Inhaltsverzeichnis

1 RULES FOR PARTICIPATION ........................................................................................................ 1
1.1 ELIGIBILITY OF INTERNATIONAL ORGANISATIONS ............................................................. 1

2 PARTICIPANT PORTAL .................................................................................................................. 2
2.1 DASHBOARD: POSSIBILITY AND NECESSITY OF CHAT ARCHIVING ........................................... 2
2.2 EXPRESSION OF INTEREST DOCUMENT .................................................................................. 3
2.3 LEAR APPOINTMENT (GENERAL) .............................................................................................. 3
2.4 LEAR FOR MORE THAN ONE LEGAL ENTITY .............................................................................. 5
2.5 DURATION OF THE PROCESS FOR LEAR APPOINTMENT ............................................................. 6
2.6 ONE PERSON HAVING DIFFERENT ROLES IN ONE ECAS ACCOUNT ............................................. 6
2.7 CONTACT TO VALIDATION TEAM ............................................................................................... 7

3 GRANT PREPARATION PHASE .................................................................................................... 8
3.1 A CONSORTIUM AGREEMENT HAS TO BE SIGNED BEFORE THE GRANT AGREEMENT IS SIGNED? ................................................................................................................... 8
3.2 NEW INTERPRETATION OF ARTICLE 20 (2) - TIME TO GRANT .................................................. 9
3.3 AN FTI CONSORTIUM RECEIVED INFORMATION DATED 21ST OF AUGUST 2015 FROM EASME SAYING, THAT TIME FOR THE GRANT PREPARATION IS ABOUT 8 MONTHS FOR SIGNING THE GRANT AGREEMENT .................................................................................................................. 10
3.4 CHANGE OF THE PARTICIPANT CONTACT DURING THE GRANT PREPARATION PHASE .......... 11
3.5 DECLARATION OF HONOUR ....................................................................................................... 12
3.6 FVC RESULTS .......................................................................................................................... 14
3.7 REQUEST OF FVC OUTSIDE GA PREPARATION PHASE ............................................................. 15
3.8 VALIDATION OF AN ORGANIZATION BEFORE THE INFORMATION LETTER IS RECEIVED ............ 18
3.9 TEMPLATES OF THE “LEGAL ENTITY IDENTIFICATION FORM” ................................................ 18
3.10 GUIDE ON BENEFICIARY REGISTRATION, VALIDATION AND FINANCIAL VIABILITY CHECK .... 19
3.11 COULD BE USE AN ADVANCED ELECTRONIC SIGNATURE FOR SIGNING THE HOST SUPPORT LETTER? .................................................................................................................. 21

4 REDRESS PROCEDURE ................................................................................................................. 21
4.1 HOW TO START A REDRESS PROCEDURE IN H2020 ................................................................ 21

5 EVALUATION .................................................................................................................................. 22
5.1 OPERATIONAL CAPACITY CHECK ............................................................................................. 22

6 THIRD PARTIES (ART. 11, 12, 14, 15) ........................................................................................ 22
6.1 IN-KIND CONTRIBUTION (ART. 11) .............................................................................................. 22
6.2 BUDGET CALCULATION OF NON-PROFIT LINKED THIRD PARTIES IN INNOVATION ACTIONS (ART. 14) .................................................................................................................................................. 23
6.3 FINANCIAL SUPPORT TO THIRD PARTIES (ART 15) - GENERAL .............................................. 24
6.4 RESTRICTIONS FOR CASCADING GRANTS (ART. 15) ............................................................... 25
6.5 FINANCIAL SUPPORT TO THIRD PARTIES IN MARIE CURIE CO-FUND ACTIONS ................. 26
6.6 REMUNERATION OF OVERHEAD FOR IN-KIND CONTRIBUTIONS AGAINST PAYMENT ON THE THIRD PARTY’S PREMISES .......................................................................................................... 27
6.7 THIRD PARTIES IN THE PROPOSAL TEMPLATE RIA/CSA .......................................................... 28
6.8 COSTS OF RESOURCES USED FROM A THIRD PARTY ............................................................... 29
6.9 REFUSAL TO USE THE OPTION LINKED THIRD PARTIES ........................................................... 30
6.10 SUBCONTRACTING/OTHER SERVICES PROVIDED BY AFFILIATES .......................................... 31
6.11 ARTICLE 11/12 MGA FOR A UNIVERSITY CLINIC HAVING A CLOSE RELATIONSHIP TO A BENEFICIARY NOT BEING A LINKED THIRD PARTY ................................................................. 32
6.12 NON-PROFIT LINKED THIRD PARTY IN INNOVATION ACTIONS ................................................. 34
6.13 LINKED THIRD PARTY PARALLEL SUBCONTRACTOR OF ANOTHER PARTY .............................. 34
6.14 HOW SHOULD SCHOLARSHIP OWNERS BE INTEGRATED IN A PROJECT? ......................... 35
6.15 DISTINCTION USE OF SUBCONTRACTOR AND INKIND CONTRIBUTIONS? ............................ 36

7 SUBCONTRACTS ................................................................................................................................ 38
7.1 DIFFERENCE OF SUBCONTRACTS IN FP 7 AND HORIZON 2020 .................................................. 38
7.2 SUBCONTRACTS WITH A VALUE HIGHER THAN EUR 60 000 ..................................................... 39
7.3 HOW SHOULD THE ADDITIONAL OFFERS BE DOCUMENTED? .................................................. 40
14.6 OFFICIAL END OF PROJECT

14.7 SME TAKEN OVER BY AN INTERNATIONAL COMPANY FROM A NON-EU OR AS COUNTRY DURING THE DURATION OF A PROJECT

14.8 SME OWNER WORKING IN FP 7 AND H2020 RULES: DIVERGING MAXIMUM AMOUNT OF HOURS WORKED

14.9 WHEN CAN A SME BENEFICIARY PHASE 1 APPLY FOR A PHASE 2 PROJECT?

14.10 CONTACT PERSON FOR LEGAL CLARIFICATION OF SME STATUS

14.11 CALCULATION OF STAFF HEADCOUNT

14.12 AT WHAT TIME THE CONDITIONS FOR SME STATUS HAVE TO BE MET?

14.13 TRANSFER THE PROJECT FROM ONE SME TO ANOTHER SME

14.14 HOW TO DEFINE "MARKET", "SAME MARKET", "ADJACENT MARKET"

15 ERC

15.1 ARE CLINICAL STUDIES IN ERC PROJECTS ALLOWED?

15.2 CLARIFICATION REGARDING ERC STG APPLICATION / ELIGIBILITY

15.3 ADDITIONAL FUNDING FOR ERC GRANT (DEFINITION OF "LARGE FACILITIES")

15.4 IS THE PI OBLIGED TO MAKE A FORMAL JOB ADVERTISEMENT EVEN IF THE TEAM IS ALREADY KNOWN?

15.5 DUE TO THE POLITICAL SITUATION IN BRUSSELS (TERROR ALERT ON HIGHEST LEVEL) ARE THE COSTS THAT WILL ARISE DUE TO THE CANCELLATION OF THE EVENTS ARE THEY ELIGIBLE COST BECAUSE OF FORCE MAJEURE OR ARE THEY INELIGIBLE SO THAT IT WOULD BE BETTER TO CARRY OUT THE EVENT ALTHOUGH NOT ALL PARTICIPANTS WILL JOIN?

16 OTHER

16.1 SIGNATURE OF THE SERVICE SPECIFIC PRIVACY STATEMENT (SSPS)

16.2 STORAGE OF DATA

16.3 TECHNOLOGY READINESS LEVEL

16.4 TREATMENT OF NORWEGIAN AND SWISS PARTNERS IN THE ETHICS ISSUES TABLE

16.5 COSTS OPEN ACCESS

16.6 HORIZON 2020 AND STATE AID RULES

16.7 NO NEED OF LISTING H2020 FUNDING IN DE-MINIMIS REPORT

16.8 DELIVERABLES "RESTRICTED TO OTHER PROGRAMME PARTICIPANTS"

16.9 WHO PAYS IN CASE A PARTNER LEAVES THE CONSORTIUM?

16.10 ARE THERE ANY RESTRICTIONS ON COLLECTING ESRs?

16.11 HOW LONG YOU ARE OBLIGED TO HOST OFFICIAL WEBSITES?

16.12 ARE INDUSTRIALIZED THIRD COUNTRIES (USA, CANADA, SOUTH KOREA, JAPAN ETC.) TO BECOME COORDINATOR OF A H2020?

16.13 121
1 Rules for Participation

1.1 Eligibility of international organisations

Question

Dear RES,

we would like to clarify a view issues concerning the status of international organisations in Horizon 2020 and their eligibility for funding.

According to Article 9 of the Rules for participation, international organisations are only eligible for funding if their participation is deemed necessary for carrying out the action or provided for under a bilateral scientific and technological agreement or any other arrangement.

Is it correct that international organizations are eligible for funding if they are located with a branch in an EU Member State or Associated country, such as the United Nations University, United Nations Convention to Combat Desertification and the United Nations Educational, Scientific and Cultural Organization (all located in Bonn)?

The definition of an "International European Interest Organisation" is probably rather narrow and would not be suitable for instance for the European branch of an international organisation, for example the WHO European Centre for Environment and Health?

Are there yet major exceptions foreseen in the work programmes or do any agreements exist with regard to international organisations?

Thank you very much in advance.

Best regards

Answer

Thank you for your question. Please excuse our delay in replying to your query which is due to heavy workload for the preparation of the Horizon 2020 package.

Having said that, please find below the reply to your questions:

1. Is it correct that international organizations are eligible for funding if they are located with a branch in an EU Member State or Associated country, such as the United Nations University, United Nations Convention to Combat Desertification and the United Nations Educational, Scientific and Cultural Organization (all located in Bonn)?

International organisations are not eligible for funding, unless they comply with at least one of the conditions set out in Article 10, 2nd paragraph of the Rules for Participation. Their eligibility (or not) for funding does not depend on where they are established.

The participants eligible for funding from the Union are identified in Article 10, 1st paragraph of the RfP. They may be:

-"Any legal entity established in a Member State (MS) or Associated Country (AC) or created under Union law". This means that the branch of the international organisation may be eligible for funding from the Union if it fulfils the following 2 cumulative conditions: it is "a legal entity" as defined in Article 2.1.13 of the RfP and it is created and
recognised as such (i.e. as a legal entity) under national law (of a MS or AS) or under Union law.

"Any international European interest organisation"; (see definition below)

"Any legal entity established in a third country identified in the work programme". N/A in this case since according to your email, the branch is located in a MS or AC.

2. The definition of an "International European Interest Organisation" is probably rather narrow and would not be suitable for instance for the European branch of an international organisation, for example the WHO European Centre for Environment and Health?

Please note that it is for the concerned participants to demonstrate that they qualify as "an international European interest organisation" and therefore, they are eligible for funding from the Union. More concretely, this means that the participants must demonstrate at the moment of the validation of the legal entity that they fulfil the following cumulative conditions set out in Article 2.1.12 of the RfP:

- the majority of their members are Member States or Associated countries and,
- their principle objective is to promote scientific and technological cooperation in Europe.

3. Are there yet major exceptions foreseen in the work programmes or do any agreements exist with regard to international organisations?

We are not aware of any major exceptions foreseen in the current work programmes with regard to international organisations.

Kind regards,
RTD J1

2 Participant Portal

2.1 Dashboard: Possibility and necessity of chat archiving

Question

Dear Res,

I have a question in regards to the chat function for the PO and the coordinator in the Participant Portal. Can other participants read the communication and is it possible to archive the chat e.g. download the communication as pdf?

Kind regards

Answer

thank you for your message.

The messaging system of the Grant Management dashboard is available to the whole consortium in read mode and to the coordinators contact in write mode. Nothing ever disappears. In that sense, there is no need to archive.
2.2  Expression of interest document

Question

Dear RES,

some clients asked us, if we heard about a COM template for an “expression of interest” document for the application phase. Since this is becoming a quite frequent question now, we would like to ask, if a template like this exists for consortia in particular fields of H2020?

Until now, we refer to the factsheets and templates of the IPR helpdesk.

Best regards

Answer

Thank you for your message.

In response to your enquiry, we would like to inform you that the only official templates for H2020 are available in the following section of the Participant Portal:

http://ec.europa.eu/research/participants/portal/desktop/en/funding/reference_docs.html#h2020-call_ptef-pt

Please note that the templates on the above website have only a provisional nature. The templates to be completed are available through the Electronic Submission Service of a respective call page.

We hope this information will be helpful to you.

Kind regards,

EUROPE DIRECT Contact Centre/ Research Enquiry Service

2.3  LEAR Appointment (general)

Question

Dear helpdesk,

we received a couple of questions regarding the participant portal:

1. When will it be possible to renominate the LEARs
2. Do the institutions have to update their data (PIC) for H2020?
3. When will be the guide for register an organisation for H2020 online?
4. on the participant portal it is mentioned, that also non legal entities can register? Isn’t this contradictory to the rules for participation art. 7,9.)


"When an organisation does not have legal personality, his/her representatives must prove they have the capacity to undertake legal obligations on behalf of the organisation and that the organisation has financial and operational capacity equivalent to that of legal persons. In H2020 not only legal entities with legal personality can participate in projects. Examples of this particular type of entities are: in the private sector: faculties, not-
recognised associations, UK General Partnerships and Sole Proprietors in The Netherlands; ..."

Universities fear, that several departments and/or faculties will start registering themselves again.

Best regards and thanks for your assistance

Answer

Thank you for your message and for your interest in European Union (EU) research funding. We apologise for the delay in replying.

We would like to inform you that the mandate of the LEAR has to be extended for the new EU research and innovation programme, Horizon 2020.

The introduction of fully electronic management of grants requires LEARs to reliably identify, in the Participant Portal electronic exchange system, persons in their organisation authorised to sign grant agreements and amendments.

The appointment of a LEAR will be necessary for any organisation in order to be able to sign Horizon 2020 grants. As an existing FP7 LEAR, you can continue using your existing ECAS account and your access to all data or information related to FP7 is maintained. However, before you acquire access in the electronic exchange system to the function for nominating the persons in your organisation authorised to sign grant agreements and amendments, the legal representative of your organisation must agree to the extended role and tasks of the LEAR. For doing this, the following documents - clearly mentioning your PIC number - are required:

- the LEAR Appointment Letter, duly signed by the legal representative of your organisation;
- the Roles and Duties document, duly signed by both the LEAR and the legal representative of your organisation;
- the Declaration of Consent (document accompanying the Terms and Conditions of use of the Electronic Exchange System), duly signed by the legal representative of your organisation.

[For all three documents, you must use the templates provided by the European Commission on the Participant Portal Reference Documents page at:


and the following obligatory annexes:

- Legal document(s) proving the legal representative is entitled to sign on behalf of the organisation.
- A copy of the proof of identity for both LEAR and the legal representative (ID card or passport)

All of the above has to be sent as hard copy, in one single envelope, by regular mail to:

European Commission
Research Executive Agency-Validation Services
COV 2 - 13/132
Regarding your second question, No, you do not need to update your PIC for Horizon 2020 call for proposals.

The online guide for registering an organisation is available on the H2020 Online Manual on the "Participant Portal" of the Directorate-General for Research and Innovation of the European Commission, at the following URL:


Finally, regarding the questions 4, in H2020 and in compliance with art. 2.2 of the Rules for participation, an entity which does not have legal personality under the applicable national law shall be considered as being assimilated to a legal entity provided that the conditions set out in Article 131(2) of Regulation (EU, Euratom) No 966/2012 and Article 198 of Regulation (EU) No 1268/2012 are complied with. In other words, when an organisation does not have legal personality, it can participate if his/her representatives prove they have the capacity to undertake legal obligations on behalf of the organisation and that the organisation has financial and operational capacity equivalent to that of legal persons.

This possibility concerns entities like not-recognised associations or some particular entities as GEIE without legal personality but does not concern departments which are part of an entity with legal personality. As it was the case in FP7, faculties which does not have its own legal personality but which are department of the University will participate with the PIC of the universities. The reference in the PP that you quote has been deleted in the meantime as it was not correct.

Kind regards,

Legal and Financial Help Desk

2.4 LEAR for more than one legal entity

Question

Dear RES,

I have a question regarding a technical aspect in the nomination process of a LEAR. Would it be possible, that one person, using the same e-mail address and the same ECAS account, is the LEAR for two institutions?

Kinde regards

Answer

Thank you for your message and for your interest in European Union (EU) research funding.

We would like to inform you that one person can be the LEAR of more than an entity. However, he or she will need two different e-mail addresses and two different ECAS accounts.

We hope this information will be helpful to you.
2.5 Duration of the process for LEAR Appointment

Question
I appointed our LEAR about 2 month ago.
But since now I haven’t heard if it was successful and if the process is finished.
Could you please tell me, how long it might take to get information on the LEAR-appointment?
Thank you for your help.
Best regards,

Answer
Thank you for your message and for your interest in European Union (EU) research funding. We consulted the relevant services and were informed that their current priority is to validate the LEAR mandate of organizations who are in the process of finalizing their grant agreement with the European Commission/agencies. If this is the case for your organization or for other questions, please send an e-mail to the REA-URF-Validation@ec.europa.eu functional mailbox clearly indicating your project number and the Call ID/Call Title. If your organization is not actively involved in a grant preparation phase, please note that the encoding of the LEAR extended mandate will be handled by this service at a later stage. In any case, please kindly note that the account of the LEAR, together with all other associated rights, remains active and is not affected by this ongoing process. The network of National Contact Points (NCPs) is the main structure to provide guidance, practical information and assistance on all aspects of participation in Horizon 2020. For contact details, please consult the following URL: http://ec.europa.eu/research/participants/portal/desktop/en/support/national_contact_points.html
We hope this information will be helpful to you.
Kind regards,
EUROPE DIRECT Contact Centre/Research Enquiry Service

2.6 One person having different roles in one ECAS account

Question
Dear RES,
I have a question regarding the roles in the participant portal. According to the H2020 Online Manual, “a user's ECAS account can carry any combination of roles. Thus, a user can acquire a differentiated set of access rights to functions for managing grants or organisation data.”
TIPS:
For small organisations or beneficiaries who are individuals (natural persons), this means that one single person can combine all the access rights needed to manage their grants (i.e. LEAR, PaCo (or CoCo if they are the coordinator), PLSIGN and PFSIGN).”
(http://ec.europa.eu/research/participants/docs/h2020-funding-guide/user-account-and-roles/roles-and-access-rights_en.htm)

However, an applicant asked the IT Helpdesk whether the same person could take the roles of LEAR, LSign and FSign for an enterprise and got the reply that “It's possible only if you encoded a different mail account for each role”.

Can you please clarify the contradictory statements?

Thanks beforehand for your assistance.

Kind regards,

Answer
Thank you for your question. We consulted the responsible service, which informed us that it is correct to say that one person can have all the roles with the same ECAS account.

Kind regards,

The Research Enquiry Service Back-office

2.7 Contact to validation team

Question
Dear Helpdesk,

as the mail adress REA-URF-VALIDATION@ec.europa.eu for contacting the validation team is invalid we are wondering how to contact the validation team, especially if a beneficiary is not yet registered.

Whom to contact for specific questions and especially for smes if they need legal certainty on their sme status for applying in the sme instrument? While registering in the participant portal it is only a sme self assesment for smes, but for some smes it is vital to know their correct status for applying in the sme instrument. Because of links to other companies or smes, they might have lost the status.

It would be helpful if you could identify a contact for these questions.

Best regards,

Answer
Thank you for your message.

As the email address is indeed no more available, they can contact the Horizon 2020 Helpdesk - Research Enquiry Service:

Regarding the LEAR appointment documents, here is the address you can use:
Place Charles Rogier 16
COV2 - 13/132
If a contact person is required for the shipment, you can mention:

Dr Sebastiano Fumero
Phone number: +32 229-69688

We hope you find this information useful. Please contact us again if you have other questions.

Kind regards,
EUROPE DIRECT Contact Centre/ Research Enquiry Service

3 Grant Preparation Phase

3.1 A consortium agreement has to be signed before the grant agreement is signed?

Question

Dear Helpdesk,

lately we received following questions we can't answer with legal certainty. Maybe you can clarify the situation.

According to art. 41.3 GA together with the annotated MGA to Art. 41 and the respective work programme, a consortium agreement has to be signed before the grant agreement is signed.

As between the information that the project will be funded and the latest possibility to sign the GA there are only 3 months, some participants are wondering what will happen, if the consortium cannot sign the consortium agreement before the model grant agreement? Will the Commission check that the consortium has been signed internally? In case the consortium agreement hasn't been signed, will the Commission stop the project or stop the negotiation procedure for the MGA?

It would be very helpful, if you could clarify the situation. Thank you very much in advance for your assistance,

Best regards

Answer

Thank you for your message.

