

**Programme for the provision of support
from the Modernisation Fund**

Improving energy efficiency and reducing the emissions of greenhouse gases in industry in EU ETS (ENERG ETS)



1. Table of Contents

| | |
|--|----|
| 1. Eligible applicants..... | 2 |
| 2. Types of supported projects and measures | 2 |
| 3. Allocation of resources..... | 4 |
| 4. Form and amount of support | 4 |
| 5. Selection criteria for eligibility of projects / project evaluation | 7 |
| 6. Eligibility of expenditure | 10 |
| 7. Contributions of the project and reported indicators..... | 12 |
| 8. Legal regime of the object of aid | 13 |
| 9. Conditions and method of implementation of the programme..... | 15 |

1. Eligible applicants

Entities operating facilities in the EU ETS on the territory of the Czech Republic¹.

2. Types of supported projects and measures

Only projects that meet the programme's objectives and eligibility criteria can be supported. With regard to the number of technical solutions and the diversity of the devices used, it is not possible to provide a complete list of supported activities.

In accordance with Article 10d(2) of Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC, the projects can be classified as priority if they focus on the production or use of electrical energy from RES, or on CHP and the use of energy from CHP.

Among the key types of projects supported are the **modernization** (reconstruction or replacement) of the **energy source**, including related energy distribution, leading to an increase in its efficiency and thus a reduction in the consumption of primary energy from non-renewable sources, or **changes in the configuration of production or manufacturing facilities**, the aim of which is to reduce the consumption of primary energy from non-renewable sources and reduction of CO₂ emissions in the production or manufacturing process.

As part of project implementation, it is also possible to support:

- Hydrogen applications, e.g.:
 - acquisition of an electrolyser or other technologies for the production of renewable hydrogen (in accordance with the delegated acts that lay down the rules for renewable hydrogen),
 - technology for the processing, transport and use of hydrogen in energy, transport or industrial production (e.g. energy storage, fuel cells, combustion of hydrogen or synthetic hydrogen fuels, replacement of process emissions by the use of hydrogen, hydrogen conversion technology for easier handling, etc.),

¹ [The updated list of devices in the EU ETS is published on the website of the Ministry of the Environment \(to be downloaded here\).](#)

- support for the production of renewable hydrogen, which also includes grid-connected electrolysers that have concluded agreements on the purchase of renewable energy with economic entities producing renewable electricity that meets the conditions set out in the delegated Commission Regulation adopted pursuant to Article 27(3) of the Directive (EU) 2018/2001,
- reducing the energy performance of buildings,
- installation of photovoltaic power plants and other non-fuel renewable energy sources (with self-consumption of electricity produced in this way at a minimum of 80%),
- introduction of elements of effective control of energy management, e.g.:
 - installation of measurement and regulation systems,
 - introduction of tools to optimize operations based on energy consumption assessment monitoring,
 - implementation of energy management.

In general, all technologies that contribute to the reduction of greenhouse gas emissions are eligible, including support for the production of low-carbon energy or synthetic fuels produced using low-carbon energy, support for energy efficiency, including highly efficient combined heat and power generation, support for CCS/CCU, support for demand-side response and energy storage if it reduces emissions, and support to reduce or prevent emissions that come from industrial processes, including raw material processing. It also includes support for the absorption of greenhouse gases from the environment.

3. Allocation of resources

For this programme 13.3% of the total funding of the Modernization Fund is allocated. For the regions affected by the decline of coal mining (Moravskoslezský, Ústecký and Karlovarský regions), there will be priority allocation set at 30% in the calls for proposals (please see section 9.1.2).

4. Form and amount of support

Support will be provided under a contract concluded with the State Environmental Fund of the Czech Republic (hereinafter "SEF CR") in the form of regularly paid ex post subsidies, i.e., on the basis of documented reimbursed eligible costs (payment requests will always be supported by copies of invoices and bank statements of accounts or other documents).

