *Non-compliance, refunds and penalties.*

1. Failure to comply with the requirements set out in this order and in other applicable rules, as well as the conditions that, as appropriate, have been established in the corresponding award decision, shall give rise to the obligation to repay the subsidy received plus the corresponding interest on arrears at the time the non-compliance is detected, pursuant to the provisions of Article 77 of Law 47/2003 of 26 November, on the General Budget.

2. The reasons indicated in Article 37.1 of Law 38/2003 of 17 November shall be considered grounds for total or partial repayment.

3. The repayment procedure shall comply with the provisions of Law 38/2003 of 17 November.

4. Pursuant to Article 90 of the regulations implementing the General Subsidies Law, approved by Royal Decree 887/2006 of 21 July, voluntary refunds shall be understood as refunds made by the beneficiary without a request having been lodged by the Administration. To proceed with this payment, the provisions of the Order of the Ministry

of Economy and Finance of 1 February 1996, approving the Instruction for the monitoring of accounting operations as part of the implementation of State expenditure, amended by Order HAP/336/2014 of 4 March, shall also apply. The interested party shall communicate their intention to proceed with a voluntary repayment of the corresponding amount to the award management service, waiting to receive payment document 069 before proceeding with the payment.

5. Title II in Law 38/2003 of 17 November shall apply in relation to all factors not regulated in this Article.

Article 26 *Criteria for degrees of non-compliance.*

In the event of non-compliance with the conditions set out when awarding the subsidies, the amount to be deducted from the subsidy awarded shall be determined by applying the following criteria:

- a) Non-compliance with the purposes for which the subsidy was awarded or with the obligation to provide an explanation shall result in the payment of the subsidy awarded in its entirety.
- b) Where the beneficiary's compliance is significantly close to full compliance and the beneficiary has demonstrated unequivocal action towards meeting its commitments and the conditions for awarding the subsidy, the managing authority shall reduce the subsidy awarded by the amount corresponding to the amount not explained.
- c) In cases of non-compliance in relation to the value of the eligible investment budgeted for, the value to be deducted from the subsidy shall be determined by deducting the value of the unexplained amount, provided that compliance by the beneficiary is equal to or greater than 60% of the budgeted investment and it demonstrates that unmistakable action has been taken with a view to satisfying its commitments and the subsidy award conditions.
- d) Late submission of the documents required to justify the performance of the activity shall lead to these expenses being considered as unjustified and they shall not be paid.
- e) Where the beneficiary does not comply with the advertising obligations referred to in Article 23(1), (2) and (3), and if corrective measures have not been taken, the managing body, taking into account the principle of proportionality, may cancel a maximum of up to 3% of the aid.
- f) Unauthorised amendments to the eligible budget shall result in the value of the subsidy being reduced by the same amount as the amounts diverted.
- g) Failure to provide three bids from different suppliers in the cases provided for in Article 31.3 of Law 38/2003, of 17 November, required in Articles 7.7 and 8.4 of

these regulatory bases, will give rise to the reimbursement of the aid in an amount equal to the cost of the goods or service purchased.

CHAPTER 3

Call for proposals 2025-2026

Article 27 *Purpose of the call, purpose of the award and conditions.*

1. The first call for applications for aid shall be announced in accordance with the terms established in the Funding Rules included in Chapter 2 of this Order.
2. The purpose of these subsidies as part of the INNOVA INVEST programme is to promote investments in Spain by foreign companies with a high innovation component, fomenting their integration with the national production and research fabric, and so that they represent a contribution to improving the competitiveness and productivity of the Spanish economy.
3. This call is part of Specific Objective 1.1 'Developing and improving research and innovation capacities and integration of advanced technologies', under the Spanish ERDF Multi-Regional Programme 2021-2027.

The granting of subsidies is conditional on the existence of adequate and sufficient credit at the time of the award order.