In line with Article 24 (2) of the Horizon 2020 Rules for Participation and Article 41 (3) of the MGA, the participants have to conclude a consortium agreement if the work programme does not rule otherwise. However, neither the Rules for Participation nor the MGA stipulate that this agreement has to be concluded before the grant agreement is signed. The annotated grant agreement consequently only recommends strongly (“should in principle”) that the consortium agreement be negotiated and concluded before the action starts because not having a consortium agreement at this moment could delay and jeopardise the action. However, the Commission will not stop the grant preparation phase (there are no negotiations any longer), if it should become aware that
the applicants have not yet concluded a consortium agreement. However, and unless specifically ruled out by the WP, the obligation to have a CA signed exists, and should the Consortium not sign one, this may be considered a breach of grant obligations.

In case the work programme exceptionally stipulates that a consortium agreement be concluded before the signature of the grant agreement, this would be an additional participation condition (Article 9(5) of the H2020 Rules for Participation. Consequently, if the Commission becomes aware of the absence of the conclusion of a consortium agreement it would not sign the grant agreement.

Best regards,

3.2 New interpretation of Article 20 (2) - time to grant

Question
Dear Helpdesk,

we have a question on Art. 20 (2)(time to grant) of the rules for participation. Art. 20 (2)says:

(a) for informing all applicants of the outcome of the scientific evaluation of their application, a maximum period of five months from the final date for submission of complete proposals;

(b) for signing grant agreements with applicants or notifying grant decisions to them, a maximum period of three months from the date of informing applicants they have been successful.

Therefore in general time to grant is 5 + 3. But with the new interpretation of Art. 20 by the Commission, the evaluation and granting period could be even shorter if possible. But what does it mean in practice.

Is it max. 5 months for evaluation and 3 for granting therefore 3 for evaluation of a call would be possible and 2 for granting? Or is also possible 4 for evaluation and then 4 for granting (altogether still 8 months)? Applicants ask us what the consequences are. Is it a maximum um 5 and a maximum of 3 months for the granting process or altogether a maximum of 8 months and in case the evaluation was shorter, the granting might take longer? Maybe you could clarify the situation.

Thanks for your assistance,

Best regards

Answer
Thank you very much for your question.

The new interpretation, that is applicable with immediate effect, serves to enable efficient and effective grant preparation in H2020. It means that the standard period for grant agreement preparation (GAP) is no longer limited to three months.

The following deadlines apply:

• Time-to-Inform (TTI): the period from call closure date until the date of communicating the evaluation results to all applicants is still set to a maximum of five months (153 calendar days).
• Time-to-Grant (TTG): the period from the deadline for the submission of complete proposals until the signature of all grant agreements under the same call is still set to a maximum of eight months (245 calendar days).

However, this change should not be interpreted as a change to the "no-negotiation approach", but aims to allow flexibility between the evaluation and grant preparation periods.

For example, if the TTI is three months, you will now be allowed to prepare your grant during a period of five months or, as in your example, you may now use four months for evaluation and four for granting preparation.

Kind regards,

Research Enquiry Service-Legal and financial helpdesk

3.3 An FTI consortium received information dated 21st of August 2015 from EASME saying, that time for the grant preparation is about 8 months for signing the grant agreement.

Question

Dear Helpdesk,

we have again a question on the time to grant as a follow-up of Case_ID: 1086758 / 6052827.

An FTI consortium received the following information dated 21st of August 2015 from EASME saying, that time for the grant preparation is about 8 months for signing the grant agreement.

"7. Timetable for grant preparation

7.1 2 weeks after the date of this letter is the deadline for the submission of the grant agreement data, including annexes. Following the assessment of the submitted version of the grant agreement data, you will have a two-week deadline to submit the final version taking into consideration all requirements highlighted by the Project Officer,

7.2 4 weeks after the date of this letter is the deadline for the electronic signature of the participants’ declarations of honor

The Agency foresees proceeding with the signature of the grant agreement within 8 months after the date of this letter."

According to CASE ID 1086758 / 6052827, we understood that the 8 months count from the deadline of submission not from receiving the information letter on receiving the grant. We are a bit confused and beneficiaries fear that the period for signing the GA will take about 8 months. Is the granting process for FTI different from the rest of H2020 or did we understand the explanation on the time to grant in a wrong way. Maybe you could clarify the situation for time to grant and time to prepare the agreement.
Thanks for your assistance,
best regards

---

**Answer**

Dear Madam,

In reply to your follow-up question, we have verified with our colleagues from EASME the content of the information letter sent to the FTI consortium. It appears that there is indeed a clerical error: it should read 8 weeks and not 8 months.

Please note that, FTI pilot Time To Grant differs from other grants in Horizon 2020: as stated in article 54 of the Rules for Participation, "the period between a cut-off date and signature of the grant agreement or notification of the grant decision shall not exceed six months".

Therefore, the Indicative timetable for evaluation and grant agreement of FTI pilot was adapted accordingly:

Information on the outcome of the evaluation of the H2020-FTIPilot-1-2015 call: maximum 3 months from the final date for submission.

Signature of grant agreements: maximum 3 months from the date of informing successful applicants.

We hope this answers your concern.

Kind regards,

Research Enquiry Service-Legal and financial helpdesk

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**3.4 Change of the Participant Contact during the Grant Preparation Phase**

**Question**

Dear helpdesk,

we were currently asked whether a change of the participant contact in the Grant Preparation Forms requires a new signature of the GPFs in a running FP 7 project or whether the COM does not require a new signature of the GPS during an amendment process.

Thanks for your assistance,
best regards

---

**Answer**

Please note that the enquiry service does not validate individual questions but provides general guidelines.
We are not aware of what type of an amendment you are referring to, or of what you mean by a participant contact since there are various persons mentioned in the GPFs (authorised representatives, persons in charge of scientific part etc).

Only data which is mentioned in the grant agreement requires an amendment e.g. the contact person of the coordinator in Article 8. If there is an amendment to be signed, only the Commission and the Coordinator sign.

For other changes, only an update in the system is required. Participant Contacts can be nominated/revoked directly in the identity and access management service of the portal by other Participant Contacts of the same beneficiary or by a Coordinator Contact.

We would suggest that you referred to the amendment guidelines to find the requested documents that you need to submit for your particular amendment (see http://ec.europa.eu/research/participants/data/ref/fp7/89604/amendments-ga_en.pdf).

If it is still not clear for you, we would suggest you contact the legal/project officer dealing with the individual project.

Kindest regards,

Legal and financial helpdesk

3.5 Declaration of Honour

Question

Dear Helpdesk,

lately we received the following questions regarding the declaration of honour. Maybe you can clarify:

- is it possible to change provisions in the declaration of honour? (delete section 7 etc.)?
- what happens if not all partner sign the declaration of honour?
- what are the legal consequences of number 4 of the declaration of honour "my organisation is committed to participate in the action"? what happens if the organisation signs the declaration of honour but later on can't sign the Grant Agreement?

Best regards

Answer

Thank you for your message.

The declaration of honour is to be considered as a compulsory step to be performed during the grant preparation phase. This is explicitly mentioned:


  "[...] 2. Grant applications shall be eligible if submitted by the following:
  (a) legal persons; or
  (b) natural persons, in so far as this is required by the nature or characteristics of the action or the objective pursued by the applicant."
3. The application shall state the legal status of the applicant and demonstrate his or her financial and operational capacity to carry out the proposed action or work programme. For that purpose the applicant shall submit a declaration on his or her honour and, unless the grant is a low value grant, any supporting documents requested, on the basis of a risk assessment, by the authorising officer responsible. The prerequisite documents shall be indicated in the call for proposals.

5. Administrative and financial penalties which are effective, proportionate and dissuasive may be imposed on applicants by the authorising officer responsible, in accordance with Article 109.

Those penalties may also be imposed on beneficiaries who at the moment of the submission of the application or during the implementation of the grant, have made false declarations in supplying the information required by the authorising officer responsible or fail to supply that information.

-On the Participant portal:

1) Guide for grant agreement preparation:

"[...] The grant agreement must be signed no later than 3 months after you receive your evaluation results (Article 20(2) Rules for Participation). To make this feasible, there is a strict deadline for each stage in preparing the agreement.

You will have 3 weeks to submit the first version of the grant agreement data, including Annex 1 (DoA) and Annex 2 (estimated budget). The Project Officer will assess the first version and tell you about any requirements you still need to meet. You will then have up to 2 weeks to submit a final version of the data.

As a beneficiary, you must sign a 'Declaration of Honour' as soon as possible and no later than 6 weeks after the date on which you were invited to help prepare the grant agreement. The grant agreement cannot be signed until all beneficiaries have signed their 'Declarations of Honour'."

2. This declaration ensures that all beneficiaries comply with the rules and are not in a situation that would exclude them from receiving EU funding (e.g. bankruptcy). The coordinator cannot sign it on behalf of other beneficiaries. [...]"

2) proposal template RIA, IA Declarations (see p. 3):

"1) The coordinator declares to have the explicit consent of all applicants on their participation and on the content of this proposal.*

2) The information contained in this proposal is correct and complete.

3) This proposal complies with ethical principles (including the highest standards of research integrity — as set out, for instance, in the European Code of Conduct for Research Integrity — and including, in particular, avoiding fabrication, falsification, plagiarism or other research misconduct).

4) The coordinator confirms:

- to have carried out the self-check of the financial capacity of the organisation on https://ec.europa.eu/research/participants/portal4/desktop/en/organisations/lfv.html. Where the result was “weak” or “insufficient”, the coordinator
confirms being aware of the measures that may be imposed in accordance with the H2020 Grants Manual (Chapter on Financial capacity check); or

- is exempt from the financial capacity check being a public body including international organisations, higher or secondary education establishment or a legal entity, whose viability is guaranteed by a Member State or associated country, as defined in the H2020 Grants Manual (Chapter on Financial capacity check); or

- as sole participant in the proposal is exempt from the financial capacity check.

5) The coordinator hereby declares that each applicant has confirmed:

- they are fully eligible in accordance with the criteria set out in the specific call for proposals; and

- they have the financial and operational capacity to carry out the proposed action.

NB : At the level of the proposal, the coordinator is only responsible for the correctness of the information relating to his/her own organisation. Each applicant remains responsible for the correctness of the information related to him and declared above. Where the proposal to be retained for EU funding, the coordinator and each beneficiary applicant will be required to present a formal declaration in this respect.


In this context, the answers to your questions are the following:

1) The declaration of honour document you are referring to is aimed at informing applicants for Horizon 2020 funding. It serves only as an example. But completion and submission of the actual Web forms is only possible via the online grant management service under the Participant Portal. As mentioned above, all sections mentioned in the declaration of honour are based on Article 131(2) of the Financial Regulation and therefore may not be deleted.

2) The grant agreement cannot be signed until all beneficiaries have signed their 'Declarations of Honour'. You must be aware that the coordinator cannot sign it on behalf of other beneficiaries.

3) As already explained, the declaration of honour is a prerequisite to the signature of the grant agreement.

Kind regards,

Legal and financial helpdesk

3.6 FVC results

Question

Dear Res,

I have a question concerning the financial viability check. I am referring to Art. 15 Nr.9 RfP and Point 4 on page 19 of the "Guide on beneficiary registration,
validation and financial viability check" (April 11 2014). If the financial capacity has been checked, does that mean that if the result is acceptable or good and no other exceptions have been found, the institution can participate and be a coordinator? If the result is "weak" can the institution still be a partner but not a coordinator or does that mean, that an institution that has been checked as "weak" cannot participate at all?

Best regards

Answer

Thank you for your message.

The consequences of the Financial viability check are described in the Guide for Grant preparation, which is now available on the Participant Portal:


The financial viability check has 4 possible outcomes:

- Good
- Acceptable
- Weak
- Insufficient

If the financial viability is 'good' or 'acceptable', no further action is necessary. It implies that the beneficiary may participate and be coordinator.

If the financial viability is 'weak', the beneficiary may participate but not be the coordinator. It may also be subject to additional monitoring (e.g. through additional reviews or on-the-spot checks). For the coordination of the project, the consortium must put forward a solution including the appointment of a new coordinator and reassignment of coordination tasks.

If the financial viability is 'insufficient', the beneficiary cannot participate in the project. The consortium must put forward a solution, following the steps for removing or replacing the participant. If no acceptable solution is presented, grant preparation may be terminated and the proposal rejected.

Best regards,

Legal and Financial Helpdesk

3.7 Request of FVC outside GA preparation phase

Question

Dear EC Legal Unit,
Dear NCP colleagues,

We’ve been recently approached by several applicants-coordinators, who have received the communication below from the REA validation unit.

Apparently, there’s nothing wrong; however, these applicants have never been informed about the results of the evaluation phase from the EC. Suddenly, they received this request to carry out a FVC – a procedure which should be usually carried out in the three months’ time available for the GA preparation phase – and found
themselves puzzled about the (possible?) positive outcome of the evaluation of their proposal.

As you can read from the email text (see parts highlighted in yellow), there are several references to a potential GA and to the timeline for its preparation, which was never communicated.

I’ve also tried to track the process via the Participant Portal; apparently, whilst the proposal just appears in ‘My proposals’ section, it doesn’t show up in ‘My projects’ section (where GAs under preparation are usually listed). Also, if the applicant click on the ‘Follow Up’ button of the concerned proposal is re-directed to SYGMA (the system used for the GA preparation) and the proposal status is ‘GA preparation’.

I’m quite confused. Can you help clarifying?

Many thanks in advance.

“Dear Madam, Dear Sir,

To move forward with the potential award of a grant to your entity, we require proof of its financial viability.

Your organisation has been triggered because no recent financial documents (i.e. closed less than 18 months ago) have been retrieved in your PIC-account.

**Rules and required financial documents:**

The rules on the financial viability check (FVC) of an organisation, and the list of all required financial documents are laid down in chapter III.4.3 to the H2020 Grants Manual, available on the Research & Innovation Participant Portal, "Grants"-section, subsection "Register an organisation" ([http://ec.europa.eu/research/participants/portal/desktop/en/funding/guide.html](http://ec.europa.eu/research/participants/portal/desktop/en/funding/guide.html)).

Please allow us to draw your special attention to the following points:

- The exemption from auditing under national legislation is not applicable if the requested EU-contribution exceeds the threshold of € K750.
- The statements have to be **signed** by the management, and the auditor’s report has to be **signed** by the auditor.
- Financial years up to and including June 30th are considered, in the framework of the FVC, to be related to the previous calendar year. For example, closed on 30/06/2013 relates to the year 2012 and closed on 01/07/2013 relates to the year 2013.

If your participation is financially guaranteed by a Member State or an Associated State, please upload the appropriate supporting document, established and **signed** by this State and sent to the EU.

**How to proceed:**

*If a LEAR has been appointed:*

In order to speed up the process, please enter the required information in your account,
upload a scanned copy of each of the required financial documents, and submit.


If the "balance sheet"-tab would not be available, kindly only upload the required documents.

If for any reason you have problems submitting the data and/or the financial documents, and in order not to delay the grant preparation process, please for this time send a scanned copy of the required documents by e-mail to our mailbox REA-FVC@ec.europa.eu.

If no LEAR has been appointed yet, or if the legal validation of your entity hasn't been completed yet:

Nobody in your organisation has access to the "Balance sheet"-tab in the portal.

In order not to delay the grant preparation process, please for this time only upload the required financial documents or, in case of problems, send a scanned copy by e-mail to our mailbox REA-FVC@ec.europa.eu.

If you think you fall under the FVC-exemptions as laid down in the rules please let us know on which ground.

Please take action on this request at your earliest convenience, since the grant preparation of the above-mentioned project cannot be finalised until the verification of the financial viability is completed for all participating entities subject to the FVC.

After the validation of the provided information the results are available in your account to the Participant Portal. No separate notification will be sent. If you disagree with our approach please edit the validated data, re-enter the data according to your approach, and upload additional documents supporting the latter.

Note: Should your company be involved in multiple proposals, it is only necessary to provide one set of documents for every closed financial year.

Without action from you we will send a reminder in 2 weeks. Should this not cope with the grant preparation calendar, managed by the Operational Unit, kindly inform us accordingly.

Thank you very much for your cooperation.

Answer

Even if the grant manual states that the financial viability will be checked if (and when) a proposal has been successfully evaluated, the Commission services may request information from participants in order to speed up the evaluation process by giving them reasonable time to submit the information required. Please refer to Article 20 of the Rules for participation of the Regulation (EU) N°1290/2013 and in particular to point 4 of the Article.
1. In accordance with Article 128(2) of Regulation (EU, Euratom) No 966/2012, calls for proposals shall specify the planned date by which all applicants shall be informed of the outcome of the evaluation of their application and the indicative date for the signature of grant agreements or the notification of grant decisions.

4. Participants shall be given reasonable time to submit the information and documentation required for the signature of the grant agreement. The Commission shall make decisions and requests for information as promptly as possible. Where possible, resubmission of documents shall be avoided.

In the present case, the message from REA does not speak about the positive evaluation of the proposal but only of "the potential award of a grant". This should be interpreted in a practical and simple way: as soon as you submit a proposal there is a certain chance that a grant will be awarded. Therefore, the legal and financial validation of potential beneficiaries must be triggered as soon as possible in order to comply with the strict time-to-grant limits of Horizon 2020. The Commission/Agency may thus proceed with the necessary checks.

Best regards,

3.8 Validation of an organization before the information letter is received

Question

Dear RES,

For taking part in H2020 new organizations have to register in order to receive a PIC. As it is explained in the H2020 manual under the part "validation of an organization" the validation of the data will take place when the organization successfully submitted a proposal. In regard to the short time frame of 3 months for the preparation of the grant, can, in any case, the validation process start before the information letter is received?

Kind regards

Answer

Indeed the validation process of a PIC self-registered via the Participant Portal can be launched at any point in time as this is not necessarily linked neither to the submission of proposals nor to grant preparation processes. In any case, once a grant preparation phase is opened for a certain project, participants that have not yet a validated PIC will definitely be approached by the Validation Services in order to request the necessary documents to complete the validation.

Kind regards,

The Research Enquiry Service Back-office

3.9 Templates of the "legal entity identification form"

Question
Dear Helpdesk,

we are looking for the templates of the "legal entity identification form". The link on p. 7 of "the guide of the beneficiary registration validation ..etc." does not work anymore and the former link in the online manual disappeared. http://ec.europa.eu/research/participants/docs/h2020-funding-guide/grants/applying-for-funding/register-an-organisation/validation-of-organisation_en.htm

Could you please provide us with the information where to find the respective documents for the registration and validation.

Thanks a lot.

Best regards,

Answer

Thank you for your message.

We would like to inform you that the guide needs to be modified. Therefore, we have informed the relevant services.

You will find the required document in the following link:

This document is available at the following site:
http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm#en

In order to access it, please click on "Private companies".

We hope you find this information useful. Please contact us again if you have other questions.

Kind regards,

EUROPE DIRECT Contact Centre/ Research Enquiry Service

3.10 Guide on beneficiary registration, validation and financial viability check

Question

Dear Helpdesk,

Attached as an example please find a mail from an applicant which is similar to lot of other questions.

Mainly the problem is, when clicking on the Link in den Mail attached at the information passage on documents:

"You can find all the necessary information about the documents required to complete the validation process in the "Guide on beneficiary registration, validation and financial viability check" at:

The problem is, that you can open the guide (see attached) but the link in the guide to the documents on P.7 does not work. Neither the footnote” nor when refreshing the browser…

“p. 7 of the “Guide on validation…” (attached) and Footnote 6

3.2 List of documents

Irrespective of the Horizon 2020 status you registered, you will be asked to submit the following documents (via the electronic exchange system of the Participant Portal), to prove your identity/legal form, name and address:

• signed ‘legal entity identification form’6

• official VAT document or — if you are not registered for VAT — proof of VAT exemption not older than 6 months."

The next problem is that in the mail the expression “FEL Form private entity” is used, but you do not find this name in the guide for registration and validation. That’s confusing for newcomer in H2020 and they all do contact us, because they cannot find this form in the guide or the participant portal. We provide them with the normal legal entity forms from this website

http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm#en

Best regards

Answer

Thank you for your message.

We will request the update of the document.

In the meantime, this link can be provided:

http://ec.europa.eu/budget/contracts_grants/info_contracts/legal_entities/legal_entities_en.cfm

We hope you find this information useful. Please contact us again if you have other questions.

Kind regards,

EUROPE DIRECT Contact Centre/ Research Enquiry Service
3.11 Could be use an advanced electronic signature for signing the Host Support Letter?

**Question**

Dear ERC Team,

a Host Institution in Germany has a national certified system for an advanced electronic signature and is asking, whether they can use this advanced electronic signature for signing the Host Support Letter?