The rules on state aid are relevant for all applicants and beneficiaries, regardless of their legal form, if the beneficiary can be characterized as an enterprise in connection with the project (there is or will be an offer of goods or services on the market). According to this definition, a municipality, a non-profit organization or association and other entities can also be an enterprise.

In the Modernisation Fund, state aid and *de minimis* support will be provided in accordance with the following regulations:

- 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 on the Functioning of the European Union (General Block Exemption Regulation – GBER) – only selected relevant articles (hereinafter referred to as the "GBER Regulation").
- Guidelines on State aid for climate, environmental protection and energy (2022/C 80/01) (hereinafter "CEEAG").
- Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid.
- Temporary Crisis and Transition Framework for state aid measures to support the economy following Russia's aggression against Ukraine (hereinafter referred to as "TCTF").

Aid granted under the GBER, CEEAG and TCTF may not be cumulated with other state aid under the Modernisation Fund in such a way that the maximum allowable aid intensity given by the individual articles, or the maximum subsidy amount determined by the cost gap is exceeded.

More detailed information on the form of support and state aid conditions are described in the document [Analysis of compliance of the project with the rules for the provision of state aid](#).

Information on provided state aid exceeding EUR 100,000 will also be published in the TAM (Transparency award module) information system.

- In the event that the support is subject to notification, the legal act will not be concluded before a positive EC decision is issued. The subsidy provider makes the notification.

4.1 Relevant articles of GBER

Support for Modernisation Fund projects is provided in the intensities according to the following GBER articles:

- **Article 36** – Investment aid enabling undertakings to go beyond Union standards for environmental protection or to increase the level of environmental protection in the absence of Union standards;
- **Article 38** – Investment aid for energy efficiency measures;
- **Article 41** – Investment aid for the promotion of energy from renewable sources.

The aid intensities according to above articles are effective for the duration of the existing regulations for state aid (GBER, regional map). The maximum level of support for non-priority projects according to the European Parliament and Council Directive 2003/87/EC may not exceed 70%.

Where relevant, a bonus of 10% for medium and 20% for small business may be granted to applicants from SMEs. In this case, the size of the business must be assessed in accordance with Annex I of the GBER.

For the purposes of determining the support according to Articles 36 and 38, the so-called **counterfactual investment/scenario**, i.e., the scenario without the provision of state aid, must be taken into account when determining the eligible expenses.

The applicant quantifies the costs of the counterfactual investment/ scenario that could be implemented without aid and is considered less environmentally friendly. These costs are deducted from the costs of the project implementation and the resulting amount is the eligible costs for calculating the maximum amount of state aid. The percentage of aid intensity will then be applied to these costs according to the relevant GBER, size and location of the company. The applicant may choose the counterfactual investment that best suits its operational circumstances or technical possibilities. Information on the method of determining an alternative investment is contained in the document **Analysis of compliance of the project with the rules for the provision of state aid**.

4.2 Determination of support for projects supported under the TCTF

The amount of support for these projects will be determined on the basis of the funding gap, the so-called cost gap, calculated as the difference between positive and negative cash flows for the duration of the investment, discounted to their present value, using capital contributions. The determination methodology is governed by the conditions established by the TCTF and the Commission's Decision on this matter.

5. Selection criteria for eligibility of projects / project evaluation

5.1 General eligibility criteria

- The stationary combustion source for which support is requested must be operated in full compliance with Act No. 201/2012 Coll., regarding air protection and on amendments to certain other acts, as later amended (hereinafter the "Air Protection Act").
- The project must not be in conflict with the outputs of the program for improving air quality for a particular zone or agglomeration and the National Emission Reduction Program developed in accordance with the Air Protection Act.
- The project implementation period shall not exceed 5 years from the date of approval of the project.
- The project must be implemented in the Czech Republic (hereinafter "CR").
- The applicant must not be an undertaking in difficulty².
- The applicant must not be in bankruptcy, liquidation, and must not have any overdue liabilities towards the state and public budgets, or outstanding taxes and is not a trading company in a conflict of interest³.