4. The minimum amount for all eligible items included in each application shall be at least 500,000 euros .
5. The maximum subsidy per beneficiary shall be 800,000 euros.
6. The foreign participation in the beneficiary company must account for at least 50% of its share capital, on the provision that the country or territory in which it is located is not classified as a tax haven in accordance with Spanish regulations.
7. The subsidy shall be determined as a percentage of the eligible items, depending on the size of the company and the type of project, the maximum level of which may not exceed the following percentages:

	Company size		
	SME		Small mid-cap companies
Project typology	Small companies	Medium-sized companies	
Industrial research	50%	50%	50%

Experimental development	45%	35%	25%
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Article 28. Financing.

1. The budget allocated to this call amounts to 4m euros and shall be financed from the ICEX budget.
2. Subsidies shall be eligible for funding from the European Regional Development Fund (ERDF).
3. Within the budget ceiling for this call set out in point 1, the maximum availability of aid per category of region is as follows:
 - a) From the “less developed” regions category (Andalusia; Castile-la Mancha; Ceuta; Extremadura; and Melilla): €2,640,548
 - b) From the regions “in transition” category (Asturias; Balearic Islands; Canary Islands; Cantabria; Castile and Leon; Region of Valencia; Galicia; La Rioja; and Murcia): €4,644,169
 - c) From the “more developed” regions category (Aragon; Catalonia; Madrid; Navarre; and the Basque Country): €3,584,574
4. In accordance with the evaluation criteria set out in the Funding Rules, the body responsible for the procedure shall publish an assessment of applications, with their corresponding score. Within the budget ceiling set out in point 1, aid shall be allocated to applicants in order according to their score, up to the maximum availability per region category set out in point 3.

Article 29 Procedure for awarding subsidies.

The procedure for awarding subsidies shall be competitive tendering, judging the applications submitted by potential beneficiaries established in Article 5, pursuant to the principles of advertising, transparency, equality and non-discrimination.

Article 30. Requirements to apply for the subsidy and proof.

With regard to the requirements for applying for the subsidy and the means of proving compliance, the provisions of Articles 5 and 16 of this Order shall apply.

Article 31 Obligations of beneficiaries.

Beneficiaries must comply with the obligations referred to in Article 6 of the Funding Rules.

Article 32. *Competent bodies in relation to the examination and resolution of the procedure.*

As regards the bodies competent for the examination and resolution of the procedure, the provisions of Article 11 of this order shall apply.

Article 33. *Deadline for the submission of applications.*

The time period for submitting applications shall begin on the day following the date on which the extract of the call for applications is published in the Official State Gazette, and shall end, at most, two months later (at 23:59:59 Spanish mainland time), to be counted from the day following the date on which the call for applications is published in the aforementioned Gazette.

Article 34 *Resolution and notification period.*

Articles 19 and 20 of this Order shall apply.

Article 35 *Documents and information that must accompany the request.*

The documents and information to be submitted with the application shall be as indicated in Article 16 of this Order.

Article 36 *Award decision.*

1. Together with the publication on the websites www.icex.es and www.investinspain.org of the proposal for the provisional award decision, the body responsible for the procedure shall send, by email, an individual provisional communication to the beneficiary companies to request them to provide, if they have not already done so, the following documentation:

- a) Template, in which they indicate whether they accept the proposed subsidy.
- b) Where applicable, a contract between the parties in the case of subcontracting in accordance with the programme's Funding Rules.
- c) The company's Articles of Association, indicating the percentage of its share capital that is foreign owned.
- d) Valid evidence of the signatory's power of attorney.
- e) Proof of compliance with the requirement related to non-repayment of payments in accordance with Article 13(3)(bis) of Law 38/2003 of 17 November, General Law on Subsidies in accordance with Article 16(2)(e)(2) of the Funding Rules.
- f) As considered necessary in specific cases.

Once the period for the submission of objections has elapsed, the body organising the procedure, subject to a favourable report from the Budget Committee as regards the approval of the expenditure, shall send a proposal for a final resolution to the person holding the presidency of ICEX.