Thanks for your assistance,

Best regards

**Answer**

An electronic signature on the Host Institution letter issued by a national certified system for an advanced electronic signature in Germany will be valid.

We remain available for any further question you may have.

Best wishes,

ERCEA STG Call Coordination team

4 Redress Procedure

4.1 How to start a redress procedure in H2020

**Question**

Dear Helpdesk,

in FP 7 there exists the possibility to ask for a redress procedure. Where to find the redress procedure in H2020? Neither in the rules for participation nor in the MGA we could find the procedure. Couldn’t you please clarify where to find the procedure or what exists instead and how to proceed? Thanks for your assistance.

Best regards.

**Answer**

Thank you for your message and for your interest in European Union (EU) research funding.

In case an applicant wishes to file a complaint or request review concerning the evaluation of a proposal, any such request must be submitted within thirty calendar days after notification of the evaluation letter. Such requests must be submitted by the coordinator via the following website: [https://webgate.ec.europa.eu/redress-frontoffice/work.iface](https://webgate.ec.europa.eu/redress-frontoffice/work.iface)

We hope this information will be helpful to you.
Kind regards,
EUROPE DIRECT Contact Centre/ Research Enquiry Service
(If you have any questions about the redress process, please contact:
CNECT-SAFERINTERNET@ec.europa.eu)

5 Evaluation

5.1 Operational Capacity Check

Question

Dear all,

I have a question regarding the operational capacity check within the evaluation process. Annex 19, page 28 operational capacity check is described as a "distinctive operation", carried out during the evaluation of the criteria implementation. But operational capacity is not an evaluation criteria! Who is responsible for the operational capacity checks? How does the result of the check influence the score of the implementation criteria. In the H2020-FET proact-2014 observers report some of the reviewers recommend that a negative result of the check should lead to a score below threshold.

Does the Commission think of using the operational capacity check in this way?

Thanks for your answer.

With best regards

Answer

Thank you for your message.

According to the Horizon 2020 rules, the evaluators are responsible for operational capacity checks.

The operational capacity is checked during the evaluation stage and the result is a binary decision: Yes/No, which is present in all evaluation forms and reports.

In the case individual evaluators do not agree, the final decision about the operational capacity lies with the panel where each case should be separately discussed.

If the final decision on the operational capacity is 'No', the project will not be funded regardless of its scores in other criteria.

Kind regards,

FET helpdesk

6 Third Parties (Art. 11, 12, 14, 15)

6.1 In-kind contribution (Art. 11)

Question

Dear RES,
I have a question concerning the reimbursement of personnel costs.

In this case the person is employed and paid as civil servant (professor) at the University of Stuttgart. One part of the professor’s work (75% of the work) is managing the Centre for Managing and Research of the DITF and 25% teaching at the university. The DITF is a separate legal entity, a public research organisation consisting of several institutes one of them is the Centre for Managing and Research which has several FP7 (and maybe H2020 projects in the future).

There is a cooperation agreement between the University of Stuttgart and the DITF. According to this agreement one part of the professor’s work is to manage the Centre of Management, an institute of the DITF. The professor does not have an employment contract with the DITF only with the university but according to the cooperation agreement the DITF reimburses the university 75% of the professor’s salary at the end of the year.

In case the professor works on an EU project how could the DITF claim the costs?

Thank you very much and kind regards

Answer

Based on the information provided in your query, the situation you describe seems to be a case of in-kind contributions provided by a third party against payment (Article 11 of the H2020 Model Grant Agreement). The professor is seconded from the University to DITF for 75% of his working time. Then DITF reimburses the University - contribution against payment - for the corresponding salary. Please note that, in order for the costs to be eligible for DITF, the third party (e.g. the University) and its contribution (e.g. the professor) must be set out in Annex 1.

You can find detailed explanation on these in-kind contributions in the Annotated Grant Agreement

Yours sincerely,
Legal and financial helpdesk

6.2 Budget calculation of non-profit linked third parties in innovation actions (Art. 14)

Question

Dear RES,

I have a question in regards to the budget calculation for a proposal submission. If we have in an innovation action a profit partner (e.g. a company) and this partner plans to involve a linked third party in the project which is a non-profit organisation, how can the budget be calculated? The problem might be, that the partner calculates with an EU-funding of 70% and the linked third party with a funding of 100%. What is the procedure for the budget calculation within the proposal form A and B?

Kind regards
Answer

Please excuse our delay in replying.

Since linked third parties are not identified in the table at the level of the proposal, as an ad hoc solution, the linked third party could be presented as a beneficiary; An explanation should be put into part B of the proposal on the fact that this workaround was used. During the Grant preparation the entity will be encoded as linked third party.

We will try to find a solution in a next release of the IT system.

6.3 Financial Support to third parties (Art 15) - General

Question

Dear Helpdesk,

We do have some question relating to the financial support to third parties which arise lately. According to Art. 11-14 of the MGA the implementation of action tasks is possible by subcontractors and third parties under these specific conditions and are eligible costs according to Art. 6.2 A3; 6.3; 6.4 MGA. Nowhere in these articles a maximum amount is mentioned. Therefore to our understanding in general third party contributions under the conditions of the quoted articles are in general possible and eligible costs for all projects.

Only in the case that the provisions of Art. 15 are foreseen in the work programme a limitation of the amount for each third party is limited.

In Art. 15.1 a maximum amount for providing financial support to third parties is mentioned. The maximum is limited to EUR 60,000 for each third party unless it is necessary to achieve the objectives of the action described in Annex I.

But according to the General Work Programme to H2020 General Annexes K. Financial support to third parties: "where this possibility [financial contribution to third parties] is indicated under the relevant topic, proposals which foresee a financial support to third parties shall clearly detail the objectives and the results to be obtained and include at least the following elements:......"

Does this means in reverse (argumentum e contrario) that financial support to third parties in general is only possible if explicitly foreseen in the respective work program? If the financial support to third parties is not mentioned in the work programme costs are not eligible for any third party or subcontractor?

Does Annex K includes all third party contributions or only subcontracting? In FN 34 of Annex K article 137 of the FR is quoted. But Art. 137 fits better to the situation of subcontracting/procurement than third parties making resources available. In the different work programmes different third party provisions are to be found. Thanks for the clarification

Answer

Thank you for your question. Please excuse the delay in replying to your question which is due to heavy workload for the preparation of the H2020 package.

We think there is a misunderstanding as regards the third parties to the H2020 grant agreement.
There are 3 main types of third parties in H2020, namely:

A. Third parties which may implement the action tasks, such as: subcontractors (Article 13 of the model grant agreement) and linked third parties (Article 14).

B. Other third parties (they do not carry out action tasks, but their contributions are necessary to implement action tasks by the beneficiaries), such as: third parties with which beneficiaries conclude contracts of goods, services and works (Article 10) and third parties providing in-kind contributions to beneficiaries against payment (Article 11) or free of charge (Article 12). For more information on these third parties mentioned above (A and B) please see the Annotated Grant Agreement available at: http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/amga/h2020-amga_en.pdf and a third category of third parties which refers to:

C. Third parties to which beneficiaries may provide/award themselves financial support (Article 15). In this case, the EU action (called project in FP7) includes also an activity which provides financial support (i.e. funding) to a beneficiary so that it (the beneficiary) can fund one or several third parties to the GA (cascade funding). This is an option which can indeed be used only if foreseen in the work programme (or the call for proposal completing it) and the Annex 1 (Technical Annex) of the GA signed with the Commission/Agency includes this possibility and sets out the conditions for it.

Example: an innovation project in the area of sustainable agriculture and forestry includes financial support to end users (farmers) in order to test the technology developed within the action

Kind regards,

Legal and financial helpdesk

6.4 Restrictions for Cascading Grants (Art. 15)

**Question**

Dear Helpdesk,

In Call WASTE-7-2015 there is the possibility of cascading grants according to Art. 15 GA. Are there any further restrictions who might receive this cascading grants up to €60,000? Is it possible to grant it to legal persons from third countries (China) or do the normal rules for applicants apply like in the rest of H2020 (cascading grants only for EU MST or AS or third countries from Annex I of General WP)? Thanks for your assistance.

Best regards

**Answer**

Thank you for your question.

According to Article 15 of the Horizon 2020 model grant agreement, beneficiaries may give financial support to third parties only if foreseen in the work programme (and the call for proposals).

This means that, the call for proposals must specify whether the action to be supported by the grant is to encompass the giving of financial support to third parties. The calls for proposals must indicate in particular:
1. the categories of eligible costs including the costs of financial support to third parties;
2. the objectives which must be served by the action, and in particular whether giving financial support to third parties may be / must be the primary aim of the action (for the purpose of exceeding the EUR 60 000 ceiling);
3. that all the conditions for giving financial support to third parties (including the place of establishment / nationality of the third parties that may receive financial support) must be strictly defined in the model grant agreement.

This means that if the work programme/call for proposals mentions the categories of third parties who may receive financial support (including the place of establishment / nationality of the third parties), then they (the third parties who receive financial support from beneficiaries) are subject to the rules of eligibility applying to the beneficiaries (e.g. they must be legal entities established in a Member State or associated country, or created under Union law).

In any case, as mentioned before the categories of third parties (including, if appropriate, their place of establishment / nationality) that may receive financial support must mentioned in Annex 1 of the Horizon 2020 of model grant agreement.

Kind regards,
Legal and financial helpdesk

6.5 Financial Support to third parties in Marie Curie Co-fund actions

Question
Dear Helpdesk

We do have a question relating to the financial support to third parties which arise lately concerning MSC actions.

In the Work Programme of Marie Sklodowka Curie Actions on page 39 it is mentioned" third parties receiving financial support in the cases where the respective action involves financial support to third parties by grant beneficiaries in accordance with Art. 137 of the EU's Financial Regulation notably Programme Co-fund actions." Does this means that only subcontracting is allowed in MC actions, because for the reference to Art. 137 Financial Regulation that deals with procurements? Is any other third party contribution possible? Or does it means that all third party contributions (third parties making ressources available, subcontracting etc.) underly Art. 137 FG?

Best regards

Answer
Thank you for your interest in European Union (EU) funding for researchers.

In the MSC COFUND action, beneficiaries may provide financial support to programmes implemented by third parties (for instance when researchers are employed by organisations other than the beneficiary). The enclosed COFUND model grant agreement gives more details about that. Please see http://ec.europa.eu/research/participants/data/ref/h2020/mga/msca/h2020-mga-msca-cofund-mono_en.pdf

We however do not understand the following statement in the question: “… Art. 137 Financial Regulation that deals with procurements…”. On the contrary, Art. 137 of the
EU’s Financial Regulation applies to all contracts and financial support to third parties:

Article 137 - Implementation contracts and financial support to third parties

1. Where implementation of an action or a work programme requires financial support to be given to third parties, the beneficiary may give such financial support provided that the following conditions are met:

(a) before awarding the grant, the authorising officer responsible has verified that the beneficiary offers adequate guarantees as regards the recovery of amounts due to the Commission;

(b) the conditions for the giving of such support are strictly defined in the grant decision or agreement between the beneficiary and the Commission, in order to avoid the exercise of discretion by the beneficiary;

(c) the amounts concerned are small, except where the financial support is the primary aim of the action.

2. Each grant decision or agreement shall provide expressly for the Commission and the Court of Auditors to exercise their powers of control, concerning documents premises and information, including that stored on electronic media, over all third parties who have received Union funds.

3. The Commission shall be empowered to adopt delegated acts in accordance with Article 210 concerning detailed rules on implementation contracts and financial support to third parties.

Best regards,

Marie Skłodowska-Curie Helpdesk

6.6 Remuneration of overhead for in-kind contributions against payment on the third party’s premises

Question

Dear Helpdesk,

we have a question concerning the remuneration of overhead for in-kind contributions against payment on the third party’s premises. (p.13, example in the annotated documents)

In the example the actual direct and actual indirect cost are mentioned

Does this mean, that the reimbursement for the indirect cost of the third party limited to 25% is only possible for third parties who can declare actual indirect cost? (linke in FP 7)?

Or is the reimbursement also possible for third parties who can't declare their total indirect cost up to 25%? This is not totally clear in the text. A lot of stakeholder interprete the example that the reimbursement of an overhead for third parties is now possible in H2020. But this would not work with the budget tabel of the proposal column E (Costs of contributions provided by third parties which are not used on the beneficiary’s premises).

Maybe you could clarify the situation.

Thanks a lot for your assistance,

Best regards
Answer

Thank you for your question and sorry for our late reply.

For in-kind contributions against payment that are not used on the beneficiary's premises but on the third party's premises, the beneficiary may declare up to the direct costs actually incurred by the third party plus a flat-rate of 25% on these costs (in order to take into account the indirect costs of the third party). The 25% flat-rate may be used by all third parties (if its premises are used and not those of the beneficiary) whether they may or not identify their actual indirect costs.

This means that in the budget table of the proposal, in-kind contributions are to be included within the budget categories they correspond to (e.g. personnel under column A, equipment under column B) and declared in addition in column E (Costs of contributions provided by third parties which are not used on the beneficiary's premises). Beneficiaries must declare the direct costs of the third parties providing in-kind contributions against payment and which are not used on the beneficiary's premises increased by a 25% flat-rate on these costs. This is a direct cost for the beneficiary.

However, please note that when calculating their indirect costs, beneficiaries must exclude the costs of in-kind contributions provided by the third party (direct plus indirect) which are not used on the beneficiary's premises as explained in the Annotated GA page 75 available at http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/amga/h2020-amga_en.pdf

Kind regards,

Legal and financial helpdesk

6.7 Third parties in the proposal template RIA/CSA

Question

Dear Res,

I have a question in regard to the proposal template RIA/CSA. Under 4.2., the consortium has to describe 3rd party contributions to the project. If one partner receives in-kind contributions by a third party which will definitely not be requested from the COM in the project, shall the 3rd party in-kind contribution be mentioned under 4.2? In other words, does 4.2. include only 3rd party contributions which are part of the requested budget or shall 4.2. comprise any 3rd party resources e.g. resources in-kind even if they are not requested for funding?

Kind regards

Answer

Thank you for your message.

As a general rule, all eligible costs of the project should be included in the proposal and in the estimated table of costs in the GA. This provides a more transparent situation to the evaluators about the costs of the project and the EU funding requested. Also, it gives a clearer picture of the sources of funding of a project, in particular in cases of double funding. Furthermore, the adequacy of the budget vis-à-vis the project tasks is also
assessed during the evaluation.

However, the beneficiary may decide not to include in the budget costs which are not going to be charged to the project. In this context, the proposal templates for RIA/CSA include a part under section 4.2 whereby the participant has to indicate if it envisages the use of contributions in-kind provided by third parties both under Articles 11 and Article 12 of the General Model Grant Agreement. If no funding will be requested for those contributions, the participant may indicate so in this section. Nevertheless, please note that you may still include all costs and request less EU contribution than the maximum contribution resulting from the application of the reimbursement rate to the total costs (i.e. costs budgeted 120 requested EU funding 100).

In any case, it may be in your interest to include all the costs of the project in the proposal submission form and in the budget, whether you intend to claim them or not. As explained above, you may request less EU funding than the maximum allowable for those costs. In case the proposal is selected for funding, for cost reporting Article 20.3 (b) (i) of the model grant agreement will apply (http://ec.europa.eu/research/participants/data/ref/h2020/mga/gga/h2020-mga-gga-multi_en.pdf). This article states that beneficiaries must declare all eligible costs even if...they exceed the amounts indicated in the estimated budget. The reason is that …Amounts which are not declared.. will not be taken into account by the Commission/Agency.

The final grant amount is calculated on the basis also of the total declared eligible costs of the action (see Article 5.3). If after the payment of the balance (in particular, following checks, reviews, audits; see Article 22) the Commission/Agency rejects costs (see Article 24) or reduces the grant (see Article 43), it will calculate the ‘revised final grant amount’ for the beneficiary concerned. The inclusion of the third party contribution as claimed costs, even if no contribution was requested for them, may have the effect that the revised final grant amount remains unchanged (so no recovery of funds) if the "extra" costs are higher than the costs rejected by the audit.

Kind regards,

Legal and Financial Helpdesk

6.8 Costs of resources used from a third party

Question

Dear Res,

I have a question in regard to the annotated Model Grant Agreement. Art. 11 and 12 state that costs of resources used from a third party can only be claimed if they are actual costs. In contrast, "COMMISSION DECISION of 7.3.2014 authorising the use of reimbursement on the basis of unit costs for actions requiring the conduct of clinical studies under ‘Societal Challenge 1: Health, Demographic Change and Wellbeing’ of the Horizon 2020 Framework Programme ”allows an exemption for cases where the third party claims costs for clinical studies as unit costs.” Can you clarify this point?

Best regards
Answer

We understand that your question refers to the case of costs of third parties which contribute in kind to the action by making data obtained from patients enrolled in the clinical studies available to a beneficiary.

Under the Horizon 2020 General Model Grant Agreement Articles 11 and 12 frame the eligibility of in-kind contributions from third parties. Both for contributions against payment and for contributions free of charge the costs may be eligible up to the costs incurred by the third party. As explained in the H2020 Annotated Grant Agreement, as a general rule those costs cannot be based on unit costs or lump sums (as they must be actually incurred by the third party).

However, in the specific case of the unit cost for clinical studies, the Commission Decision authorizes explicitly the use of the unit cost also for those third parties. Therefore, if the use of the unit cost for the clinical study is possible under Article 6.2.F of the grant, that unit cost might also be used to calculate the maximum eligible cost of the in-kind contribution from the third party for data resulting from the clinical study.

Yours sincerely,

Legal and financial helpdesk

6.9 Refusal to use the option linked third parties

Question

Dear Helpdesk,

we had been asked, under which circumstances and in which situation a Project Officer can refuse to use Art. 14 linked third parties. Because it is an optional article in the MGA the consortium and the PO have to discuss the adoption of that option during the grant preparation phase project by project. What happens is the following situation, a university is partner in a consortium and needs the linked hospital to that university (Universitätsklinikum) according to national law of that region the hospital can't be a partner in that project but the hospital is needed to carry out the project. The conditions of Art. 14 are fulfilled and in most of the projects the POs accept the Art 14 linked third party solution for the consortium. But individual POs forbid to use Art. 14 without a detailed reasoning. Therefore the question of that university is in which cases is it possible to refuse Art. 14. If it is a matter of discretion of each PO, how does the Commission controls the correct application of this matter of discretion or to avoid an abuse of discretion (not using this discretion etc. Ermessensnichtgebrauch, Fehlgebrauch etc.)

It would be helpful to clarify this situation because it is hard to understand or not understandable for the university that Article 14 is not applicable in one project but in the other project just because of different POs, although the situation is always the same.

Thanks in advance for your assistance,

Best regards

Answer

Thank you for your message.
We are afraid the enquiry service cannot reply to your comment regarding a potential different treatment of the same situation in different grants. Indeed the provisions of Article 14 must be implemented in a consistent manner by all services managing Horizon 2020.

Linked third parties have to be identified in the proposal, although not in the table of estimation of costs. As such they are part of the evaluation. We do not have enough elements on the specific case you raise.

However, any decision of the Commission must be justified. If you consider that there is an unjustified differentiation in the implementation of Article 14 in several of your grants, you can report this situation to the H2020 Common Legal Support Service (CLSS). You can find the contact details at http://ec.europa.eu/research/index.cfm?pg=contacts#J under "Common Support Centre".

Please note that, in order to assess the case, the CLSS would need a list of grants concerned and the reasons why you consider that there has been an unjustified difference in the implementation of this Article.

Yours sincerely,
Legal and Financial Helpdesk

6.10 Subcontracting/other services provided by affiliates

Question

Dear RES,

I have a question concerning subcontracting/other services provided by affiliates. H2020 Annotated Model Grant Agreement on page 116 states:

“Subcontracting to its affiliates — Is forbidden, unless they have a framework contract or the affiliate is their usual provider, and the subcontract is priced at market conditions. Otherwise, these affiliates may work in the action, but they must be identified as linked third parties under Article 14 and declare their own costs”.

Do the same conditions apply, if the service of the affiliate is not considered as a subcontracting but as other goods and services?

Thank you in advance for your help.

Best regards

Answer

The conditions that you mentioned for subcontracting (framework contract or usual provider and priced at market conditions) apply to the purchase of goods and services. This is to avoid any conflict of interest.

Indeed, Article 10 MGA on Purchase of goods, works and services and Article 13 on Subcontracting both provide that the beneficiaries must ensure the best value for money and avoid any conflict of interest.

The definition of a conflict of interest mentioned in Article 35 of the H2020 GA is provided in the Financial Regulation. More specifically, Article 57 of
the Regulation 966/2012 (FR) and Article 32 of the Commission Delegated Regulation 1268/2012 (RAP) provide that "[…] a conflict of interest exists where the impartial and objective exercise of the functions of a financial actor or other person […] is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with a recipient. […]", and that "[…] Other acts likely to be affected by a conflict of interests are those which may impair the impartial and objective performance of a person's duties […]".

