

SUBSIDY RISKS OF COMMERCIAL ACTIVITIES BY UNIVERSITIES









Bavarian Court of Audit



- Supreme independent judicial state authority
- Auditing the budget and financial management of the Free State of Bavaria
- Free State's budget volume: around €65 billion
- ▶ Personnel: around 260





Duties of universities

Research – Teaching – Knowledge transfer

Knowledge transfer to industry through

- Research on behalf of companies/industry
- Teaching in the form of student-financed training (for example sandwich masters courses)
- Other scientific services (for example measurements and material tests)





Principles in European law

Principle:

Ban on state subsidies to companies (Art. 107 Paragraph 1 of the TFEU)

Applicable to the commercial activities of universities

Consequence:

(EU) separate invoicing of commercial and noncommercial activities required

Exceptions:

De minimis and block exemption regulation







Possible risks for universities

- Return of the (complete) state funds in the following cases:
 - Inaccurate classification of university activities for commercial and non-commercial work and/or
 - No (EU) separate invoicing
- Poorer competition situation for the university







Assessment approach

Within what limits is collaboration between universities and industry compatible with the subsidy practice of the European Commission?

Possible roles of the university:

- Subsidy recipient
- Subsidy provider







Main points of the assessment

- Contract research
- Research collaboration
- Income from other orders
- Student-financed education





Type and subject of the assessment

Cross-section assessment at 3 of 32 state universities

The following were assessed in particular:

- Correct classification of commercial and noncommercial activities
- Correct separation of activities
- Adequate control systems







Aim of the assessment

Reduce legal risks relating to subsidies by:

- Subsidy-compliant implementation of the (EU) separate invoicing system
- Better risk management





Results of the assessment and recommendations (I)

Result

Some commercial activities have not been classified as such.

Recommendation

Commercial and non-commercial activities and their costs, finance and proceeds must be clearly separated.





Results of the assessment and recommendations (II)

Result

In some cases, there is no documentation of the correct separation of costs, proceeds and finance.

Recommendation

The accounting system must be implemented correctly and promptly.





Results of the assessment and recommendations (III)

Result

Universities have inadequate internal control systems; risks were frequently not identifiable.

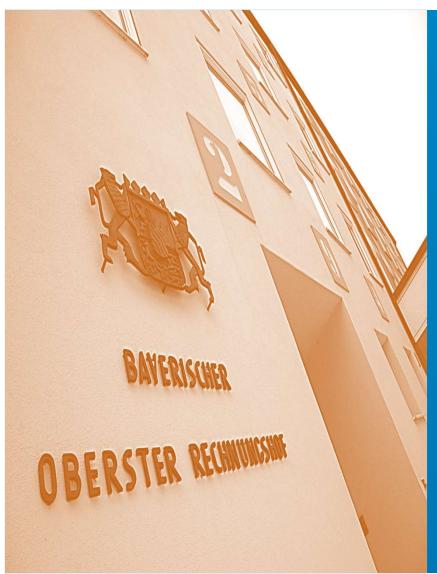
Recommendation

Supervise and monitor compliance with EU subsidy regulations at universities using an internal control system.









Universities must comply with the European ban on subsidies. In view of this, the clear separation of commercial and non-commercial activities is essential to avoid financial risks.