5.2 Specific eligibility criteria

5.2.1 Modernisation (reconstruction or replacement) of energy production and distribution equipment for self-consumption

- Implementation of the project must result in:
 - either in reduction of CO₂ emissions min. by 20%, while the specific eligible expenses of the project may not exceed the amount in CZK without VAT per t of CO₂ per year, set in the call,
 - or in reduction of unit emissions of CO₂ per unit of production min. by 25%, while the specific eligible expenses of the project may not exceed the amount in CZK without VAT per t of CO₂ per year, set in the call, calculated for the scenario where emissions after the implementation of the project will be considered in the same amount as before its implementation,
 - or in reduction of the consumption of primary energy from non-renewable sources min. by 10% compared to the initial state, while the specific eligible expenses of the project may not exceed the amount in CZK without VAT per GJ per year, set in the call,
 - or in reduction of the unit consumption of primary energy from non-renewable sources per unit of production min. by 15%, whi-

² Within the meaning of Art. 2 (18) of GBER.

³ Within the meaning of the Act no. 159/2006 Coll., on conflict of interest, as amended, including restrictions specified in section 4c of the Act. If the applicant is a legal entity then the application must be accompanied by its ownership structure and data on the actual owners within the meaning of Act no. 253/2008 Coll., regarding measures against the legalization of proceeds from crime and financing of terrorism, as amended.

le the specific eligible expenses of the project may not exceed the amount in CZK without VAT per GJ per year, set in the call, calculated for the scenario where energy consumption after the implementation of the project will be considered at the same amount as before its implementation.

- In the case of the project for energy use of waste the minimum energy efficiency of the facility must be met according to Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing of certain Directives, and at the same time the so called principle of waste management hierarchy⁴ must be adhered to.
- In the case of the implementation of a project on the use of biomass fuels, it is necessary to comply with the sustainability criteria according to Art. 29 of the Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources.
- Support for the production of energy from waste is limited to waste that meets the definition of renewable energy sources.
- After the implementation of the project, no coal or coal-derived fuels and other most polluting fossil fuels such as lignite, oil and diesel may be burned in the object of aid (if it is a stationary combustion source) and the support does not lead to an increase in energy production from the most polluting fossil fuels.
- In the case of implementation of a project using biomass fuels, as a transition from natural gas, the following conditions are defined:
 - projects on stationary combustion sources covered by the Directive (EU) 2015/2193 of the European Parliament and of the Council of 25 November 2015 on the limitation of emissions of certain pollutants into the air from medium combustion plants will be supported only if they guarantee compliance with 80% of the emission limit value for emissions of solid pollutants defined by Decree No. 415/2012 Coll. about the permissible level of pollution and its detection and on the implementation of some other provisions of the Air Protection Act, for sources put into operation on or after December 20, 2018,
 - projects on stationary combustion sources covered by the Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) will be supported only if they guarantee the achievement of the lower (and therefore most ambitious) half of the value interval according to the Best Available Techniques (BAT) conclusions for solid pollutants,
 - there must be no increase in NO_x emissions per unit of fuel energy compared to the original state,

⁴ According to Act No. 541/2020 Coll., on waste.

- the project cannot be supported in the cadastral territory where, according to current maps of the five-year rolling averages compiled by the Czech Hydrometeorological Institute (in accordance with paragraphs 5 and 6, §11 of the Air Protection Act), any of the emission limits set out in paragraph 1 of Appendix No. 1 of the Air Protection Act for PM₁₀ or PM_{2.5} were exceeded.
- If measures leading to a reduction in the energy performance of buildings are part of the project, there must be a reduction in the consumption of primary energy from non-renewable sources, necessary for the operation of the building (energy for heating, hot water preparation, cooling, air treatment through ventilation and air conditioning and energy for lighting), min. by 30%.
- In the case of support granted under the TCTF, the specific eligibility criteria are governed by the terms of this regulation and the conditions specified in the Commission's Decision.