The annotations of Article 35 of the H2020 model grant agreement (AGA) (see http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/amga/h2020-amga_en.pdf), provide an indicative number of cases where a conflict of interest exists. It indicates notably that a conflict of interest exists if shared interests influenced a contract's selection/award or its price which does not correspond to the market price, or affects the action's performance. The AGA further explains that the shared interests may be economic, e.g. unjustified and preferential contracts with connected companies. Furthermore, the obligation to award contracts on the basis of the best value-for-money and the obligation to avoid conflict of interest are two different and cumulative obligations which have both to be respected.

In view of the above, purchasing goods, works and services from a company that has links to a beneficiary may fall under the definition of a conflict of interest. The potential situation of conflict of interest has to be assessed on a case by case basis. If there is a framework contract between the beneficiary and the affiliate, or the affiliate is their usual provider, and the contract is priced at market conditions, the conditions on best value for money and avoiding conflict of interest would be fulfilled.

The alternative based on linked third parties under Article 14 should not apply if the affiliated company does not implement action tasks as described in Annex 1 GA.

Another possibility may be that the affiliate provides in-kind contribution to the beneficiary against payment under Article 11 MGA. However, the beneficiary may declare its costs for paying the in-kind contribution up to the direct costs actually incurred by the third party.

Kind regards,

Legal and financial helpdesk

6.11 Article 11/12 MGA for a University Clinic having a close relationship to a beneficiary not being a linked third party

Question

Dear RES,

we received a question from one of our clients. As this is a matter that concerns all future projects of this institution we would like to clarify the rules for the eligibility of costs:

The X GmbH has been established as private legal entity (GmbH) according to German law.

The X GmbH has a close and established relationship with the University Clinic Y, a separate (public) legal entity and one of Xs two partners (Gesellschafter). This relationship is formalised by the agreement “Konsortialvertrag“ and its annexes.
Therefore, Y is providing its management services on the basis of a prior collaboration agreement, by means of which Y handles the financial and administrative aspects of Xs involvement in research projects. The service is not specific to a particular project.

Additional project personnel will be hired by Y, but will be working under direct supervision of Xs principal investigator and on its premises.

The Coordinator will pay the EC contribution directly to Y as Third Party, and not to the beneficiary.

Our question is whether this contractual arrangement would be covered by Article 11 or 12 of the HORIZON 2020 Model Grant Agreement?

Best regards

Answer

Please note that the Research Enquiry Service does not validate individual cases but provides general information. For specific cases, you may contact the project officer in charge of your action.

Under Horizon 2020, beneficiaries must normally have the technical and financial resources needed to carry out the action themselves (Article 8 of the model grant agreement (MGA) see http://ec.europa.eu/research/participants/data/ref/h2020/mga/gga/h2020-mga-gga-multi_en.pdf). As an exception, beneficiaries may participate in grant agreements with third parties.

We understand from your question that X and Y are not linked third parties under Article 14 MGA and that Y is not carrying out part of the action itself but handles the financial and administrative aspects of Xs involvement in research projects by providing resources to X.

In this framework, Y may provide in-kind contributions for free or against payment. In both cases the costs charged shall exclude any kind of profit margin or mark up. The beneficiary (X) may declare its costs for the payment of the in-kind contribution, if the eligibility conditions set out in Article 11.1 and in Article 6.1 and 6.2 MGA are fulfilled (e.g. necessary for the action, recorded in the accounts of the beneficiary, etc.) up to the direct costs actually incurred by the third party for the in-kind contribution. For the in-kind contribution free of charge, the beneficiary makes no payment and incurs no cost but it may declare the costs incurred by the third party, if the eligibility conditions in Article 12.1 and Article 6.4 MGA are fulfilled. If the in-kind contributions free of charge fulfil the conditions set out in Article 5.3.3(c) MGA they also have to be declared as receipts of the action (for an amount corresponding to the amount declared for the action as eligible costs).

The Commission will make the payments to the Coordinator. The payments by the Commission to the Coordinator discharges the Commission from its payment obligation (Article 21 MGA). How the money will be distributed following these payments is an internal matter of the Consortium, which may be decided in the consortium agreement. Accordingly, if problems arise later for intra-consortium payments, these will have to be solved internally.
Further explanations and examples are provided in the Annotated Model Grant Agreement under the above mentioned articles at the following link: http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/amga/h2020-amga_en.pdf

Kind regards,
Research Enquiry Service - Legal and financial helpdesk

6.12 Non-profit linked third party in innovation actions

Question
Dear RES,
I have a question in regards to the budget calculation for a proposal submission. If we have in an innovation action a profit partner (e.g. a company) and this partner plans to involve a linked third party in the project which is a non-profit organisation, how can the budget be calculated? The problem might be, that the partner calculates with an EU-funding of 70% and the linked third party with a funding of 100%. What is the procedure for the budget calculation within the proposal form A and B?

Kind regards

Answer
Since linked third parties are not identified in the table at the level of the proposal, as an ad hoc solution, the linked third party could be presented as a beneficiary; An explanation should be put into part B of the proposal on the fact that this workaround was used. During the Grant preparation the entity will be encoded as linked third party.

We will try to find a solution in a next release of the IT system.

Kind regards,
Legal and financial helpdesk

6.13 Linked third party parallel subcontractor of another party

Question
Dear Helpdesk,
Lately we received the following question concerning third party contributions.
A company is a party of a consortium and has a subsidiary as linked third party in the project. Is it possible that the linked third party may also be the subcontractor of another party? We already advised that it might be better in this case to include the linked third party as third party acc. Art. 11 GA so that the ressources can be provided to both parties but because of different reasons that is not an option for the consortium.

Maybe you could clarify the situation.

Thanks for your assistance,
best regards
**Answer**

Thank you for your message.

From your description of the case we understand the Beneficiary A has a linked third party A1 (affiliated to A) which might also be a subcontractor to Beneficiary B. As A1 acts a linked third party, and intends to be also a subcontractor for another beneficiary, we understand that it will carry out action tasks. In that situation, Article 11 – In-kind contributions - would not seem to be the most adequate option as A1 would carry out work; not just provide resources.

With the situation as described the preferable option would seem to be that A1 (the linked third party) becomes a beneficiary in the consortium. If that alternative is not possible, the fact that A1 participates as a linked third party to Beneficiary A does not necessarily preclude it to offer its services to another beneficiary.

As you know subcontracting between beneficiaries is forbidden in the same GA. Besides, subcontracting from a beneficiary to its affiliates is also forbidden, unless they have a framework contract or the affiliate is their usual provider, and the subcontract is priced at market conditions. However, no explicit ban applies to subcontracts between a beneficiary and third party linked to another beneficiary.

However, the beneficiaries must award the contracts or subcontracts ensuring the best value for money or, if appropriate, the lowest price and avoiding conflict of interest. In addition, under Article 13 the tasks to be implemented and the estimated cost for each subcontract must be set out in Annex 1 and the total estimated costs of subcontracting per beneficiary must be set out in Annex 2 of the Grant.

Kind regards,

Research Enquiry Service - Legal and financial helpdesk

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**6.14 How should scholarship owners be integrated in a project?**

**Question**

Dear RES,

I have a question concerning the involvement of scholarship holders in an Horizon 2020 project.

An applicant wishes to integrate scholarship holders from a German organization that provides funding for students under the international academic exchange system) in a H2020 project. How would that be possible?

The case of subcontracts might be difficult since the organisation does not have expertise qualifying as subcontractor. Is it correct to integrate the scholarship holders as third parties providing in-kind contributions?

Thank you for your assistance.

Kind regards,

**Answer**

Thank you for your question. Please note that the Research Enquiry Service does not validate individual cases but provides general information.
An in-kind contribution provided by third parties (against payment or free of charge) means that a third-party is providing some of its resources to a beneficiary to implement the action. The secondment of personnel from a third party to a beneficiary is a type of in-kind contribution.

To be considered as a personnel of a third party, a person must:

have concluded an agreement with the third party

AND

The characteristics of the agreement allow to qualify it as:

• an employment contract (or equivalent) with the third party or;
• a direct contract other than an employment contract under which:
  1. the person works under the third party's instructions
  2. the results of the work carried out belongs to the third party
  3. the costs are not significantly from those personnel performing similar tasks under an employment contract with the third party
  4. the remuneration must be based on working hours

Therefore and regarding your case, students may be considered as personnel of the organization and may be subject to a secondment agreement to the benefit of a beneficiary only if:

• there is a scholarship agreement concluded between organization and the concerned student

AND

• the characteristics of this scholarship agreement allow to consider the concerned student actually as a personnel of the organization.

If the mentioned above conditions are not fulfilled, the organization cannot be considered as third party providing in-kind contribution to a beneficiary.

If you have any further doubts on this issue, please do not hesitate to contact us again providing more details on the specific scholarship and the secondment arrangements.

Kind regards,
Research Enquiry Service - Legal and financial helpdesk

6.15 Distinction use of subcontractor and inkind contributions?

Question
Dear RES Team,

I have a follow-up question on one of your answers to the Spanish NCP from March 19 2019 concerning in kind contributions against payment according to article 11 GA.

The RES said “Consequently, one of the main distinctions between the use of e.g. subcontractors and third parties providing in-kind contributions is whether the third party works directly on action tasks or not. If a third party implements action
tasks, its participation would not fit into the definition of Articles 11 or 12.” If a third party works on a project it is only possible via article 13 or 14 GA.

I would like to clarify the “implementation of action tasks” by a third in case of article 11 GA: Is it only the third party organisation that is providing the personnel that cannot implement action tasks but not the seconded person itself?

According to article 11 GA seconded persons can be an in kind contribution: “The beneficiaries may declare costs related to the payment of in-kind contributions as eligible (see Article 6.1 and 6.2), up to the third parties’ costs for the seconded persons, contributed equipment, infrastructure or other assets or other contributed goods and services.”

I presume the seconded person can work on the project and thus implement “action tasks”? Also in the example of a civil servant as an in-kind contribution against payment (AGA page 128) I presume the civil servant will work on the project and therefore will implement action tasks in order for its costs to be eligible. (Otherwise I cannot think of any examples of seconded persons that will be eligible for funding under article 11 GA.)

Could you please confirm that it is the only organisation itself as a third party seconding personnel to one of the beneficiaries that cannot implement actions tasks in the project and that the seconded person is allowed to implement action tasks?

Thank you very much,

Answer

Dear,

As a preliminary remark, we would like to recall that, for the respective costs to be considered eligible, both subcontracting and in-kind contributions provided by third parties in the sense of Article 11 of the MGA, they have to be indicated in Annex 1 of the GA.

The relation between a subcontractor and the beneficiary is a direct contractual relation involving these two parties whereby the beneficiary outsources, under business conditions, part of the implementation of action tasks as described in Annex 1. The subcontractor will therefore be directly in charge of carrying out those action tasks.

In contrast, the relation between the seconded personnel and the beneficiary is usually threefold, whereby the third party seconds (makes temporarily available under a secondment agreement) personnel to work for the beneficiary without secondment being a usual economic activity of that third party. Accordingly, the seconded personnel is still paid and employed by the third party, but works for the beneficiary.

When the seconded person works in the action it does not do so in her/his own name or for her/his employer (the third party), but for the beneficiary. The seconded person is in this context assimilated to an employee of the beneficiary. Consequently, action tasks in which the seconded person participates are in fact implemented by the beneficiary to which the person is seconded; neither by the person her/himself nor by the employer (third party).

In summary, the seconded person may indeed participate in the implementation of action tasks carried out under the responsibility of the beneficiary to which s/he is seconded.

Kind regards,

Legal and financial helpdesk
7 Subcontracts

7.1 Difference of Subcontracts in FP 7 and Horizon 2020

Question

Dear Res,

I have a question in regard to the definition of subcontracting in H2020 and FP7.

According to the H2020 AMGAs "Only limited parts of the action may be subcontracted." (p.113 AMGA 1.6.2) This seems to be a very short definition.

In FP7 the COM defined subcontracting, that

"Article II.7.2 – Subcontracting may concern only certain parts of the project... Therefore, the subcontracted parts should in principle not be "core"

parts of the project work. In cases where it is proposed to subcontract substantial/core parts of the work, this question must be carefully discussed with and approved by the Commission and those tasks identified in Annex I to ECGA. Usually in such cases, the intended subcontractor could instead become a beneficiary, or the consortium should find another beneficiary able to perform that part of the work.

What is a "core" part of the work?

Usually subcontracts do not concern the research work itself, but tasks or activities needed in order to carry out the research, auxiliary to the main object of the project. Subcontracts may involve large amounts of money, even though they have nothing to do with the core parts of the project. Their purpose might be just to facilitate/make possible the research work. In projects where research is not the main purpose (like in coordination and support actions - CSA) the core part should be understood as referring to the main activity of the project. For instance, the core activity of a CSA project may be the organisation of a cycle of conferences. In any case, it is recommended that the particular case be discussed with the Commission.

(p.29 financial guidelines)

Our question now is: Has the COM the same understanding and definition of subcontracting in H2020 as in FP7 referring to the definition of "core part"?

Best regards

Answer

Thank you for your message.

As you indicate, the FP7 Guide to Financial issues states that:

"The subcontracted parts should in principle not be "core" parts of the project work. In cases where it is proposed to subcontract substantial/core parts of the work, this question must be carefully discussed with and approved by the Commission and those tasks identified in Annex I to ECGA."

And also explains the concept of "core" part of the work as follows:

"What is a "core" part of the work? Usually subcontracts do not concern the research
work itself, but tasks or activities needed in order to carry out the research, auxiliary to the main object of the project."

In contrast, under Horizon 2020, subcontracts concern precisely the implementation of some action tasks. This means that the subcontracts imply the implementation of specific tasks which are part of the action and are described in Annex 1 (see page 112 of the AGA at 

Specifically, Article 13 of the Horizon 2020 model Grant Agreement sets up the conditions framing the award of subcontracts. This article provides, in particular, that "certain action tasks described in Annex 1" can be subcontracted and that "a limited part of the action may be subcontracted", without further specification. Therefore, under Horizon 2020 there is no more a distinction between core and non-core parts of the work.

In any case, all subcontracts are subject to the approval by the Commission and, as a general rule, they must be set out in Annex 1 and Annex 2 (budget table).

Please note, however, that Article 23.3 of the Rules for Participation requires that "Participants shall implement the action and shall take all necessary and reasonable measures to that end. They shall have the appropriate resources as and when needed for carrying out the action". Article 23.4 of the Rules stresses further that the award of subcontracts shall be limited to "certain elements of the action" when "provided for the grant agreement and to duly justified cases that could not be clearly foreseen at the time of entry into force of the grant agreement". The Commission/Agency has therefore the final word regarding the acceptance of subcontracts. In deciding upon this acceptance, the Commission/Agency must carefully assess the scope of the subcontract and its actual necessity for the action; as well as that the award of the subcontract is not intended to circumvent the eligibility rules for funding.

Kind regards,

Legal and Financial Helpdesk

7.2 Subcontracts with a value higher than EUR 60 000

Question

Dear Res,

I have a question in regard to subcontracts with a value higher than 60 000 EUR, Art. 13 Model Grant Agreement. The footnote states, that the PO may set additional rules based on the conditions laid down in the Financial Regulation. My question is, which articles of the FR are you referring to? Are they part of the currently running amendment of the FR?

Best regards

Answer

Thank you for your message.

This option is based on Article 209 of Regulation 268/2012 on the FR rules of application (available at:

http://eur-
Article 209 FR was not modified by Regulation 547/2014 of 15 May 2014 amending the FR.

Article 209 applies not only to subcontracts concluded in accordance with Article 13.1.1 but also to contracts concluded in accordance with Article 10.1.1 of the general MGA.

The Commission/Agency (not the PO) may set out for contracts/subcontracts with a value higher than EUR 60 000 specific rules taking into account the value of the contracts and the relative size of the EU contribution in relation to the total cost of the action and the risk. These conditions must also be described in the Work programme/call and be based on the rules applied by the Commission for its own procurement contracts.

Kind regards,

Legal and Financial Helpdesk

7.3 How should the additional offers be documented?

**Question**

Dear RES,

I have a question concerning Art 10 MGA on the documentation of additional "offers".

1) A screenshot of internet prices or prices in our ordering system that compares two advertisements/offers when the cheaper was bought, is this enough to fulfill the criteria for the documentation needed?

2) If there is the screenshot of two ads/offers and a plausible reason (written documentation) to buy the more expensive one (better quality), is this enough to fulfill the criteria for the documentation needed?

3) Can we document the comparison between two products that are about the same of the same vendor or do we have to compare the same product from two different vendors?

4) Can framework contracts be concluded after the beginning of a project to fulfill the documentation criterion?

Best regards

**Answer**

Please note that the Research Enquiry Service does not validate specific cases but provides general information.

The requirement for best value-for-money or if appropriate the lowest price is the mere application of the general cost eligibility condition set out in Article 6.1(a)(vii) of the model grant agreement (i.e. that costs must be reasonable and comply with the principle of sound financial management) to the costs of the purchase of goods, works or services.

In response to your questions:

1) The supporting documentation should describe how the offers were obtained and assessed, including an explanation on the criteria used, and showing that the contract was awarded to the contractor who best fulfilled these criteria.
Concerning the document format, documents should in principle be kept in the format in which they were received or created. If your assessment was done on the basis of prices and descriptions available in internet the screenshot can be used as equivalent to an offer.

2) For the best price-quality ratio, price is an essential aspect (together with quality criteria, such as technical quality, running costs, delivery times, after-sales service and technical assistance, etc.), but it is not automatically necessary to select the offer with the lowest price. As explained above, the beneficiary must be able to explain the criteria used and show that the selected contract best fulfilled these criteria. The beneficiary thus should be able to provide written documentation detailing the plausible reasons for selecting a particular offer.

3) The best value-for-money principle does not require competitive selection procedures in all cases. However, where a beneficiary did not request several offers from different providers, it must demonstrate how best value-for-money was nevertheless ensured.

4) Framework contracts can be used when selecting a provider if this is the usual practice of the beneficiary for a given type of good, work or service. In order to be eligible the selection of the provider with which the framework contract was signed must have been done also on the basis of best value for money and absence of conflict of interest. These framework contracts should not be necessarily concluded before the start of the action, but when it is the case the name of the provider should be indicated in Annex 1.

Please note that beneficiaries that are ‘contracting authorities’ or ‘contracting entities’ (within the meaning of the EU public procurement Directives 2004/18/EC and 2004/17/EC — or any EU legislation that replaces these Directives) must moreover comply with the applicable national law on public procurement.

Equally, the Commission may decide to include additional eligibility criteria to be complied with by the beneficiaries if the contract or subcontract exceeds a certain amount. These additional eligibility criteria would be included in the relevant H2020 grant agreement articles (Article 10 and Article 13) and may affect the providers’ selection process. Although this is a rather exceptional situation, attention is to be paid regarding the possible existence of such additional criteria and their impact on the way the beneficiaries should ensure a selection based on best value for money.

Kind regards,

Research Enquiry Service - Legal and financial helpdesk

8 Eligible direct costs

8.1 Eligibility of costs paid on an annual basis at the end of the funding period

Question

I have a question regarding the eligibility of the following cost types. I give you two examples.

1) A project has a website for the dissemination of results. The costs for hosting the site are paid on an annual basis in January. The project ends in
September. Is the whole amount eligible or only the amount reduced proportionately to project duration?

2) Another example: A project needs a certain IT-Programme. License fees are paid on an annual basis at the beginning of the year. Again the project ends in September.

My question is: Are the costs described in the examples completely eligible or only the amount reduced proportionately to the project duration.

Thank you very much.

Best regards

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**Answer**

In order to answer your question precisely, we would need to know if it concerns FP7 or H2020.

Concerning your first point, presuming that the website is not an action task but simply a mean to disseminate results, it may be considered as subcontracting of minor tasks under FP7 or purchase of services under Article 10 of H2020 MGA. In both cases, only the part of the costs corresponding to the duration of the project may be eligible (in your example, January to September).

Concerning software, if it is not directly linked to the action, and subject to the accounting principles of the beneficiaries, it may be considered as covered by the indirect costs. If the software is purchased specifically for the action and the cost is necessary for the project and directly linked to the action, the licence fee may be considered as a consumable under other direct costs. Under H2020, the purchase of services is subject to the principle of best value for money, or if appropriate, the lowest price. In any case, again only the part of the cost corresponding to the duration of the project may be eligible (in your example, January to September).

In any case, the general price eligibility conditions must be complied with, notably the principle of economy and efficiency.