2. The maximum period for issuing and notifying the award decision shall be six months from the publication of the extract of the Call in the Official State Gazette.

Article 37 *Criteria for assessing applications.*

With regard to the criteria for assessing applications, the provisions of Article 18 of the Funding Rules shall apply.

Article 38. *Means of notification and publication.*

With regard to the means for notifying and advertising the award orders, the provisions of Articles 12, 19 and 20 of the Funding Rules shall apply.

Article 39 *Period for the performance of the eligible activities.*

Eligible projects shall be implemented once the subsidy has been applied for, between 1 March 2025 and 31 December 2026. The expenses listed in Article 8 of the Funding Rules and which have been incurred during this period, once the subsidy application has been submitted, shall be eligible for support.

Article 40 *Rationale for subsidies.*

1. Explanation as regards compliance with the purpose of the subsidy by undertaking the project for which it was awarded, and the justification of expenses incurred, shall be submitted electronically and digitally via ICEX's e-Office <https://oficinavirtual.icex.es/justificacionayudas/inicio>. Justification shall be provided pursuant to the conditions set out in the award resolution, once the project has been undertaken and no more than three months thereafter, with the possibility of extending this deadline by a maximum of an additional month and a half, subject to a request for extension from ICEX.

However, in cases where the beneficiary requests the partial payment of the subsidy awarded pursuant to the provisions of Article 41 of this order, a partial justification of the expenses incurred up until the date indicated in this article (31 December 2025) shall be provided, therefore, before the project actually comes to an end.

2. If the established deadline for justification has elapsed without the justification having been submitted to the competent body, the latter shall request the beneficiary to submit it within a non-extendable period of fifteen days.

Failure to submit the justification within the period established in this section shall lead to the demand for reimbursement and other responsibilities established in the General Law on Subsidies. The presentation of the justification within the additional period established in this section shall not exempt the beneficiary from the corresponding penalties.

Failure to comply with the obligation to justify the subsidy under the terms established in Law 38/2003, of 17th November, General Law on Subsidies, or insufficient justification of the same shall entail the reimbursement under the conditions established in Article 37 of the aforementioned Law..

3. The expenses incurred shall be shown by submitting evidence of the expenditure incurred, pursuant to the provisions of the explanatory manual published on the ICEX and Invest in Spain websites, available at www.icex.es/criteriosjustificacion. This supporting economic report shall contain:

a) A summary sheet containing the budget approved for the activity and its comparison with the budget actually used, breaking down the expenses into annual periods and items appearing in the granting of the award.

b) A numbered list of the expenses and investments in relation to the activity, providing all the necessary supporting documents and amounts paid, and with the total amount including the identification of the payer and the document, the total amount and the part applied to the project, the date of issue and date of payment, also mentioning any possible deviations from the approved budget and the explanations for these deviations.

c) A list of other income or subsidies used to fund the activities, with an indication of the amount and origin, as applicable.

d) Unless submitted previously, three quotes for when the amount of the eligible expenditure exceeds 15,000 euros, and that, pursuant to Article 31.3 of Law 38/2003 of 17 November, on General Subsidies, must have been requested by the beneficiary. In the event that the amount for the requirement to request three quotations is modified in the ICEX Internal Procurement Instructions, the provisions of the latter shall apply.

e) If ICEX has not been authorised in the application to view the status with the Social Security Treasury Department and the Tax Authority, the certificates showing that the applicant is up to date with their tax and social security obligations, in accordance with the provisions of Article 14(1)(e) of Law 38/2003 of 17 November.

f) A certificate from the company, signed by an individual with sufficient power, as regards the costs of in-house staff allocated to the project (with a breakdown of people, professional category, hours spent and cost per hour), attaching a copy of the payroll document and TC1 and TC2 documents (only the sheet corresponding to the person or persons assigned to the project). In addition, time sheets signed by the employees must be submitted to show proof of the work carried out.

g) When recruiting highly qualified personnel, a certificate of the employment history of the recruited staff issued by the Social Security, in addition to the documentation listed in the above point.

h) Any other documentation that the body responsible for the procedure deems necessary to correctly justify the costs of the activities undertaken.