5.2.2 Modernisation (reconstruction or replacement), or changes in the configuration of production or manufacturing facilities

- Implementation of the project must result in:
 - reduction of CO₂ emissions min. by 15% and at the same time in reduction of the primary consumption of primary energy from non-renewable sources min. by 15% compared to the initial state, while the specific eligible expenses of the project may not exceed the amount in CZK without VAT/GJ per year, set in the call, or
 - reduction of unit emissions of CO₂ per unit of production min. by 15% and at the same time in reduction of the unit primary consumption of primary energy from non-renewable energy sources per unit of production min. by 15%, while the specific eligible expenses of the project may not exceed the amount in CZK without VAT/GJ per year, set in the call, calculated for the scenario where energy consumption after the implementation of the project will be considered at the same amount as before its implementation.
- If measures leading to a reduction in the energy performance of buildings are part of the project, there must be a reduction in the consumption of primary energy from non-renewable sources, necessary for the operation of the building (energy for heating, hot water preparation, cooling, air treatment through ventilation and air conditioning and energy for lighting), min. by 30%.
- In the case of support granted under the TCTF, the specific eligibility criteria are governed by the terms of this regulation and the conditions specified in the Commission's Decision.

6. Eligibility of expenditure

6.1 General conditions of eligibility of expenditure

Aid may only be granted for eligible expenditures that meet all the following conditions:

- They are in accordance with CR and EU legislation;
- They are in accordance with the programme, relevant call and methodological instructions provided;
- They are incurred in accordance with the 3E Rule (Economy, Efficiency, Effectiveness)⁵;
- They are in accordance with the terms of the relevant GBER article;
- They are reasonable, i. e. correspond to the usual prices in the place and time;
- They are properly identifiable, verifiable and provable;
- They are directly and exclusively linked to the implementation of the project, created at the time of its implementation, and are part of its budget;
- They are eligible, if costs were incurred after the submission of the application.

6.2 Specific conditions of eligibility of expenditure

The basic eligible costs associated with the investment are, particularly:

- Direct implementation expenses, i. e. expenses for construction works, supplies and services directly related to the object of aid and contributing to the objectives of the project concerned;
- Activities of expert technical/author supervision, ensuring work safety on the construction site;
- Additional work if there are verifiable objective grounds, corresponding to the maximum amount of eligible less work under the given contract for work within the same project;
- Publicity measures;
- Value-added tax⁶;
- Set-off claims/liabilities between the applicant and the contractor.

A more detailed specification of the eligibility of expenditure is contained in the relevant call.

⁵ According to points m) n) o) § 2 of the Act no. 320/2001 Coll., regarding financial control in public administration and amendments to certain laws, as later amended.

⁶ VAT can be considered eligible only for applicants who cannot claim input value-added tax deduction in accordance with Act No. 235/2004 Coll., on value-added tax, as amended.

6.3 Ineligible expenditure

Aid cannot be provided for:

- Measures which do not adhere to the focus of the program and the requirements of the relevant call;
- The purchase of second-hand equipment;
- Expenditure on design documentation and design activities (except for Design & Build (& Operate));
- Acquisition of immovable property;
- Charges for removal of land from the agricultural land fund or land intended to perform forestry functions and the establishment of other services;
- Tax – VAT (except pursuant to section 6.2), direct tax, gift and inheritance tax, property tax, real estate transfer tax, road tax, duty;
- Expenditures to ensure relevant opinions;
- Induced investments which are not connected directly and solely with the purpose of the project;
- Repayment of loans, interest;
- Additional work over the amount of eligible less work;
- Management fees (e.g. notary fees, land registry fees, fees for issuing building permits, fees for discharging waste water into surface waters);
- Budget reserve;
- Salaries and other personnel expenses, overheads and operating expenses.

7. Contributions of the project and reported indicators

Within the implemented projects, both mandatory indicators which set the minimum requirements for the contributions of the project, as well as the so-called monitored indicators will be monitored and evaluated.

Mandatory indicators that are part of the application will be subject to a contractual obligation to help monitor and measure the achievement of outputs of the project itself. Implementation of mandatory indicators is under the direct control of the project, and they must be reached within a predetermined time frame. If the target values of the mandatory indicators relevant for the project are not met, a correction of up to 100% may be applied (depending on the degree of non-fulfilment).