Best regards,

**Legal and financial helpdesk**

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### 8.2 Travel costs for seconded experts

**Question**

Dear RES,

In the Model Grant Agreement ("Multi-beneficiary General MGA: December 2013" as well as the "Model Grant Agreement: EJP Cofund: December 2013") it's written in Article 11.1 (Rules for the use of in-kind contributions against payment) as follows: "The beneficiaries may declare costs related to the payment of in-kind contributions as eligible (see Article 6.1 and 6.2), up to the third parties’ costs for the seconded persons, contributed equipment, infrastructure or other assets or other contributed goods and services."

Furthermore in the Annotated Model Grant Agreement (Version 1.2) p. 96 it states: "The obligations in Article 11.1 are considered to be additional cost eligibility rules. Non-compliance will therefore lead to the rejection in full of the costs.
concerned (see Article 6.2.A.3, 6.2.D.2, 6.2.D.3 and 6.6)" as an explanation for Article 11.

Our question: Does that mean, that costs which are not explicitly listed in Article 11.1 are considered non-eligible costs? In the present case we were asked, if travel costs for seconded persons would be eligible costs.

Best regards

**Answer**

Travel costs of the seconded persons for travels necessary for the project may be eligible if they fulfil the general eligibility conditions of Article 6.1 and the specific conditions of Article 6.2.D.1 (in particular, the third party and its contribution has to be set out in Annex 1). In this case, the travel costs would be costs related to the participation of the seconded person in the project and might be eligible under the specific provisions of Article 11.

Both if the travel is paid by the beneficiary or if it is paid by the third party and reimbursed later by the beneficiary, only the actual cost incurred for the travel might be eligible.

Best regards,
Legal and financial helpdesk

**8.3 Travel costs for external experts or partners without budget**

**Question**

Dear Helpdesk,

We received following question on how to integrate external experts properly into a project. It would be helpful if you could comment on the applicant’s question. Concerning question 2 our answer was already no possibility to reimburse travel cost. But the applicant wishes an official answer.

Thanks for your understanding and assistance in advance

Best regards

1. In a H2020 proposal the coordinator would like to integrate an US institution, mainly for advice issues, for example as an Advisory Board. The US institution should mainly be paid for travel costs.

What are the possibilities to integrate that external expert?

- As a beneficiary without budget? -> Problem we see here that then no travel costs can be paid to them. Correct?
- As a Third party without budget? -> How would that work?
- As an Expert in the Advisory board with budget forseen for travel costs?

Could you please comment on those possibilities?
2. We have one partner in the consortium that will not receive budget but will provide in-kind contributions. Is it better to include him as a beneficiary or as a third party. Is there any possibility to pay travel cost to this partner (e.g. from the coordinators budget) when they are a non-paid beneficiary or third party

**Answer**

Please note that the enquiry service cannot validate individual questions but only provides general guidance.

Having said that, please find below our answers to your query on the possibilities to integrate that external expert in the action.

- **As a beneficiary without budget?** -> Problem we see here that then no travel costs can be paid to them. Correct?

If the US institution is included as a beneficiary in the action then, in principle, this legal entity will be a beneficiary not receiving EU funding in accordance with the provisions of Article 10 - Eligibility for funding – of the Horizon 2020 Rules for Participation. Consequently, the costs of this beneficiary will not be reimbursed. This also applies to travel and related subsistence costs incurred by the US beneficiary employing the concerned staff.

In any case, the costs of the experts should be included in the beneficiary’s estimated costs (Annex 2 – Estimated budget of the action) even if the beneficiary does not receive EU funding.

- **As a Third party without budget?** -> How would that work?

We are afraid we are not sure to fully understand what you mean by third party "without a budget". If you refer to third parties providing in-kind contributions free of charge (i.e. the US Institution is the third party), then the beneficiary may claim the travel and subsistence costs of the staff seconded by the third party (US institution) provided these costs fulfill the general eligibility criteria for actual costs to be eligible (i.e. incurred during the action duration, necessary, linked to the action, etc) and they are in line with the beneficiary's usual practices on travel. However, the third parties and their contributions must be set out in Annex 1 for those costs to be eligible (see annotations of Article 12 in the Annotated model grant agreement).

Nevertheless, please note that the involvement of third parties in the action cannot be used to circumvent the Horizon 2020 Rules for participation, that is, to provide financing to a legal entity that would not otherwise have been eligible for funding.

- **As an Expert in the Advisory board with budget foreseen for travel costs?**

Article 6.2.D.1 of the model grant agreement on travel and related subsistence allowances applies to personnel of the beneficiaries and to external experts that participate in the action on an ad hoc basis (e.g. attending specific meetings) if the experts’ participation is envisaged in Annex 1. In this case, the beneficiary may reimburse the experts or handle the travel arrangements itself (and be invoiced directly). In both cases, the amount declared by the beneficiary must correspond to the actual cost incurred by the expert and the costs must comply with certain conditions of eligibility (see annotations of Article 6.2.D.1 of the annotated model grant agreement at [http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/amga/h2020-amga_en.pdf](http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/amga/h2020-amga_en.pdf))
2. We have one partner in the consortium that will not receive budget but will provide in-kind contributions. Is it better to include him as a beneficiary or as a third party? Is there any possibility to pay travel cost to this partner (e.g. from the coordinators budget) when they are a non-paid beneficiary or third party

There is not better or worse option. The option to be chosen depends on each specific case. For example, being a partner in the consortium implies a number of obligations but also a number of rights (e.g. regarding IPR), even if they will not receive EU funding. Those rights and obligations would not apply if the entity participates simply as a third party providing contributions in kind to a beneficiary. In any case, please note that the third parties and their contributions must be set out in Annex 1 for those costs to be eligible for the beneficiary.

Concerning the payment of travel costs, please refer to the answers provided above.

Kind regards,
Legal and financial helpdesk

8.4 Renting Equipment

Question

Dear Research Enquiry Service,

We received the following question on renting equipment in H2020:

Can companies also receive funding for renting equipment for the duration of the trials (e.g. 3 years)? Many companies providing services make price quotations based on a rate including equipment time, manpower, project follow-up, etc. in short a price all included. Would these costs be eligible if they fulfil the criteria in article 6 D.2 and are not higher than the depreciation costs?

For example:

"PTI-Europe would carry out EPBP recycling protocols Route 1 and Route 3. Such an evaluation comprises a lot of different processing steps, like preform molding, bottle blowing, bottle grinding, washing of flakes, extrusion, solid stating, plaque injection, fibre spinning, testing. It involves several employees (4 to 5) and will take 1.5 months to complete. The overall cost for all this would be around € 50000. Would this be accepted like this, or do those companies need to split the costs up? And if this is the case can they quote € 50000 for 1 trial then they will get 70% of this budget?"

Thank you very much,

Answer

Thank you for your question.

Please note that the Enquiry Service cannot validate individual cases.

From your email, it is not clear for us if you refer only to case of renting of equipment or to the provision of services.

In case your email refers only to costs of renting equipment, please note that these costs are eligible if all of the following apply:
- They fulfil the general conditions for actual costs to be eligible mentioned in Article 6.1 a) of the general model GA;
- They do not exceed the depreciation costs of similar equipment, infrastructure or assets and,
- They do not include any financing fees.

Please also note that the equipment rented by the beneficiary must not be recorded as an asset of the beneficiary. Also, there is no depreciation involved (as the item is still the property of the renting firm), but the rental costs of the beneficiary (i.e. its periodic payments to the renting firm) are eligible, if they follow the beneficiary's usual practices and do not exceed the costs of purchasing the equipment (i.e. are comparable to the depreciation costs of similar equipment).


This means that as long as the conditions mentioned above are fulfilled, companies do not need to split the costs which make up the renting price paid to the renting firm for the concerned equipment. However, they should identify the costs for each piece of equipment rented and used for the action.

However, if your email refers to the provision of services by a third party to the beneficiary, please clarify your question as in this case other rules apply.

Kind regards,
Legal and financial helpdesk

8.5 Eligibility and cost category of services for the installation of equipment

Question

Dear RES,

I have a short question in regards to equipment and service costs. In FP7, if a service contract for e.g. installation of the equipment, was not included in the contract for buying the equipment, it was considered as an additional service contract/subcontract. Are these contracts now considered as service contracts under other direct costs?

Kind regards

Answer

Thank you for your question.

Indeed the Guide to Financial Issues relating to FP7 Indirect Actions explains that ‘...sometimes the purchase of equipment or consumables is associated with the provision of a service. Depending on the nature of the services provided, they may be considered subcontracts or part of the equipment purchase. If the service is part of the "package" of equipment purchase then it will be considered to be part of the equipment purchase.
(therefore, it will be an eligible cost). It may also depend on the consideration of these costs in the accounts of the beneficiary'.

Horizon 2020 keeps the same approach. Taking your example of the installation of a piece of durable equipment, if that cost has been integrated in the purchase price of the equipment then it will be charged to the different projects via the depreciation. The depreciation costs eligible for the EU grant will be determined based on the use (percentage and time) of the equipment for the action. This use must be directly measured and must be auditable. In contrast, if the installation is not included in the price of the item then such cost would be generally considered as an indirect cost for Horizon 2020 actions. This is the case, in particular, if the durable equipment is to be used for other purposes/projects than the EU action.

In this context, please note that eligible direct costs are limited to either costs that have been caused in full by the activities of the project or costs that have been caused in full by the activities of several projects the attribution of which to a single project can and has been directly measured (see Art 6.2.2 of the Annotated Model grant agreement). Consequently, costs such as maintenance, reparations, supplies for the durable equipment, etc are generally covered by the flat rate for indirect costs.

Kind regards,
Legal and financial helpdesk

8.6 Calculation of costs for a prototype and depreciation

Question
Dear Res,
I have a question concerning the calculation of costs for an application. If one partner plans to build a prototype and will forward this prototype during the project to another partner, how is the budget calculated? Under which conditions can the first partner settle the costs under consumables or equipment for the construction of the prototype? Under which condition can the first partner invoice the transfer to the other partner? Under which conditions can the second partner depreciate the costs for the equipment?

Best regards

Answer
We apologise for the delay, which is due to our heavy workload.

Please note that we understand from the question that Legal Entity A completed the construction of the prototype and therefore transfers it once finished (and not under construction) to Legal Entity B.

With regard to the International Accounting Standard 39 related to the Financial Instruments (Recognition and Measurement) and the International Accounting Standard 16 (Property, Plant and Equipment):

Concerning the prototype manufacturing by Legal Entity A:
The initial recognition of these costs should be recorded in the Profit and Loss account of the Legal Entity A for as long as the prototype is not yet fully finalised but still work-in-progress.

In other words, until the complete achievement of the prototype, the costs related to the construction of the prototype should be recorded in the Profit and Loss account of the Legal Entity A. The costs, if foreseen in Annex 1 and fulfilling the eligibility criteria, could be declared in the EU project as Other Direct Costs.

When the construction of the prototype is completed, then its costs could be capitalised and could be considered as a fixed asset.

Concerning the prototype transfer to Legal Entity B:

Once the prototype is transferred by Legal Entity A to the different Legal Entity B, the prototype may appear as Fixed Asset in the Legal Entity B accounts at its cost (without any profit margin).

Legal Entity B can declare the costs of depreciation of this durable equipment only if Legal Entity A has not already charged the costs of the construction of the prototype in the context of the EU project.

Kind regards,
Legal and financial helpdesk

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**Question**

Dear RES,

I received a question from a coordinator who is currently building a consortium to realise a demonstration project (Innovation action). Within the project he would like to cover the whole supply chain of the pilot plant he plans to build, so one of the partners of his consortium is a supplier, who provides raw material. It is planned that this partner covers also a research oriented work package. If this partner provides a huge amount of material, the costs are covered only up to 70%. This is highly unattractive for the supplier who earns his money with that.

The consortium was able to attract some investors, who are willed to invest into that pilot plant. The coordinator raised the following question:

1.) Is it possible the pay the raw material provided by the supplier (=partner) with the money of the investors? Or to cover at least the money gap with the investor’s money? How should this be reported?

It would be very attractive for the consortium if they could build up an internal payment system which allows strong partners to cover payment gaps of weak partners. In that case every partner would report its cost and request an EU-contribution of 70 % but afterwards the money would be reallocated between the partners.

2.) Is it possible to install such an internal payment system?

Thank you very much in advance for your support.

Best regards
Please note that the Enquiry Service cannot validate an individual case.

Concerning your first question, from your email we understand that the funds received by a beneficiary in a Horizon 2020 Innovation action from investors (third parties in the project) will be used to co-finance costs incurred for the project by the concerned beneficiary.

**Question 1:**

- The beneficiary can cover the costs of the equipment (partially or fully) by the financial contribution of the third party but the costs are not charged to the action. However, keep in mind the provisions of Article 20.3(b)(i): "The beneficiaries must declare all eligible costs, even if – for actual costs, unit costs and flat-rate costs – they exceed the amount indicated in the estimated budget (see Annex 2). Amounts which are not declared in the individual financial statement will not be taken into account by the Commission/Agency”.

- If the funds received by a beneficiary from a third party are used to cover costs which are charged to the action, the rules of receipts may apply. As mentioned in Article 5.3.3 of the Horizon 2020 model GA, a financial contribution given by a third party specifically to be used for the action constitutes a receipt, which must be taken into consideration to determine the final grant amount. However, the following are not considered receipts: financial contributions given by a third party specifically to be used for the action, if they may be used to cover costs other than the eligible costs; financial contribution given by third parties specifically to be used for the action if there is no obligation for the beneficiary to repay any unused amount at the end of the action. Further explanations are available in the annotated model grant agreement available at [http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/amga/h2020-amga_en.pdf](http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/amga/h2020-amga_en.pdf)

**Question 2**

Concerning your second question, the annotated model grant agreement explains on page 159 that the amount distributed by the coordinator to each beneficiary may differ from the EU contribution justified by each of them; the consortium may have agreements that provide for a distribution of the funding which is not in line with the costs claimed. The redistributed money must not be declared as receipts, as it is neither income generated by the project nor a financial contribution from a third party. Conversely, it cannot either be declared as cost for the action.

Kind regards,

Legal and financial helpdesk

### 8.7 Internally invoiced costs eligible?

**Question**

Dear Res,

I have a question in regard to internally invoiced costs. In the AGA on page 82 it is stated: They "may be eligible if their use and the usage (number of hours) for the action is specifically recorded and it is mentioned in the invoice. The internal invoice must refer to
the use/dedication for the project of specific resources (e.g. per researcher, piece of equipment, etc.).

Example (acceptable internal invoice): Internal invoice with 16 hours of the technician doing the analysis and 10 hours depreciation of the testing equipment used. Example (not acceptable internal invoice): Internal invoice with a global price for the use of a research infrastructure (e.g. laboratory) or for a service (e.g. an analysis)......

Internal invoices for the work of personnel: must be supported by time-records (see Article 18.1). The hourly rate must be calculated as described in Article 6.2.A.”

In big companies sometimes a service of hundreds of repeating procedures is done inhouse most cost effective. In smaller companies/universities those services would be provided by a third party more expensive and they would be eligible as services. Would it be possible to use a certified method for a standartised task done inhouse in order to make these costs eligible and simplify the administration for the big companies?

Best regards

Answer

Thank you for your message.

We are afraid that, as a general rule, it is not possible to charge internal prices for services under Horizon 2020. The use of internal invoices, excluding indirect cost and profit margin, is allowed as supporting evidence for the use of shared resources. However, the internal invoice must refer to the use/dedication for the project of specific resources (e.g. a researcher, an individual piece of equipment, etc). The time dedicated to the project must be properly recorded and the calculation of the cost subject of the internal invoice must abide by the eligibility criteria of the Horizon 2020 grant.

Therefore, in general terms, it is not possible to charge an internal invoice with an average price for a service. Moreover, in relation to the example on page 82 of the Annotated model grant agreement (e.g. 16 hours of the technician doing the analysis and 10 hours depreciation of the testing equipment used), the calculation of the costs of the technician and the depreciation would have to fulfil the eligibility criteria set up in Article 6.1 and 6.2 of the H2020 grant agreement; and the number of hours would have to be properly recorded.

A particular situation is the case of entities fulfilling the conditions to declare costs under category D.4 – Costs of large research infrastructures. These beneficiaries may declare capitalised costs and operating costs of research infrastructures used for the action. These costs may be determined via a ‘cost per unit of use’. You can find specific guidance on this at:


Also, the use of unit costs (i.e. specific cost category covering both direct and indirect costs) is possible in case of clinical studies when mentioned in the Work Programme. You can also find specific guidance on pages 103-106 of the Annotated model grant agreement available at


Best regards,
**8.8 Definition of non-governmental organisation**

**Question**

Dear Helpdesk,

is there an official Definition for NGOs (non-governmental organization) for H2020 participation? Or a definition the COM accepts? We couldn't find a definition in the rules for participation nor in the model grant agreement.

Thanks for your assistance and best regards

**Answer**

Thank you for your message.

We apologise for the delay in replying due to the current heavy workload. Please find below the reply to your question:

As under FP7, H2020 Rules for participation do not include a definition of the term "non-governmental organisation" (NGO) and equally the H2020 Model Grant Agreement does not include options particularly addressed to them. H2020 Rules for Participation only define what "a non-profit legal entity" by reference to its legal form or legal or statutory obligation is (Article 2.1.14 of Regulation (EU) 1290/2013).

Taking into account that the term non-governmental organisation (NGO) is used in a variety of ways all over the world and, depending on the context in which it is used, it can refer to many different types of organisations.

Best regards,

Legal and financial helpdesk

**8.9 Eligibility of Costs (event, flight, hotel etc.) in case of cancelling project meetings or events due to Corona/Covid 19 within Europe.**

**Question**

Dear Helpdesk,

we receive the first questions on eligibility of costs (event, flight, hotel etc.) in case of cancelling project meetings or events due to corona within Europe. Are the costs for cancelling eligible within the H2020 project (force majeure)?

thanks for your assistance,

best regards

**Answer**
Thank you for your question.

The Article 51 of the H2020 Model Grant Agreement (H2020 MGA) sets out the general framework and conditions in which the force majeure clause can be used. As a general rule under H2020, in case of force majeure, a party will be excused from not fulfilling its obligations (i.e. there will be no breach of obligations under the GA and none of the adverse measures for breach will be applied). Costs will be eligible, if they fulfil the general eligibility conditions like any other costs incurred under the action. However, if force majeure entails extra costs for the implementation of the action, it will normally be the beneficiary who must bear them.

Having said that we are aware that indeed the outbreak of Corona virus in the EU and elsewhere may have implications for the participation of individuals in meetings and events organised by beneficiaries for the purposes of H2020 ongoing actions and for their implementation. For instance, it may prevent beneficiaries to fulfil their obligations under the action or even to carry out work in a zone affected by the virus. It may also force beneficiaries to cancel a meeting due to unavailability of key staff or because most of the participants cannot attend.

If such a situation occurs, beneficiaries must immediately inform the Project Officer, which will examine on a case-by-case basis the possible application of the rules on force majeure, in the meaning of Article 51 of the H2020 MGA.

Example: Beneficiaries cannot attend meetings or events related to the action because of their recent contact with someone suffering from the virus or their presence in an area considered to be at high risk. Costs of travel or accommodation that could not be cancelled and which are not reimbursed from other sources could be eligible (provided that the cost eligibility conditions are fulfilled, notably the that meeting was necessary for the action, the costs were reasonable and in line with the usual practices of the beneficiary on travel) even if the beneficiary did not travel and did not take part in the meeting/event.

Please do not hesitate to contact us if you need additional clarifications.

Kind regards,

Legal and financial helpdesk

9 Personnel Costs

9.1 Hourly rate calculation: Conflict with internal accounting principles

Question

Dear Res,

I would like to forward a question from our client:

"With regards to our previous question about the hourly rate calculation we received from you the following answer:

"The part of the salary which has been reimbursed by the insurance actually offsets the corresponding personnel cost, and makes it not an actual cost for the entity. Therefore the amounts due to be received from the insurance must be deducted from the personnel costs of the employee for the month of absence they related to, even if
the amounts are received later.” [Case_ID: 0866443 / 8121261] 10 Legal and financial issues | 10 Legal and financial issues

Basically, the costs of sick leave are paid by the entity since the salaries are paid for the contractual hours of an employee.

In this respect an additional question remains:

In projects only personnel costs arising from productive working time are funded. Sick leaves are not covered. The entity faces higher personnel costs which are compensated afterwards. For this reason the question would be whether this really needs to be deducted from the personnel costs of an employee in the hourly rate calculation.

Besides, another problem is that the compensation payments from the health insurance enter the accounts usually up to six months after the time of absence. For companies working on the cash inflow/cash outflow basis it is not possible to relate the compensation to the month of absence. This would not apply with the internal accounting principle.

Please be so kind to advise how to proceed in this case.

Answer

Thank you for your question. First of all, please accept our apologies for the late reply which was due to a problem with the tracking of this question.