4. Compliance with the purpose of the subsidy shall be demonstrated by the beneficiary in the form of a technical report, indicating the activities undertaken and the results obtained, containing:

- a) Identification of the beneficiary and their status as a company with foreign participation.
- b) Location of the activity.
- c) Contribution to the core ERDF areas (Green Transition, Digital Transformation, Social and Territorial Cohesion, Gender Equality).
- d) Information on the compliance with contracts and agreements entered into with subcontractors (research centres, Universities, companies, etc.)
- e) Activities undertaken.
- f) Modifications made, as applicable, along with justification of the need for these.
- g) Results obtained and the dissemination thereof.
- h) Conclusions.

Article 41 Payments

1. The subsidy shall only be paid once the corresponding activities as part of the project or activity are undertaken, having proven compliance with the purpose for which the subsidy was awarded, and after reviewing the supporting documents filed as regards the expenses incurred. ICEX reserves the right to perform any checks it deems appropriate, including a physical verification of the project.

2. However, beneficiary companies may request a partial payment of the subsidy awarded for work carried out between 1 January 2025 and 31 December 2025. Beneficiary companies wishing to apply for this partial payment must explain the achievement of clearly identified partial results in the subsidised R&D project, and in the period indicated. The body responsible for the procedure shall open a period of one month in which companies requesting partial payment can submit the technical and economic explanation of the work performed for the corresponding checks to be carried out. After assessing the adequate progress of the project up to the date of the requested partial payment, it shall be the decision of the body responsible for the procedure to approve the partial payment depending on the verification of the achievement of partial results, or its refusal, in which case the explanation would be given at the end of the eligible period for all the expenses admitted. The amount of the partial payment is

determined on the basis of the accepted expenditure and the corresponding subsidy level. The procedures for justifying expenses established in the funding rules shall apply, in addition to the instructions set out in the award decision.

Article 42 Resources

1. The instruments issued as part of the procedure for awarding subsidies may be challenged in the cases and forms established in Law 39/2015 of 1 October, on the Common Administrative Procedure of the Public Authorities. An appeal for reconsideration may be filed against the specific decision, or where appropriate, the implied rejection of the application within a period of one month. This shall put an end to the administrative procedures, and shall be made to the same body issuing the decision.. Alternatively, an appeal may be filed within a period of two months, calculated from the day following the date on which the notification was issued in the event that a specific instrument has been issued and, in the latter case, the day following that date on which, pursuant to the specific regulations, the implied rejection was issued, notwithstanding any other appeals that may be lodged.
2. Appeals for reconsideration shall be filed before ICEX, using its Electronic Registry.

Article 43 Information on the European Regional Development Fund.

1. Subsidies may be co-financed by the European Union through the European Regional Development Fund (ERDF) for the programme period 2021-2027.
2. The acceptance of the ICEX subsidy by the participating companies implies their acceptance to be included in the list of operations published in accordance with Article 49(3) of Regulation (EU) No. 2021/1060 of the European Parliament and of the Council of 24 June 2021 on the European Regional Development Fund and the Cohesion Fund.
3. Furthermore, acceptance of the subsidy implies that the beneficiary company has been informed of the requirements and obligations to be fulfilled by its acceptance, as set out in the “Document Establishing the Conditions for the Subsidies (DECA)”, which shall be attached to the Subsidy Approval Notice.
4. In addition, this acceptance also implies your permission for ICEX to publish on its website the company's agreement to the following text:

“I am aware that this action is co-financed with European funds and I undertake to state this whenever I have to refer to it, to third parties or to citizens themselves. Due to the importance I consider this type of aid to have for our company, I value the contribution of the ERDF very positively, the main fund in the European cohesion policy, for what it means in terms of boosting our work and, consequently, the economic growth and job creation of the region in which I am located and Spain as a whole.”
5. Companies receiving aid co-financed by ERDF funds must take into account the provisions of Article 82 of Regulation (EU) No. 2021/1060, as well as Article 74 of the

same Regulation concerning the accountability of operations, as regards availability and keeping supporting documents.