Monitored indicators are not mandatory but are useful for monitoring the outputs of the project in terms of its contribution to national strategic objectives.

7.1 Mandatory (obligatory) project indicators

Mandatory indicators, which are compulsorily selected according to the type of project. Their value must be documented by an energy assessment at least once during the sustainability of the project. They are: reduction in primary energy consumption from non-renewable energy sources, reduction of CO₂ emissions, newly installed thermal/electric RES power.

7.2 Monitored (non-binding) project indicators

As non-binding indicators, within the supported projects, the amount of removed emissions from stationary sources of air pollution – PM, PM₁₀, PM_{2.5}, SO₂, NO_x, VOC, NH₃ – is monitored and reported.

8. Legal regime of the object of aid

8.1 Legal relation to the object of aid and operation

Aid is provided to the applicant if the applicant is or becomes (after the completion of the project) the owner of the object of aid, unless stated otherwise in the text or in the legal act. For this purpose, the owner is considered the operator of the object of aid pursuant to law or rather the entity that has the right to manage it (e.g. subsidized organizations, state enterprises).

If it is not excluded by the nature of the project, the beneficiary may also be the tenant of the object of aid, eventually authorized to implement the project and ensure its sustainability. From the rental agreement it must be clear that the owner agrees to the implementation of the project and complies with conditions set out below regarding sustainability of the project. In the case of things acquired with the requested aid that are and will not be part of the real estate (buildings or land) where they are located, it is permissible that the applicant be the tenant of the property in question.

The aid beneficiary shall ensure **sustainability of the project** focused on the modernisation of the energy source **for 10 years** and the project focused on modernisation of technology in production or manufacturing process **for 5 years**⁷ from its completion⁸. Compliance with the obligation of sustainability may be subject to control by the SEF CR and other relevant institutions. In the case of an infringement of sustainability obligations, the beneficiary in some circumstances may be ordered to repay the aid in part or fully.

Aid beneficiaries are then obliged to leave the object of aid in their possession for at least the period of sustainability, i.e., 10 or 5 years, respectively (unless the legal act provides otherwise or if it is not a legal status according to section 8.2). For this purpose, the owner is considered to be also the operator of the object of aid pursuant to law or rather the entity that has the right to manage it (e.g., subsidized organizations, state enterprises).

In cases that are not clearly set out in the above conditions, the SEF CR assesses the admissibility of the applicant's legal relation to the object of aid.

⁷ Outside the special legal situations consisting of extraordinary, unforeseeable, unavoidable and accidental events (for example a force majeure).

⁸ Project completion means the date the building is put into permanent operation, in accordance with Act no. 183/2006 Coll., on land use planning and building regulations (Building Act), as amended (the occupancy permit, proof of contacting the building authority or written approval that the building can be used).

8.2 Legal status of the object of aid

The object of aid may not be legally burdened during the implementation or sustainability period without the knowledge of the SEF CR, especially in the form of liens and easements, for which the exercise of rights derived from them may jeopardize the implementation or performance of the purpose of the object of aid, including ownership rights of the aid beneficiary, except:

- property that is encumbered by a statutory lien or a lien established by law to ensure fulfilment of obligations in provision of subsidy from the state budget, etc.;
- construction of utility networks on land.

The aid beneficiary is obliged to always inform the SEF CR about the legal burden of the object of aid even in the period of sustainability. The SEF CR will assess the nature of the legal burden and possibly the economic health of the aid beneficiary and determine the next steps. The SEF CR has the right to request the necessary documents for the assessment.

9. Conditions and method of implementation of the programme

9.1 Receiving and evaluating of applications

9.1.1 Pre-registration call and project intentions

Before the actual announcement of the call for submission of applications, the SEF CR can announce a so-called pre-registration call for the submission of project intentions. The data obtained from these project intentions will be used for better targeting of support and its distribution over time and will open up the possibility for applicants to consult upcoming projects even before submitting a full application for support.