In Horizon 2020 actions, the hourly rate – for personnel costs declared as actual costs – must be calculated by dividing the actual annual personnel costs (excluding additional remuneration) for the person to the number of annual productive hours.

As mentioned in the Annotated GA, the annual personnel costs may include only eligible personnel costs and must exclude eligible additional remuneration (since it will be added at the end). Therefore, among other things, in order to be eligible, these costs must be actual, which means that they must be real (not estimated, budgeted or imputed) and definitely and genuinely borne by the beneficiary (not by any other entity).

As mentioned before, in case of sick leave, if the beneficiary is entitled to be reimbursed by an insurance company or a social security scheme, those personnel costs are not anymore actual costs for the entity. This is due to the fact that the part of the salary which has been or will be reimbursed by the insurance or the social security scheme (public or private) actually offsets the corresponding personnel cost. Therefore the amounts due to be received from the insurance/social security scheme must be deducted from the personnel costs of the employee for the month of absence they related to, even if the amounts are received later. These amounts are usually calculated on the basis of the insurance contract or on the provisions of the social security scheme and therefore are known for the entity before actually receiving the payment.

However, if it is impossible to determine the compensation received by the beneficiary for the person in sick leave, this means that the personnel costs are not actual and they must be adjusted in the next reporting period.

As for the inclusion of absences (including sick leave) in the calculation of the annual productive hours, in Horizon 2020, they (annual productive hours) may be calculated according to one of the following three options:

- the total number of hours worked by the person in the year for the beneficiary (the individual annual productive hours). In this case, absences,
including sick leave, do not enter into the calculation of the hourly rate.

- 1720 hours for the persons working full time (or corresponding pro-rata for persons not working full-time) or,
- the standard annual productive hours generally applied by the beneficiary for its personnel in accordance with its usual accounting practices.

Kind regards,
Legal and financial helpdesk

9.2 Taxation of the MSC monthly living allowance

Question

Dear RES Team

I have a question concerning the taxation of the MSC monthly living allowance e- not in an MSC action but in case of an SME owner or another physical person who does not receive a salary and who uses the MSC rates as unit costs for his personnel costs in a collaborative project (e. g. research and innovation action in H2020 or collaborative RTD project in FP7).

In regular MSC actions monthly living allowances are paid as a salary from the beneficiary to the fellow, they appear on his income tax card and are therefore subject of taxation on income, social contributions, health insurance contributions etc. So the fellow only receives the net income (4650 EUR minus taxation on wages, social contributions, health insurance contributions etc. in H2020).

I presume this taxation does not apply to the MSC allowances in collaborative projects (like research and innovation actions in H2020) where an SME owner or another physical person not receiving a salary uses these allowances. In this case the MSC living allowances paid directly by the Commission and will not show on the income tax card of the SME owner and will therefore not be subject to income tax, social contributions, health insurance etc. And according to German law the payments of the Commission in FP7 and H2020 are considered to be grants (not payments) and are therefore also not subject to VAT.

For clarification: in MSC actions the fellow only receives the net amount of the monthly living allowance. In collaborative projects like research and innovation actions the SME owner receives the full amount of the living allowance (i.e. 4650 EUR in H2020) and does not have to pay VAT according to German law.

Thank you very much and kind regards,

Answer

Thank you for your question. Please excuse the delay in replying which is due to the high number of questions received and the heavy workload for the preparation of the Horizon 2020 guidelines. Please also note that the enquiry service cannot validate individual cases. With regard to the treatment of payments received by a beneficiary through an EU grant from a taxation perspective, please note that taxation depends on the national tax regime applicable. We would recommend you to contact your national tax authorities on this
question.

For Marie Sklodowska Curie H2020 actions, one of the eligibility conditions of the costs of recruited researchers is that the researcher must be recruited by the beneficiary under an employment contract (or other direct contract with equivalent benefits and social security coverage ("other direct contract")) (see Article 6.2.A (b) of the MSCA MGAs). Only if national law does not allow providing the researcher with an employment contract (or other direct contract), a beneficiary may (subject to the Agency's prior agreement) offer a fixed amount fellowship with minimum social security coverage.

However, for actions financed under the general Model Grant Agreement, according to Article 32 of the Horizon 2020 Rules for Participation "the owners of SMEs who do not receive a salary, and other natural persons who do not receive a salary, may charge personnel costs on the basis of unit costs". Please note that, the Commission/Agency reimburses the costs declared by the beneficiary (the SME) which charges this unit cost to the action and does not remunerate the SME owner directly. Then, the beneficiary (the SME) compensates its owner/s for its/their work by means such as dividends, service contracts between the company and the owner, etc.

In addition, these costs are eligible personnel costs if they correspond to the amount per unit set out in Annex 2 of the general MGA multiplied by the number of actual hours worked on the action. For simplification and coherence under Horizon 2020 actions reasons, the Commission decided to use the amount set in the MSCA actions as reimbursed for senior researchers (i.e. EUR 4,650) and the country-specific correction coefficients in order to determine the personnel costs that may be claimed by beneficiaries who are SMEs for their co/owners.

More detailed explanations are available in the annotated model grant agreement, under Article 6, at:

Kind regards,

Legal and financial helpdesk

9.3 Natural persons not receiving a salary

Question

Dear RES,

I have a short question regarding the Costs of beneficiaries that are natural persons not receiving a salary. In FP 7 the corresponding article had a different wording; "(...) natural persons who do not receive a salary shall charge as personnel costs a flat rate based on the ones used in the People Specific Programme (...)" (Annex II, Article II.14). In H2020 only BENEFICIARIES that are natural persons are eligible for MSC rates.

The goal was to use a flat-rate to cover the value of the personal work of natural (physical) persons who do not receive a salary. This applied also for people who worked e.g. self-employed for a beneficiary in a project.
Following the new wording for H2020 a freelancer who works for a beneficiary within a project wouldn't be able to get his costs (declared on the basis of the unit cost (hourly rate) fixed by Commission Decision C(2013) 8197). He would have to become a participant himself - or is this a misunderstanding of the current rules?

**Answer**

Thank you for your message.

Under H2020 as well as under FP7, the specific unit costs applies to costs of beneficiaries that are SMEs for their owners not receiving a salary and for costs of beneficiaries that are natural persons not receiving a salary. It does not apply to natural (physical) persons working for the beneficiaries.

The general rule is that personnel costs are reimbursed only on the basis of actual costs, i.e. costs actually incurred. If no salary is paid to the SME-owner or natural person working in a H2020 project as beneficiaries, no actual costs are incurred and recorded in the accounts and the SME owner/natural person must apply the unit cost for his/her personnel involvement in the projects. This unit cost is however an exception, the general rule remains the reimbursement on the basis of actual costs.

The case you describe might be that of natural persons working for a beneficiary under a direct contract under Article 6.2.A.2. This budget category covers typically in-house consultants (i.e. self-employed natural persons working part-time or full-time for the action, under a contract which is not governed by labour law; there should be a direct contract between the beneficiary and the consultant; and not through another company).

Costs for natural persons working under a direct contract (as any personnel cost) may be declared as actual costs or on the basis of unit costs (in accordance with the usual cost accounting practices, i.e. ‘average personnel costs’).


Best regards,

Legal and financial helpdesk

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**9.4 Marie Curie flatrates for personnel costs**

**Question**

Dear RES,
I have a question regarding the option of using the Marie Curie flatrates for personnel costs. In FP7 and H2020 the conditions are, that these costs are "eligible for personnel costs of SME owners of beneficiaries and personnel costs of beneficiaries that are natural persons not receiving a salary". I have a problem with the exact wording. Does this exclude chairmen of private non-profit associations if they do not get a salary like employees of the association?

Best regards

Answer

Thank you for your question.

Indeed, both under FP7 projects and H2020 actions the SME owners' unit cost ("flat rate" in FP7) applies only to:

• The (co-)owners of beneficiaries qualifying as SMEs and who do not receive a salary from the SME. This include those owners who are remunerated /compensated by whichever other means(e.g. dividends, service contracts between the company and the owner, etc); and

• beneficiaries that are natural persons who do not receive a salary.

Therefore, chairmen, advisors, members of the board of directors, etc, of an entity which does not qualify as an SME according to the Commission Recommendation 2003/361/EC (SME recommendation available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:124:0036:0041:EN:PDF) may not use this unit cost. The same applies when the beneficiary is an SME but the person is not (co)-owner of the entity.

Kind regards,

Research Enquiry Service - Legal and financial helpdesk

9.5 Consultants as persons working under a direct contract

Question

Dear RES Team,

I have a question concerning consultants in H2020. In this case the contract according to page 61 AMGA “1.2 Direct personnel costs: Costs for natural persons working under a direct contract” will be with the GbR (Gesellschaft bürgerlichen Rechts) consisting of the two consultants who will be working for a beneficiary in the project. A GbR according to German law is a partnership not a legal entity, it does not have a corporate name and is not registered at the Chamber of Commerce. e. g. it cannot be a beneficiary in an H2020 project. According to the Chamber of Commerce, the rights and duties affect the individual partners personally. Under this definition they are self-employed natural persons. "The GbR has no legal personality. It is thus not the bearer of any rights and duties itself. Instead, the rights and duties affect the individual partners personally."

[http://www.frankfurt-main.ihk.de/english/business/legal_forms/gbr/]

Could you please clarify if this meets the requirements for in-house consultant per 1.2.1 - 1.2.3. of the Annotated Model Grant Agreement?
Thank you very much and kind regards,

Answer

Thank you for your question.

In addition to general conditions for costs to be eligible set out in Article 6.1 of the H2020 Model Grant Agreement (MGA), and in compliance with Article 6.2.A.2 H2020 MGA, the costs for natural persons working for a beneficiary under a direct contract are eligible personnel costs if:

• there is a 'direct contract' with the beneficiary. The term 'direct contract' has to be strictly understood as a contract directly concluded by a natural person (individual) and a beneficiary. The contract cannot be with a corporate body and a beneficiary. If a given natural person is hired through a corporate body (e.g. a company set up by him/her) under an action, the costs related to the contract concluded between this corporate body and a beneficiary, may however be declared for instance as costs of purchasing of services or costs of subcontracting

• the person must work under the beneficiary's instructions (and, unless otherwise agreed through a teleworking agreement, in the beneficiary's premises). It must be the beneficiary who decides on, designs and supervises all work.

• the results of the work carried out must belong to the beneficiary.

• the costs are not significantly different from costs for personnel performing similar task under an employment contract with the beneficiary. Therefore the remuneration of the consultant must be based on working hours, rather than on delivering specific outputs/products. If the remuneration is based on delivering of outputs/products this would be typically considered as a "Purchase of goods, works or services" (see Article 10 H2020 MGA) or a subcontract (see Article 13 H2020 MGA) and not as personnel costs

From our understanding, Gesellschaft buergerlichen Recht (GbR):

• has no legal personality (i.e. it is a simple partnership agreement and the rights and duties affect the individual partners personally)

• is a non-commercial enterprise

But GbR may also:

• be allowed to conduct "small trade business" (e.g. the services that a GbR may offer shall not reach a certain size that will oblige the GbR to turn into another type of partnership for commercial purposes).

Therefore, to clarify that the given GbR has no commercial relation with the beneficiary and to consider that the given consultants are working under a direct contract with the beneficiary:

• each consultant must have concluded a direct agreement with the beneficiary (i.e. on his/her own behalf and on his/her own account).

• this agreement must fulfil the conditions of Article 6.2.A.2 here above mentioned

Kind regards,

Legal and financial helpdesk
9.6 Personnel costs declared as unit costs: Adjustment on the basis of budgeted elements?

Question

Dear RES,

I have a question concerning budgeted costs in H2020 according to page 61 AMGA. One example of acceptable budgeted costs is the consumer price index.

Would the following budgeted figures also be eligible in H2020?:

Since part of the personnel costs is based on the salaries of the previous year (last closed financial year) the client wants to adjust their personnel costs. They plan to use the figures published in a yearly report by an independent panel of economy experts. The report is commissioned by the Federal Ministry of Economy and includes (among other) a prognosis for the development of gross salaries in Germany including the employers’ social contribution for the following year. The matching coefficient for personnel costs includes the agreed collective labour contract adjustments and income limits for assessment contribution (Beitragsbessungsgrenze). For example for 2015 the report foresees an increase of 2.9% for the gross salaries compared to 2014. If it helps I could also send you the latest report from 2014.

Thank you very much and kind regards,

Answer

Thanks for your query. Kindly note that the Enquiry Service cannot validate individual cases but only provides general guidance.

We understand that your question regards personnel costs declared as unit costs on the basis of the usual costs accounting practices of the beneficiary. Under these unit costs, the actual personnel costs may be adjusted on the basis of budgeted or estimated elements provided that those elements are:

• relevant;
• reasonable; and
• correspond to objective and verifiable information.

Of course, making such adjustment must also be the usual costs accounting practice of the entity. This means that if such adjustment is applied only to calculate the average personnel costs for H2020 actions, this would not be acceptable.

Kindly note that the Enquiry Service cannot provide an answer regarding the acceptability of a specific element. Such assessment can only be done on the basis of a complete set of information about the reference used for the adjustment and the way in which such adjustment is carried out.

However, the beneficiary may get the formal opinion of the Commission by submitting a Certificate on the Methodology (Article 18.1.2) for approval.

Kind regards,

Research Enquiry Service – Legal and Financial Helpdesk
9.7 Eligibility of bonus payments

Question
Dear RES,

I have a question concerning the conditions for eligibility of bonus payments.

Art. 6 A 1(b) states: “the criteria used to calculate the supplementary payments are objective and generally applied by the beneficiary, regardless of the source of funding used.” My question refers to the wording “generally applied”. Does that mean, that bonus payments have to be paid automatically once the conditions are fulfilled? In our case, the institutions offers the researchers to apply for additional funding once they plan to apply or have successfully applied for european or national funding. It is up to the researcher to apply for additional funding i.e. bonus payments. If he/she does not apply, bonus will not be paid. Is that structure a possible option that fulfils the criteria "generally applied"?

Best regards

Answer
Thank you for your query. Kindly note that the Research Enquiry cannot validate individual cases as it provides only general guidance.

Additional remuneration may only be declared by non-profit legal entities and only if it fulfils the specific eligibility conditions set up in Article 6.2.A.1. As provided in the Annotated Model Grant Agreement (see pages 47 -49 available at: http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/amga/h2020-amga_en.pdf), one of these specific eligibility conditions is that the additional remuneration is calculated on the basis of criteria that are objective and generally applied by the beneficiary, regardless of the source of funding used.

From your email, we understand that the beneficiary pays additional remuneration to researchers participating in special types of national or European projects if they (i.e. the researchers) apply for it (i.e. the additional remuneration). Please note the there is no specific obligation under Horizon 2020 for beneficiaries to pay additional remuneration to their employees automatically or upon their request. Therefore, this ‘procedure’ might be acceptable provided that:

- The decision to grant the additional remuneration is based on objective criteria (see below), which should be documented in a procedure and be verifiable. In practical terms, this means that the system for making additional payments should be established in the beneficiary’s internal rules or at least be documented and known by the employees (i.e. the additional remuneration must NOT be paid to the employee at the sole discretion of the management).

- The objective criteria are related to the additional work or expertise. As explained in the AGA, the work to be carried out (or expertise used) must be different from the standard work or expertise (defined in the employment contract/equivalent appointment act and covered by the standard remuneration package).

- The rules for additional remuneration do not differ according to where the funds come from. In particular, the rules cannot be set up for actions funded by a specific donor. For example the Additional remuneration schemes that are applicable only to EU actions are not acceptable.

- The payment of additional remuneration is not subject to budget availability (i.e. only to
be paid if there is remaining funds in the project budget).

Please also note that the additional remuneration does not have to be the same for all persons working in the same project. In fact, the objective criteria used to determine the additional remuneration may result in different amounts for persons working in the same project.

Kind regards,
Legal and financial helpdesk

9.8 Is a statutory accident insurance part of the eligible personnel costs?

Question
Dear Research Enquiry Service,

I have a question concerning the calculation of personnel costs.
Is a statutory accident insurance part of the eligible personnel costs? It is similar to the unemployment insurance contribution. Other than the unemployment insurance the amount of the accident insurance does not depend on the individual income of an employee but on his type of activity/employment.

Thank you very much and kind regards, Best regards

Answer
Dear Madam,

Article 6.A.1 MGA provides that personnel costs of an employee or equivalent must be limited to salaries, social security contributions, taxes and other costs included in the remuneration, if they arise from national law or the employment contract (or equivalent appointing act).

Basic remuneration can therefore include other costs such as insurance fees and possibly an accident insurance fee. However such other cost must fulfil the general eligibility conditions under Article 6.1(a) and (b) MGA, notably be in accordance with the the beneficiary's usual cost accounting practices, and must be fixed (conditions and amount or percentage) and mandatory according to national law, collective labour agreements or the employment contract.

Kind regards,
Legal and financial helpdesk

9.9 For SME owner there is no box to declare the amount of person month worked. Why?

Question
Dear RES,
I have a small question concerning the financial reporting. For SME owner there is no box to declare the amount of person month worked. For other personnel costs you have to indicate the amount of PM. Is it ok not to mention the PM or shall the beneficiary mention elsewhere how much PM the SME owner has worked?

Best regards

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**Answer**

Dear Ms. Lewerentz,

Thank you for your question.

We confirm you that there is no need to also report the number of person-month when declaring personnel costs for SME owners and beneficiaries that are natural person.

Number of person-month has to be indeed reported in the use of resources part of the financial statement only for personnel costs declared as actual costs and personnel costs declared on the basis of unit costs calculated in accordance with the beneficiary's usual cost accounting practices.

However, please note that beneficiaries will have to indicate the number of hours that the SME owner (and beneficiaries that are natural person) worked in the action during the reporting period (i.e. in the column 'number of units'). This number will be then multiplied by the SME owner unit cost to calculate automatically the personnel costs.

Kind regards,

Legal and financial helpdesk,

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**10. Unit Costs and costs for Large Research Infrastructures (LRI)**

**10.1 Method to determine unit costs for clinical trials**

**Question**

Dear RES,

One of our clients raised some questions regarding the method to determine the unit costs for clinical trials described in Commission Decision (C2014)1393 final. The Method is described in the annex. To measure the personal costs, the beneficiary shall use the costs recorded in its certified or auditable profit and loss accounts for year N-1 (last closed financial year at the time of submission of the grant application).

Questions:

1. The method has to be described at the very beginning of the project during the Grant preparation phase, right?

Within the project duration of 4 or 5 years rising costs might affect the calculation of unit costs.
2. Is it possible to adapt it within the duration of the project, to reflect rising inflation rates or tariff increases for the staff?
3. If changes are possible, under which conditions this might be possible? Is a formal amendment procedure necessary?

Beneficiaries can choose between the declaration of unit costs and declaring actual costs.

4. If a project partner decides at a certain point that he wants to change his accounting method from declaring actual costs to declaring unit costs, is that possible after a formal amendment procedure?

Thank you very much for your help and support in advance.

Best regards

Answer

According to the Decision C(2014)1393 for clinical studies, beneficiaries can chose to be reimbursed either by:

“(i) Costs declared by beneficiaries on the basis of unit costs per patient calculated on the basis of their historical data, or

(ii) Cost actually incurred.”

“Since a clinical study may be conducted by several entities and since an action may require the conduct of several clinical studies, the grant agreement may foresee several forms for the costs of clinical studies. However, only one of the forms referred to in points (i) and (ii) may be used for one clinical study for one beneficiary or linked third party.” Beneficiaries therefore cannot change the form of reimbursement used for one clinical study.

For the reimbursement based on unit costs, the annex of the Commission Decision C(2014)1393 specifies that "the beneficiary shall use as historical costs the costs recorded in its certified or auditable profit and loss accounts for year N-1 (last closed financial year at the time of submission of the grant application)".

The description of the resources and the associated costs in year N-1 must already be part of the proposal included in Annex 2 of the grant agreement. In accordance with the Decision "the unit costs shall be specified in the grant agreement to be used throughout the duration of the action".

Neither the required resources nor the costs can be modified or updated to inflation during the implementation of the project (as it is already confirmed in section 1.9 of the template: http://ec.europa.eu/research/participants/portal/doc/call/h2020/h2020-phc-2014-two-stage/1605129-essential_information_for_clinical_studies_20140514_en.pdf).

The unit costs determined at the time of the proposal and grant preparation will be valid for the entire duration of the project. The unit cost agreed during the preparation of the grant agreement can only be changed: If there is a change in the protocol of the clinical study, or if there was an error when setting the year N-1 costs. In these cases a formal amendment request is required.

Concerning your last question, the choice of form of reimbursement (unit costs or actual) has to be made at the time of the proposal submission. Once the grant agreement is signed it cannot be modified via an amendment. Beneficiaries, however, will have the option again to choose the reimbursement form in future grant agreements.
You can find further information in the FAQs which is available under documents related to the call.