6. All the information regarding the responsibilities and obligations of the beneficiary companies in terms of information and communication is available on the ICEX website <https://www.icex.es/es/icex-fondos-europeos/feder/periodo-feder-2021-2027>

Under no circumstances shall the existence of financing from the ERDF Funds imply additional aid for the beneficiary companies.

Article 44 *Personal data protection.*

In accordance with the provisions of Regulation 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and with Organic Law 3/2018 of 5 December on the protection of personal data and the guarantee of digital rights, the following information is provided:

- a) The personal data requested for participation in the ICEX programme called INNOVA INVEST shall be processed by this body as the data controller for the purpose of managing companies' participation in the programme and the awarding of the subsidy, if applicable, and to meet the legal obligations arising from this, including the obligations to audit and control the use of funds within the framework of the recovery and resilience plan, the European Regional Development Funds (ERDF) and those arising from Law 38/2003 of 17 November, General Law on Subsidies. The management of the programme also involves publishing beneficiary data on the ICEX and Invest in Spain websites, which shall include the company details, the names of the projects and the amounts allocated to the beneficiary projects.
- b) The data subject is required to provide the details requested by ICEX. Should they refuse to provide these details, they shall not be allowed to participate in this programme.
- c) By virtue of the regulations mentioned in paragraph a), their data may be transferred to other Public Authorities involved in managing, controlling or auditing the programme.
- d) Once the management of the data subject's participation in the programme has been completed, ICEX shall retain the data for the legally required period in order to comply with the applicable legal obligations and to address possible liabilities.
- e) In no case shall ICEX use its users' personal data for purposes other than those mentioned above. Furthermore, the data subject declares that all of their data provided are true and correct and they are obliged to inform ICEX of any changes in relation to these.
- f) The data subject may exercise their rights of access, rectification, erasure, objection, restriction of processing and data portability, where applicable, when such rights are

applicable, by sending a written communication to the email address of the ICEX Data Protection Officer, delegadoprotecciondatos@icex.es.

g) Furthermore, if the data subject considers that the personal data provided have been incorrectly processed by ICEX, the data subject shall have the right to lodge a complaint with the ICEX Data Protection Officer (delegadoprotecciondatos@icex.es), or to the Spanish Data Protection Agency (C/ Jorge Juan, 6 - 28001 Madrid - www.aepd.es).

First final provision. Powers

This ministerial order is protected by the powers conferred upon the State in Article 149(1)(15) of the Spanish Constitution on the promotion and general coordination of scientific and technical research.

Second final provision. Non-regulatory status of the call for applications

The call for applications for aid provided for in Chapter 3 of these Funding Rules does not have the status of a regulation, as it is an administrative act. Therefore, an appeal for reconsideration may be filed against the call for applications, which shall put an end to the administrative procedures, this being within a period of one month to the body responsible for issuing the instrument, pursuant to the provisions of Articles 123 and 124 of Law 39/2015 of 1 October, or administrative proceedings may be taken directly before the Administrative Judges within two month of the publication of the call for applications, pursuant to the provisions of Law 29/1998 of 13 July, regulating Administrative Jurisdiction.

Third final provision. Entry into force

This Order shall enter into force on the day following the date of its publication in the Official State Gazette.

MINISTER OF ECONOMY, TRADE AND BUSINESS

Carlos Cuerpo Caballero

ANNEX Application Form

The application form should be downloaded from www.icex.es or www.investinspain.org, and submitted through the ICEX e-Office (<https://oficinavirtual.icex.es/planesempresa/login>).