Project intentions and information on planned investments will be submitted through the **Agenda Information System of the SEF CR** (hereinafter "AIS SEF CR") and no mandatory annexes will be required.

9.1.2 Announcements of calls for proposals from the programme

The call text, in full written form, including related documentation, will be published on the SEF CR website no later than the date of the call and will contain all details and conditions for the provision of aid.

Applications will be administered electronically in the AIS SEF CR.

9.1.3 Assessment and evaluation of applications

After submission, applications are checked in terms of formal requirements and conditions of eligibility set by the programme and the call which in the case of their non-compliance are of an exclusionary character.

Together with the evaluation of eligibility of the project, the applicant is also assessed from the point of view of fulfilling the exclusionary condition of the so-called undertaking in difficulty, according to Article 2 (18) of GBER (if relevant). The procedure for evaluation of an undertaking in difficulty can be found in the **[SEF CR guidelines for the evaluation of an undertaking in difficulty](#)**.

9.1.4 Selection of projects for funding

After meeting the formal requirements, eligibility conditions and economic evaluation of the applicant, the application proceeds to the selection process for project funding.

Applications for above-threshold projects will be, after checking their completeness, formal requirements and eligibility conditions, that is carried out by the SEF CR, individually submitted for evaluation by the European Investment Bank and issuing a decision by the European Commission⁹.

Individually submitted applications must also always meet the call's objectives and eligibility criteria and other requirements specified in the call and be in accordance with the rules and conditions of state aid before their submission to the European Investment Bank.

9.2 Contract for the provision of funds from the Modernisation Fund

The contract for the provision of funds from the Modernisation Fund as part of the programme forms an annex to the call and is concluded between the SEF CR and the aid beneficiary after the Decision of the Minister of Environment on the provision of funds from the SEF CR. The contract contains the maximum amount of financial aid provided, specifies the purpose and objectives of the supported project, the rights and obligations of both contracting parties and other conditions for granting the support, including any financial corrections and adjustments.

9.3 Public tenders under the project

The conditions for the implementation of contracts implemented within the supported project are set out in the call. Rules for the implementation of public tenders are governed by a separate document **Guidelines for awarding public tenders for programmes co-financed from the SEF CR budget** that is available on the official website of the SEF CR (*to be downloaded [here](#)*).

⁹ According to Articles 6 and 7 of the Commission Implementing Regulation (EU) 2020/1001 of 9 July, 2020, laying down detailed rules for the application of Directive 2003/87/EC of the European Parliament and of the Council as regards the operation of the Modernisation Fund supporting investments to modernise the energy systems and to improve energy efficiency of certain Member States.

9.4 Monitoring the implementation phase and final evaluation of the project

9.4.1 Monitoring of the project

The implementation of the project and the progress achieved is monitored through interim monitoring reports submitted by the applicant through AIS SEF CR. The applicant is obliged to submit the interim monitoring report every year of the project implementation, always no later than January 15 for the previous calendar year. Implementation in this case means the period starting with the signing of the contract and ending with the submission of documents for the Final Evaluation of the Action (FEA).

9.4.2 Completion and final evaluation of the project

The final status of the project and all financial, material, and other facts related to the implementation of the project are detailed by the applicant through documents for the completion of the project, proving the fulfilment of the conditions stipulated by the contract on the provision of support and, if applicable, other specific conditions set by the call. The applicant submits the documents required for the FEA in the prescribed format via AIS SEF CR. The documents for the carrying out of the FEA are submitted within the deadline set by the contract, including the required annexes.

9.4.3 Verification of project implementation and control activities

Applicants and beneficiaries of support are obliged to allow subjects carrying out verification and control activities access to the building, in which the supported measure was, is or will be implemented, and to provide all necessary assistance for the proper fulfilment of the purpose of verification and control. Control activity of the SEF CR is done on the basis of Act no. 255/2012 Coll., on control (control rules), as amended, and Act no. 320/2001 Coll., on financial control in public administration and amending certain laws (financial control act), as later amended.

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