Best regards,

Legal and financial helpdesk

10.2 Calculation of Unit Costs for Transnational Access to Research Infrastructures

Question

Dear RES,

Some questions regarding the method to calculate the unit costs for transnational access to research infrastructures remained open also after reading the Commission Decision.

1. The basis for the calculation is certified or auditable historical data of the last completed year before the grant application is submitted. It shall be fixed in the grant agreement and can be updated only with the agreement of the commission. Is it right that the method for the unit cost calculation has to be fixed only after a positive evaluation during the grant preparation phase? Or is a description of the method also part of the proposal?

2. Is it necessary to present an audit/certificate of the method of the unit cost calculation to the commission? Who needs to audit the method?

Best regards

Answer

The applicants that are access providers must indicate in the proposal which type of access they will provide (trans-national or virtual) and in case of trans-national access they must indicate the methodology (unit cost, actual costs or a combination of the two) they will use to calculate and report the access costs, both in the related work-package and in the access provision table (see the specific proposal template for integrating activities:


In this table applicants must also indicate the foreseen access costs and, if they chose to report access costs on the basis of a unit cost or a combination, the calculated unit cost too (calculated according to the specific decision for trans-national access unit cost with the provided excel sheet provided on the call page).

There is no obligation to submit an audit certificate of the calculation of the unit cost in the proposal. However, it could be useful in the proposal to make reference to audited running costs of the infrastructure or, in case of infrastructures having already received support under the FP7, to audited unit cost under the FP7 grants.

During the grant preparation phase, applicants should be ready to provide the “certified or auditable historical data of the beneficiary (or the linked third party)” on which the calculation is based.

Best regards,
**Legal and financial helpdesk**

### 10.3 Failure of the LRI criteria assessment after grant signature

**Question**

Dear RES Team,

I have a question concerning large research infrastructure (LRI).

What happens if a proposal budget is calculated including costs for LRI and only after signature of the grant agreement the ex-ante assessment is completed with the result that the organisation is not eligible for LRI (because it does not fulfil the criteria - 20 million and 25%)?

Will the EU contribution be reduced by the amount originally foreseen for LRI although the GA had already been signed?

Or will the EU contribution remain the same and the organisation/consortium has the possibility to spend the budget originally foreseen for LRI for other project costs (e.g. budget shift to personnel cost) during the duration of the project if it turns out to be more expensive than initially planned?

In this case the EU contribution might of course still be reduced at the end of the project in case of underspending.

Thank you very much and kind regards

**Answer**

Thank you for your question.

Beneficiaries meeting the thresholds mentioned in Article 6.2.D.4 – Costs of large research infrastructures (€20mn and 75%) may declare capitalised costs and operating costs of research infrastructures used for the action under the Large Research Infrastructure scheme only if they have obtained a positive ex ante assessment of their costing methodology from the Commission (see also pages 69-80 at http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/amga/h2020-amga_en.pdf)

However, if the beneficiary fulfils these criteria, it has to foresee a budget for the LRI costs even if there is no ex-ante approval yet.

If the ex-ante assessment is negative (the participant methodology does not fulfil the conditions to use the option for LRI) then the beneficiary may charge these costs as any other direct cost related to the project under the corresponding budget category (e.g. personnel, subcontracting, equipment costs etc. as actual direct costs; indirect costs under the 25% flat-rate). In all cases these costs must fulfil the general eligibility conditions (Article 6.1 of the model Grant Agreement –MGA) and the specific eligibility conditions for direct costs (Article 6.2 MGA).

The EU contribution (called maximum grant amount in H2020) set out in Article 5.1 will not be reduced by the amount originally foreseen for LRI. The budget in Annex 2 is an estimation and budget transfers between beneficiaries or between budget categories are allowed without the need for an amendment if the action is implemented as described in Annex 1 (for more information see also annotations under Article 4 of
the MGA). However, the maximum grant amount specified in Article 5 of the MGA it is not the ‘final grant amount’. The final grant amount will be calculated by the Commission/Agency at the end of the action based on the eligible costs declared by the beneficiaries in the financial statements in order to determine the balance to be paid (see also annotations under Article 5 of the MGA).

Kind regards,
Legal and financial helpdesk

11 IPR

11.1 Access rights to affiliated entities in a joint EU Call with Japan

Question

Dear Helpdesk,

Enclosed please find a request of a university concerning the interpretation of access rights to affiliated entities in a joint EU Call with Japan. Thanks for your assistance, best regards:

A German University wants to take part in the proposal Coordinated Call EU Japan H2020-EUJ-2014, call closure April 20th 2014. Within this call Participants in this call have to provide a final draft of a Coordination Agreement (Agreement between the EU and the Japanese Consortiums) with the proposal. Within this Coordination Agreement additional provisions of IPR, Dissemination and Use shall be described. Now we have a question to the access rights in respect of Affiliated Entities: We would like to formulate the following section within the Coordination Agreement:

Unless agreed otherwise in the CooA, access to Coordination Results and/or Joint Coordination Results must also be given — under fair and reasonable conditions to Affiliated Entities, if this is needed for those entities to exploit the Coordination results and/or Joint Coordination results generated by the Parties to which they are affiliated.

Unless agreed otherwise the Affiliated Entity concerned must make any such request directly to the Party that owns the Coordination results and/or Joint Coordination Results.

Requests for access may be made — unless agreed otherwise — up to one year after the period set out in Article 3. Unless otherwise agreed in the CooA, access to Background results must also be given — under fair and reasonable conditions and unless it is subject to legal restrictions or limits, including those imposed by the rights of third parties (including personnel) — to affiliated entities, if this is needed to exploit the Coordination Results and Joint Coordination Results generated by the Parties to which they are affiliated.

Unless agreed otherwise the Affiliated Entity concerned must make the request directly to the Party that holds the Background.

(see Definition of Coordination Results within the CooA: “Coordination Results and Def. of Joint Coordination Results: Joint Coordination Results”)

In the Participation rules of Horizon 2020 the access rights to affiliated entities are limited to affiliated entities which are established in EU Member States or Associated Countries. Is it possible, that in this special Call affiliated entities which are established outside the EU/Associated Countries can be granted access rights? What kind of limitations in respect of Access rights will be applicable in this call in general?
Answer

Please note that the external helpdesk may not provide assessments in relation to individual calls.

More generally, regarding access rights for affiliated entities in the context of a joint coordinated call with a third country, in accordance with article 41.5 (on Relationship with partners of a joint action – Coordination agreement) of the model grant agreement available on the Participant Portal, the option for joint actions provides specifically that the coordination agreement must not contain any provisions contrary to the terms and conditions of the grant agreement (including with regard to rules on intellectual property rights).

In accordance with article 25.4 (on Access rights for affiliated entities/background) and article 31.4 (on Access rights of affiliated entities/results) of the model grant agreement, unless otherwise provided for in the consortium agreement, access rights to results and to background must also be given, under the conditions set out in these articles, to affiliated entities established in an EU Member State or associated country, if this is needed to exploit the results generated by the beneficiaries to which these entities are affiliated.

If agreed in the consortium agreement, beneficiaries may grant additional or more favourable access rights to affiliated entities not established in an EU Member State or associated country, beyond the rights foreseen in the grant agreement (but which do not conflict with its terms and conditions), if those results and/or background are needed to exploit the results generated by the beneficiaries to which these entities are affiliated."

Best regards,
Legal and financial helpdesk

11.2 Costs for Access to Background

Question

Dear Helpdesk,

lately we received a couple of similar questions concerning the eligibility of costs for access to Background in H2020 projects. According to Art. 25.2,25.3 MGA (p. 178ff AMGA) it is possible to grant access to background for the implementation of the project or for the exploitation of results against payment. The question which raised now is, are these costs for the access to background of a partner eligible according to Art. 6.1 GA.

Maybe you can clarify the situation.

Thanks in advance for your assistance,

Best regards

Answer

Thank you for your question and sorry for our late reply.

• Royalties for access rights to background granted by other beneficiaries under Article 25.2:
The default rule is that access rights needed to implement the action are granted on a royalty-free basis. Beneficiaries may deviate from the default rule only if agreed by them before signing the GA. Therefore, royalties paid may be eligible only if agreed by all beneficiaries before the GA is signed and all the other eligibility conditions are met (e.g. necessary for the implementation of the action, reasonable, etc.). As best practice, if beneficiaries intend to deviate from the default rule, it is recommended that this is explained in detail in their proposal.

- Royalties for access rights to background granted by other beneficiaries under Article 25.3 (and by extension royalties paid to third parties for exploitation of the results):

are not eligible.

Best regards,
Research Enquiry Service – Legal and Financial Helpdesk

11.3 Owner of Results and Background becoming Result

Question

Dear Helpdesk,

we have several questions related to ipr in H2020 projects. Maybe you can help:

1. According to 26.1 GA Results are owned by the beneficiary that generates them. In some consortium agreements the partners decide that all Results belong to all partners. According to our understanding this is contradictory to the GA and national law, because Results should belong to the partner that generates it. After it is generated the partner may transfer it to other partners but not in advance, especially if the other partners didn't assist in generating the Results.

2. According to 26.1 GA ‘Results’ means any output... of the action such as data, knowledge or information... that is generated in the action, as well as any rights attached to it, including intellectual property rights.

If a partner inserts Background into the action and within the project that Background had be modified is it possible that Background becomes a RESULT?

It would be helpful if you could clarify these situations, thanks for your assistance.

Best regards

Answer

Thank you for your message.

1. The general rule is indeed that results are owned by the beneficiary that generates them but that (partial) transfers of ownership are possible. The AGA describes the situation of joint ownership by agreement:

Joint ownership by agreement — Outside the cases described above, the beneficiaries may also become joint owners if they specifically agree on it.

Example: A beneficiary may decide that a part of its results will be owned jointly with its parent company or another third party. However, this requires a (partial) transfer of ownership, which is subject to the GA’s rules on transferring ownership.
Your question is whether beneficiaries may agree to become joint owners before the results are generated. The rules and model grant agreement do not forbid entering into such an agreement. Except for particular cases (e.g. right to object, security specific rules), the Rules and the model grant agreement contain only one general restriction regarding the timing of an agreement to transfer results, namely that with regard to jointly owned results the joint owners may agree to apply another regime than joint ownership only once the results have been generated (Art. 26.2 MGA).

It is clear that the appropriateness of any agreement to (partially) transfer results should be carefully considered by the beneficiaries concerned.

2. Background as such cannot become results. However, if because of the activities in the action certain background is changed, these changes are part of the outcome of the action and would indeed fall within the definition of results of the action.

Kind regards,

Research Enquiry Service – Legal and Financial Helpdesk

11.4 Are presentations against payment compatible with the principle of Open Access?

**Question**

Dear Helpdesk,

At scientific conferences the scientist are often required to give the presentations to the organizer of the conference. After the conference these presentations made available for a fee by the organizer. Is this compatible with the principles from Art. 29.2 open access? Or is it forbidden in open access projects?

Thanks for your assistance,

Best regards

**Answer**

Thank you for your message.

The obligations in Article 29.2 apply only to peer-reviewed publications. Conference presentations are normally not peer-reviewed publications.

However, as indicated in the Guidelines on Open Access to Scientific Publications and Research Data in Horizon 2020, beneficiaries are strongly encouraged to provide open access to other types of scientific publications, some of which may, in some cases, not be peer-reviewed, including monographs, books, conference proceedings and grey literature (informally published written material not controlled by scientific publishers, e.g. reports).

Kind regards,

Research Enquiry Service – Legal and Financial Helpdesk
12 Reporting

12.1 Stricter Policy for reporting in FP 7 and H2020 Projects

Question
Dear Res,

I have a question in regard to the submission of reports. In FP7 so far, the COM always sent "reminder" to the coordinator when he/she missed a reporting deadline. We heard that for H2020 the COM intends to be stricter with keeping deadlines. My question is, will the COM apply this stricter policy only for H2020 projects or also in already running FP7 projects from now on?

Best regards

Answer
Thank you for your message.

We would like to inform you that in FP7 workflow (Coreflow), the stricter policy applies. Concerning H2020, the flow is not yet finalised but you can assume that the flow will be more or less similar to Coreflow.

Kind regards,
The Research Enquiry Service Back-Office

12.2 Timesheets: Obligation to fill in the total productive time worked in a project

Question
Dear Res,

I have a short question in regard to the provided template of a timesheet. I am referring to http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/templ/tmpl_time-records_en.pdf.

Is it no longer necessary to fill in the total productive time of the person working on an H2020 project and only the time worked on the H2020 project? If a person works on different H2020 projects does he/she has to do separate time recording i.e. use separate templates for each project?

Best regards

Answer
Thank you for your message.

According to Article 18.1.2 MGA, the beneficiaries must keep time records for the number of hours declared. Accordingly, the timesheet template and the minimum information to be included in timesheets provided in the annotated model grant agreement refer only to the number of hours declared for the H2020 actions.
Concerning your second question, please note that the timesheet template is only an example of an acceptable timesheet. It is not a mandatory model. Beneficiaries are entitled to use any other model of timesheet provided that it fulfils the minimum conditions and it contains at least the information detailed in the H2020 Annotated Grant Agreement. If a person works on different H2020 actions, the timesheet(s) should notably show the time worked on each H2020 action and references to the respective tasks or work packages.

Kind regards,
Legal and financial helpdesk

12.3 Timesheets: type of personnel / descriptions of the work

Question
Dear RES,

I have a question concerning time sheets in H2020.

The template of time recording for a Horizon 2020 action was published.

Are the following statements compulsory??
- Type of personnel - (see art. 6.2.A grant agreement)
- Reference - e.g. Work Package
- Short description of the activities carried out in the month

It is important for us to know. Maybe we have to alter the existing time sheets. As we are a large research organization it would take some time to implement it.

Best regards

Answer
Thank you for your message.

According to Article 18.1.2 of the Horizon 2020 model Grant Agreement (MGA), the beneficiaries must keep time records for the number of hours declared to the action. Therefore, the beneficiaries must be able to support the actual hours declared for the action with reliable time records (i.e. timesheets). In order to assist beneficiaries to comply with this requirement, in particular those participants who do not have a time recording system in place, the Commission has made available in the H2020 Annotated Grant Agreement (AGA) an example of acceptable timesheet. However, that model is indeed only an example, not a mandatory template. Beneficiaries are entitled to use any other model of timesheet provided that it fulfils the minimum conditions explained in the AGA.

Among those minimum conditions (page 140 of the AGA), the time records should include:
- a reference to the action tasks or work package described in Annex 1, to easily verify that the work carried out matches the work assigned
- a description of the activities carried out, to understand and show what work was carried out.

This information is intended, not only to support the costs claimed, but also to help in the preparation of the technical reports. For example, Article 20.3 of the MGA requires that the "periodic technical report" must include an explanation of the work carried out by the beneficiaries. In that sense, the information contained in the timesheets (e.g.
the activities) does not need to be extensive. But, it needs to be recorded to allow the beneficiary to compile the information on the work done by the different persons working for the action. It will also be used by the Commission to reconcile the technical reports with the financial reports in case of a check, review or audit.

Regarding the type of personnel, this information is in itself not explicitly required in the AGA. However, the Commission’s example includes this field to draw the attention of participants to the different possibilities for personnel costs (e.g. normal employees, "in-house" consultants, seconded staff, SME owners, etc) since specific eligibility conditions apply to each type of personnel. In conclusion, that information does not need to be necessarily in the timesheet but must be taken into account when calculating the personnel costs to be charged to the action.


Kind regards,

Question (follow-up)

Dear Madam/ Sir,

Thank you very much for your message.

Your answer, however, is not very useful to us. We did not ask for activities to tick, but for the level of details necessary for the description of activities. I.e. the “cues” we asked for did not mean the activities as such, but the criteria for deciding if the description of activities would bear up under checks or audits carried out by EU staff. If our question is too theoretic, could you please give an example of how to fill in the box “Short description of the activities carried out in the month” contained in your template for time recording, so that we can get a feeling about the level of details required and transfer this into our time recording system?

Thank you very much for your support.

Kind regards,

Answer

We are sorry that our previous answers were not useful to you.

The box is not intended to be used for an extensive description of the activities. Its purpose is instead to record basic information allowing building up and supporting the information to be provided in the action reports. This refers, in particular, to the type of activities (not the detailed explanation of those activities) that the person carried out for the action during the period.

For example, if in accordance with the description of the action, Professor Z is in charge of test Y, it can be expected that the time records of Professor Z indicate such activity at some moment in time.

A situation might also occur where there are large differences between the person months expected and the person months reported for a Work Package. In this case, the short description of activities may assist the beneficiary to quickly identify what activities have required more hours or more personnel than expected and justify such difference in the periodic reports.
We are afraid it is not possible to provide more specific examples as those would depend on the particularities of the project, the entity and the description of the action. However, we hope that this complementary information helps to clarify further the subject.

Best regards,
Research Enquiry Service – Legal and Financial Helpdesk

12.4 Timesheets: electronic system

Question

Dear RES,

I have a question in regard to the requirements set for timesheets. I am well aware of the requirements laid down in the AMGA on page 140 regarding the timesheet; my question goes beyond this explanation.

1. Is it ok for an electronic system that the hours submitted cannot be changed by the person afterwards but there is no final check from the project group leader at the end of each month?

2. Does an electronic system require the possibility to describe and explain activities of tasks and work packages corresponding to the hours declared in the system?

3. Is it ok that an electronic system only shows the productive hours worked within the project but not the total productive hours as this is the new requirement for timesheets?

Best regards

Answer

Thank you for your question and sorry for our late reply.

Concerning the first one, it is a requirement of the model grant agreement (Article 18.1.2): time records must be dated and signed at least monthly by the person working for the action and his/her supervisor. The requirement is not fulfilled if there is no check by the supervisor.

On your second question, the beneficiary must be able to provide information on the person-months per work package. Also a brief description of the activities carried out by the persons working for the action may be requested by the Commission/Agency, for example in the case of a review. For the sake of simplicity, the non-mandatory model of timesheet provided in the AGA offers the possibility to record this information directly in it. However, that information does not have to be necessarily included in the time sheets. If the time recording system of the entity does not keep record of that information, this fact alone does not invalidate the system. Nevertheless, the beneficiary would have to put in place a complementary method in order to be able to provide the information referred to above (i.e. regarding work packages and basic information on the activities carried out by the personnel for the H2020 action). The hours declared have to be in line with the persons/month per WP that has to be provided in the scientific report (use of resources).

About your third question, according to Article 18.1.2 of the Horizon 2020 Model Grant Agreement (MGA), the beneficiaries must keep time records for the number of hours
declared to the action. There is no obligation, therefore, to keep records of the hours not declared to the action.

Best regards,
Research Enquiry Service – Legal and Financial Helpdesk

12.5 Timesheets for staff working 100% on the project

Question

Dear RES,

Just a request for clarification:

In the letter of Robert Jan Smits from December 2014 sent to researchers, innovators, participants and coordinators of European Union projects in the 7th Framework Programme and Horizon 2020 underlining three key principles it states:

“1. If the staff member works 100% on the project, for ERC grants and some SME lump-sum grants no time recording is necessary. (For other projects, the time spent on the project must be recorded, generally by timesheets);”

We understand that as it is regulated in the Model Grant Agreement: every staff member working 100% of his working time on one H2020 project does not need time sheets regardless of the funding instrument – not only staff working in ERC grants and SME lump-sum grants.

We received a lot of requests by clients who misunderstood this part and thought that time sheets are not required only in ERC grants and SME lump-sum grants.

Thank you very much for your clarification.

Kind regards,

Answer

Thank you for drawing to our attention this paragraph in the Message of 19 December to researchers, innovators, participants and coordinators of European Union projects in the 7th Framework Programme and Horizon 2020.

The rules on record keeping for personnel costs are the same in the general model grant agreement (MGA), ERC MGAs (except the low value grant), SME Instrument phase 2 MGAs, PCP-PPI MGA, ERANET Cofund MGA, EJP MGA and Framework Partnership MGAs.

The beneficiaries must keep time records for the number of hours declared. In the absence of reliable time records of the hours worked on the action, the Commission/Agency may accept alternative evidence supporting the number of hours declared, if it considers that it offers an adequate level of assurance. For persons working exclusively on the action, there is no need to keep time records, if the beneficiary signs a declaration confirming that the persons concerned have worked exclusively on the action.

Under Marie-Sklodowska-Curie MGAs, simplified rules on record-keeping apply: the beneficiary only needs to keep appropriate and sufficient evidence to prove that the person-months declared are correct. For more information please check the annotated Model grant agreement page 421.
For SME Instrument phase 1 actions, beneficiaries do not need to keep records on their actual costs; they only need to keep the evidence (documentation, records) that the action’s tasks (as described in Annex 1) were properly carried out.