The application shall contain the following headings

CONTACT DETAILS
1.1 Contact person for the request
COMPANY DETAILS
1.2 Name and Description
1.3 Main industry
DETAILS OF THE BENEFICIARY COMPANY INCORPORATED IN SPAIN
2.1 Size and Details of the beneficiary company
2.2 Origin of share capital
2.3 List of major shareholders
2.4 Subsidiaries or affiliates
2.5 Implementation of innovative activities
SHAREHOLDER AND AFFILIATE DETAILS
2.6 List of shareholders
2.7 List of subsidiaries or affiliates
PROJECT DETAILS
3.1 Project details, location, Start and end of the project and additional data about the project
3.2 Estimated costs and budget of the project
3.3 Project financing (including type of aid and amount of aid requested)
3.4 Impact and/or expected results of project implementation
3.5 Employment details
3.6 Information on workers engaged in the project
ANNEX I. TECHNICAL REPORT
1.1. DESCRIPTION OF THE CONTENT, OBJECTIVES AND TECHNOLOGICAL INNOVATIONS PROVIDED BY THE PROJECT
1.1.1 Background
1.1.2 Objectives of the project
1.1.3 Technological developments
1.1.4 Work plan
1.1.5 Results
1.1.6 Explanation of the incentive effect in accordance with Article 6 of Regulation (EU) 651/2014. The following information shall be included:
(a) name and size of the company
(b) description of the project, including its start and end dates;
(c) location of the project;
(d) list of project costs
(e) type of aid (grant, loan, guarantee, repayable advance, capital injection or other) and the amount of public funding required for the project;
1.1.7 Strategic interest of the technologies to be developed in Spain and knock-on effect on the regional economy



1.1.8 Other

BREAKDOWN OF TECHNICAL ACTIVITIES IN COLLABORATIONS, DISTINGUISHING BETWEEN PUBLIC AND PRIVATE AGENTS IN THE PROJECT

1.2.1 Promotion of collaboration agreements between private stakeholders

1.2.2 Promotion of collaboration agreements between public stakeholders

1.3. BUSINESS CAPACITY TO IMPLEMENT AND SUSTAIN INVESTMENT IN SPAIN

1.4. INVESTMENT IN NEW TECHNOLOGY ASSETS

1.5. CONTRIBUTION TO ECOLOGICAL TRANSITION AND DIGITAL TRANSFORMATION

1.6. IMPACT ON THE GENDER GAP

1.7. ADVERTISING AND MARKETING OF THE OUTCOME OF THE PROJECT,
INCLUDING SPECIFIC REFERENCES

ANNEX II. FINANCIAL DETAILS OF THE PROJECT

1.1. PROFIT AND LOSS ACCOUNT

1.2. CONDENSED BALANCE SHEET

1.4 R&D PROPERTY, PLANT AND EQUIPMENT BELONGING TO THE APPLICANT

1.5. ANNUAL OUTGOINGS BY THE APPLICANT ON R&D

OTHER DOCUMENTS ENCLOSED WITH THE APPLICATION

AUTHORISATIONS

- Data processing
- Consent to collect data from other public authorities

DECLARATIONS OF COMPLIANCE

- Compliance with the requirements of the Funding Rules
- No debts with public authorities
- Declaration of application/receipt of concurrent aid
- Not subject to any of the prohibitions in Article 13 (2) of Law 38/2003 of 17 November on General Subsidies:
- Declaration and documentation, if applicable, on the deadline requirements for suppliers, as set out in Article 13(3)(bis) of Law 38/2003 of 17 November, on General Subsidies.
- Declaration of not carrying out activities listed in Article 8.5 of the Funding Rules.
- Declaration on prevention of fraud, corruption and conflict of interest
- Declaration of cooperation with the European Commission, OLAF and the European Court of Auditors