Kind regards,
Legal and financial helpdesk

12.6 Is it necessary to submit a report with "zero" costs if for a certain reporting period no costs have occurred?

Question

Dear RES,

I have a question concerning the financial reporting. Is it necessary to submit a report with "zero" costs if for a certain reporting period no costs have occurred? Or can a beneficiary just not submit a financial report?

Best regards,

Answer

The H2020 grant agreement provides in Article 20.3 on periodic reports that “the periodic report must include… a ‘periodic financial report’ containing an ‘individual financial statement’ from each beneficiary for the reporting period concerned…. If an individual financial statement is not submitted for a reporting period, it may be included in the periodic financial report for the next reporting period.”

In practice, the report can be submitted without the financial statement of a beneficiary. The coordinator will be asked to confirm the non-submission when submitting the report. The costs will be considered zero for this reporting period. And in the case where the beneficiary incurred costs during that period, it can declare them with the next financial report (for the next reporting period).

However if a beneficiary fails to submit its financial statement for the last reporting period, the Commission/Agency may suspend the payment deadline (see Article 47) in particular while verifying that the incomplete submission has not been an error from the coordinator. Therefore, it is preferable that the beneficiary submits a financial statement with zero costs.


Kind regards,
Legal and financial helpdesk
12.7 What is meant by substantiated documents (bank slip/treasury account?)

**Question**

Dear RES,

I am contacting you concerning Annex 8 of a PPI grant. What is meant by substantiated documents (bank slip/treasury account?)

According to the Grant Agreement a financial statement is required only at the end of the project.

Does the coordinator have to ask beneficiaries to send bank statements? This will not work in practice.

It’s absolutely not clear to me what documents the coordinator has to ask for and I could not find any detailed information.

Could you please give me details on it.

Thanks and kind regards

**Answer**

Thank you for your question. Please note that the Enquiry Service does not validate individual cases, it only provides general guidance.

According to the Annex 8 of the PPI model grant agreement, it is the responsibility of the coordinator to certify, among others, the percentage of the pre-financing already used. The coordinator must base its certification on substantiated data (data supported by evidences that can be verified by the Commission/Agency in the context of checks, reviews, audits or investigations).

The coordinator does not have to attach the supporting documentation at the moment of submission the Annex 8, but need to have them in case the Commission/Agency request them.

The consortium agreement mentioned at Art. 41.3 of the PPI grant agreement could include details related to the rights and obligations in this regard between the beneficiaries and the coordinator (for example, which data and supporting documents has to provide each beneficiary to enable the coordinator to sign the statement).

Kind regards,

Legal and financial helpdesk

12.8 Does the obligation to report on these data is conform with the GDPR?

**Question**

Dear Helpdesk,
currently we are receiving a lot of questions on the conformance of the H2020 financial reporting with all the details on the persons worked on the project and resources used by these persons and the GDPR- general data protection regulation. The question is whether the obligation to report on these data is conform with the GDPR.

Thanks for your assistance.

Answer

Thank you for consulting us.

At the outset, please note that this service provides legal advice on Regulation (EU) 2018/1725 about data protection applicable to EU Institutions and bodies in the context of H2020 Research Programmes, whereas the interpretation of the General Data Protection Regulation (EU) 2016/679 (GDPR) or of data protection national laws does not fall within our remit.

Specific questions related to compliance with GDPR might be referred to the relevant national data protection supervisory authority (please find the list of the authorities at: http://ec.europa.eu/newsroom/article29/document.cfm?action=display&doc_id=50061) and for general issues related to the GDPR, a toolkit is provided by the Commission (which is accessible under the following link: https://ec.europa.eu/commission/priorities/justice-and-fundamental-rights/data-protection/2018-reform-eu-data-protection-rules_en).

Having said this, please find below a general assessment of your question regarding the processing of personal data of staff of beneficiaries when complying to financial reporting obligations under the H2020 grant agreement.

The Model Grant Agreement states in article 39(2) that the beneficiaries must inform their staff/personnel whose personal data are collected and processed by the Commission. For this purpose, they must provide them with the relevant Privacy statement (you can see RTD’s privacy statement on grant management as published on the F&T portal here), before transmitting their data to the Commission. The same principle would apply also to other persons (not only staff) whose data is processed (collected and transferred to the beneficiary) by the beneficiary in the framework of the GA.

The personal data under the GA is processed by the Commission under Regulation 1725/2018 about data protection applicable to EU Institutions and bodies and in accordance with the abovementioned Privacy Statement, which explains how the Commission handles the personal data collected during the grant management.

Please be informed that following the entry into force of the new Regulation 1725/2018 repealing the previous Regulation 45/2001, an internal revision is foreseen for a update of the notification and SSPS. Until this is done, and given that content-wise the provisions of the privacy statement are still fully valid, it is to be understood that when Regulation (EC) No 45/2001 is referred to, the new Regulation (EU) No 2018/1725 applies.

Being bound to the reporting obligations under Art. 20 of the Grant Agreement, the beneficiary or coordinator may not invoke a conflict between the obligation to provide the Commission with the requested information containing personal data and obligations under the GDPR (and national data protection law). On the contrary, the relevant provisions of the GA may serve as a legal basis for the beneficiary to
justify the processing of personal data in compliance with the GDPR, under Article 6(1) (c) – compliance with a legal obligation to which the controller is subject.

In conclusion, if you receive questions from beneficiaries regarding how the Commission is treating their personal data, please refer them to the privacy statement published on the F&T portal, and if any related questions remain, you or the beneficiaries are welcome to contact us via the following e-mail address:

RTD-CLSS-DATA-PROTECTION@ec.europa.eu.

We hope the above is useful.
Kind regards,
Legal and financial helpdesk

12.9  Art. 44 recovery of undue amounts

Question

Dear helpdesk,

we have a question concerning art. 44 recovery of undue amounts. We are contacted due to the following situation by a coordinator: at the end of the project (payment of the balance) the consortium had to pay back around €100,000 to the Commission. The coordinator did so, not having in mind art. 44 GA. The problem is now that one of the partners cannot recover the undue amount of the coordinator. What to do now? Is it possible to correct the amount paid back to the Commission? Is it now up to the coordinator/consortium to look after the undue amount? What to advise the coordinator/consortium, which possibilities doe they still have?

Thank you very much for your assistance.
best regards,

Answer

Article 44 of the Horizon 2020 Model Grant Agreement describes the way in which the Commission will proceed to recover amounts due at the payment of the balance (i.e. when the payment of the balance is negative).

At that moment, the recovery order is issued against the coordinator. If the coordinator does not pay the recovery order by the date indicated in the debit note, but it has submitted the report on the distribution of payments, the Commission will issue individual debit notes to those beneficiaries who have received more EU contribution than what they would be entitled to base on their eligible costs. It is not uncommon that the coordinator pays the full amount, for example because:
it has retained enough money from the pre-financing and interim payments to cover the debt, or
the consortium agreement sets out specific arrangements to deal with negative payments of the balance.

If the coordinator pays the debit note, this payment closes the debt with the Commission. It is not possible for the Commission to pay back to the consortium any part of that amount. Any dispute regarding internal debts among the members of the consortium falls in the scope of the consortium agreement (or other internal arrangements) to which the Commission is not part.

Kind regards,
Legal and financial helpdesk

13 Audit

13.1 Interim audits

Question
Dear Sir or Madame,

my question concerns the topic audits and certification (CFS). We are discussing about interim audits in Horizon 2020 like there was an opportunity in FP7 to do so. We found the following sentence in your annotated Model Grant Agreement:

“Beneficiaries/linked third parties may submit either one CFS per reporting period or a single CFS for the whole action.” We would interpret the sentence like that we have internally the option to conduct interim audits at the end of every single reporting period in projects reaching the audit threshold of 325,000 Euro funding at least at the end of the project. But we must provide to audit documents to the EU only at the end of the project as the date for the mandatory audit when finally reaching the threshold. Also the audit costs can be claimed in total only with the final Form C. Is our interpretation correct? Please comment on our opinion and clarify the certification modalities.

Furthermore we want to underline the advantages of interim audits: For the beneficiaries interim audits are a good opportunity to check the costs by auditors and to detect mistakes during the project duration. If beneficiaries know their faults in time they can correct them before the project ends and avoid them for the rest of the project time. The advantage for the EU is that with interim audits the random sample of single cost items is much higher than with only one audit at the end of the project. The auditors check more cost items and prove the eligibility of costs in more detail with interim audits. Interim audits do not cause a higher administrative burden for the EU because in both cases (interim audits for every reporting period / one audit for the whole action) the audit documents will only be passed to the EU at the end of the project so that the EU has to verify the documents only once for every project.

Thank you in advance for your help!
Answer

Thank you for your message.

In response to your first question, a Certificate on the Financial Statements (CFS) is only required when the total EU contribution requested by the beneficiary as reimbursement of actual costs and unit costs calculated on the basis of its usual costs accounting practices is EUR 325 000 or more. Only if you reached the EUR 325 000 threshold for the costs mentioned before, a CFS must be submitted.

The CFS must be based on the model in Annex 5 to the Grant Agreement.

Regarding audit costs, note that the cost of a mandatory CFS is an eligible cost in the Grant Agreement for which the certificate is submitted as the cost is linked to a specific action.

The CFS may only be submitted with the final financial report. The Commission/Agency will not accept any CFS submitted at any other moment (and corresponding costs for the CFS will not be considered eligible, because not necessary).

Following your comments on interim audits, we draw to your attention the voluntary certification of the methodology used to calculate unit costs (CoMUC) for beneficiaries declaring direct personnel costs as unit costs. This is a factual report produced by an independent auditor whose purpose is to enable the European Commission to identify your usual cost accounting practices and to check that you have used a suitable unit costs accounting methodology. In this way, you will have a clearer idea if the direct personnel costs declared as unit costs comply with the Grant Agreement. This optional step helps prevent problems later on if your grant is audited.

For more information, please consult the following link: http://ec.europa.eu/research/participants/docs/h2020-funding-guide/grants/grant-management/audits-and-certifications_en.htm

Kind regards,

Research Enquiry Service – Legal and Financial Helpdesk

13.2 Unit costs for clinical studies are not part of the 325.000 EUR threshold for the CFS

Question

Dear RES,

I have a short question for clarification: unit costs for clinical studies are not part of the 325.000 EUR threshold for the CFS? Only actual costs and unit costs for personnel costs according to the usual accounting practice are considered for the 325.000 EUR as stated in the AMGA. "This means that costs based on lump sums, flat-rates (e.g. indirect costs) or unit costs (other than those for personnel costs calculated according to the beneficiary’s usual cost accounting practices) are not counted for the EUR 325 000 threshold (and do not need to be covered by the certificate)."

But on the other hand unit costs for clinical trials can be audited in a certain way according to the Commission desicion C(2014)1393: "In fact, the unit costs will be subject to subsequent verification and audit to determine only the following:
- whether the number of patients or subjects declared by the beneficiary corresponds to the number of patients or subjects actually participating in the study, and
- whether the beneficiary has used the accounting data referred to in Point 3 for the determination of the unit costs set out in Annex 2 to the grant agreement."

Does this mean that the unit costs for clinical trials are not part of an internal audit in the CFS but the Commission can audit the costs as described in the COM decision above in a second level audit?

Thank you very much and kind regards,

Answer

Thank you for your message.

Your understanding is correct. The unit cost for clinical studies is not taken into account for the triggering of the CFS and the CFS does not include specific procedures to audit that unit cost. In contrast, indeed the Commission or Agency may audit the unit cost both regarding the number of patients/subject declared and regarding the correctness of the accounting data used by the beneficiary to calculate the unit cost.

Kind regards,
Research Enquiry Service – Legal and Financial Helpdesk

13.3 Partial CFS

Question

Dear RES,

I have a question concerning partial CFS. Does a partial CFS has to cover the whole audit procedure laid down in the ToR or can a partial CFS foresee e.g. that personnel costs are checked in the first reporting period in a first partial CFS and other costs are checked in the second half of the project.

Best regards

Answer

We thank you for your question.

According to the Art 20.4 the CFS is requested with the final report within 60 days following the end of the last reporting period and therefore intermediate (partial) CFS's are not requested.

As mentioned in the title itself "Terms of Reference for an Independent Report of Factual Findings on costs declared under a Grant Agreement financed under the Horizon 2020 Research and Innovation Framework Programme", the factual findings should cover (all) the costs declared. Therefore if in the first reporting period - the only one concerned by the partial CFS - personnel costs as well as subcontracting and other direct costs are declared, the CFS auditor should make his/her statement on all those declared costs in his/her factual findings report.

We would like to draw your attention on the fact that – as mentioned in the "Independent Report" - the report format is compulsory (so please do not delete some paragraph). However it is the CFS auditor's responsibility to highlight that part of the agreed upon
procedures/factual findings are either not applicable or that there are some exceptions. Should you need further clarifications, do not hesitate to contact us again.

Best regards,
EUROPE DIRECT Contact Centre/ Research Enquiry Service

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**13.4 Does the obligation to report on these data is conform with the GDPR?**

**Question**

Dear Helpdesk,

currently we are receiving a lot of questions on the conformance of the H2020 financial reporting with all the details on the persons worked on the project and resources used by these persons and the GDPR - general data protection regulation. The question is whether the obligation to report on these data is conform with the GDPR.

Thanks for your assistance.

**Answer**

Thank you for consulting us.

At the outset, please note that this service provides legal advice on Regulation (EU) 2018/1725 about data protection applicable to EU Institutions and bodies in the context of H2020 Research Programmes, whereas the interpretation of the General Data Protection Regulation (EU) 2016/679 (GDPR) or of data protection national laws does not fall within our remit.


Having said this, please find below a general assessment of your question regarding the processing of personal data of staff of beneficiaries when complying to financial reporting obligations under the H2020 grant agreement.

The Model Grant Agreement states in article 39(2) that the beneficiaries must inform their staff/personnel whose personal data are collected and processed by the Commission. For this purpose, they must provide them with the relevant Privacy statement (you can see RTD’s privacy statement on grant management as published on the F&T portal here), before transmitting their data to the Commission. The same principle would apply also to other persons (not only staff) whose data is processed (collected and transferred to the Commission) by the beneficiary in the framework of the GA.

The personal data under the GA is processed by the Commission under Regulation 1725/2018 about data protection applicable to EU Institutions and
bodies and in accordance with the abovementioned Privacy Statement, which explains how the Commission handles the personal data collected during the grant management.

Please be informed that following the entry into force of the new Regulation 1725/2018 repealing the previous Regulation 45/2001, an internal revision is foreseen for a update of the notification and SSPS. Until this is done, and given that content-wise the provisions of the privacy statement are still fully valid, it is to be understood that when Regulation (EC) No 45/2001 is referred to, the new Regulation (EU) No 2018/1725 applies.

Being bound to the reporting obligations under Art. 20 of the Grant Agreement, the beneficiary or coordinator may not invoke a conflict between the obligation to provide the Commission with the requested information containing personal data and obligations under the GDPR (and national data protection law). On the contrary, the relevant provisions of the GA may serve as a legal basis for the beneficiary to justify the processing of personal data in compliance with the GDPR, under Article 6(1) (c) – compliance with a legal obligation to which the controller is subject.

In conclusion, if you receive questions from beneficiaries regarding how the Commission is treating their personal data, please refer them to the privacy statement published on the F&T portal, and if any related questions remain, you or the beneficiaries are welcome to contact us via the following e-mail address:

RTD-CLSS-DATA-PROTECTION@ec.europa.eu.

We hope the above is useful.

Kind regards,
Legal and financial helpdesk

**14SME**

**14.1 Loss of SME status during the project**

**Question**

Dear Sir or Madame,

I have been approached by an non-SME organisation that is about to take over a SME. This SME is engaged in a FP7 "Research for the benefit of SMEs" project with two further SMEs. With the takeover the SME will lose its SME status.

The question is what will happen to said FP7 project.

In Annex 3 "Research for SMEs" of the FP7 Model Grant Agreement I couldn't find any specific references on that matter.

Annex II.16 (1) implies that change of status affects funding rates.
Does loss of SME status have effects on eligibility ex post? What would happen to the project?

Thanks for your feedback in advance and best regards

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**Answer**

Thank you for your message. We would like to apologies for the delay in replying.

As indicated in Art. II 16.1 an SME which has signed a grant agreement but which loses its status of SME during the project will kept the advantages of its status until the end of the project. This means that for this project, the change of status does not affect the eligibility of the costs and the funding rates.

This rule applies only if the legal entity which has signed the grant remains the same. If there is a change of legal entity, an amendment to the grant is needed and the new entity will not keep automatically the advantages of the previous one.

Concerning the consequences on FP7 projects, where SME participation is an eligibility criteria, there is no provision in the grant agreement providing, as for indirect cost rates and reimbursement rates, that the conditions applicable to SME will be applied for the whole duration of the project even if the beneficiaries change their status during the project. Thus compliance with the eligibility criteria depends on the maintenance or loss of the SME status according to the Recommendation 2003/361/EC as explained above.

In case an SME has indeed lost its SME status during the project according to Recommendation 2003/361/EC, the general rule according to article II.38 ECGA letter k) is that "where the conditions for participation in the project established by the Rules for Participation or as amended by the calls for proposals to which the project was submitted are no longer satisfied" the Commission may terminate the grant agreement. However, the ECGA establishes an exception to the rule, in the sense that the Commission may decide to continue the project but on condition that "the continuation of the project is essential to the implementation of the specific programme".

Regards,

Legal and Financial helpdesk

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**14.2 Loss of SME status during a running SME Instrument grant**

**Question**

Dear Sir or Madame,

I have a question regarding loosing the SME Status during a running SME Instrument grant:

If an SME looses its Status as SME (e.g. because it has been assumed by a big industrial Company), how does this affect a running SME Instrument grant?

Does the SME Status still prevail for the entire duration of the Project (as statet in article 53.2 of the Rules for Participation) or will the grant be terminated at the time the SME looses the SME status? Beyond, at what Point the SME has to delcare it's new status in the Funding & Tenders Portal? Must the new status be declared nonetheless immediately
via conducting the SME self check?

Thanks for for your assistance,

Answer

Thank you for your e-mail. Please be aware that we cannot validate specific questions but just give a general guidance.

To qualify as an SME is an eligibility criteria to participate in the EIC SME instrument; this implies that only SMEs can apply to the EIC SME instrument. Your question focus on the loss of SME status once the project has started.

As you mentioned, Article 53(2) of the Rules for Participation, REGULATION (EU) No 1290/2013 (hereinafter, H2020 RfP), states Specifically for the EIC SME instrument, that "Once a company has been validated as an SME, that legal status shall be assumed to prevail for the entire duration of the project, even in cases where the company, due to its growth, later exceeds the ceilings of the SME definition."

Article 53(2) H2020 RfP is an exception, its scope and, in this context, the notion of growth need to be interpreted restrictively.

Consequently, Article 53(2) H2020 RfP applies only to 'natural growth' reflecting economic developments or economic conjuncture and NOT TO growth resulting from mergers or acquisitions.

This leads us to two scenarios:

- Loss of SME status due to "natural growth": In these cases, the exception of Article 53(2) H2020 RfP applies and SME status prevails during the duration of the project
- Loss of SME status due to a merge or an acquisition: the SME status will be assessed on the basis of the shareholder structure at the time of the transaction.

According to article 50.3 of the SME instrument phase 2 Grant Agreement, the Agency may terminate the agreement if

(b) a change to the beneficiary’s legal, financial, technical, organizational or ownership situation [(or those of its linked third parties)] is likely to substantially affect or delay the implementation of the action or calls into question the decision to award the grant;

The decision to terminate or not the grant agreement is up to the Responsible Authorizing officer under a case by case basis.

He/she will conclude based on the specific circumstances of each case: e.g. the importance of the action, the achievements or expected results, the
stage of the implementation of the action, the impact on SME, other policy reasons, etc.

Concerning the last point on the timing to communicate about the loss of SME status once the project has started, the company is obliged to communicate to the responsible EC Project Officer any change affecting the Grant Agreement as soon as this change occurs. The EC responsible Project Officer will guide the company with the following administrative steps.

We hope this answers your questions.

Kind regards

The EIC SME Instrument team

14.3 Affiliated companies in the same SME call

**Question**

Dear EASME Helpdesk,

we received a question from a SME we would like to check with you.

A SME is a parent company and has an affiliated entity in another EU Member State (a wholly-owned subsidiary), but still complies with the SME Definition (linked enterprise). Is it possible to apply in the same call as parent company and affiliated company (two different legal companies in different EU Member States but linked and 100% controlled by the parent company) or would this be forbidden because only one call per SME (legal entity) is allowed?

It would be helpful if you could clarify this situation.

Thanks for your assistance

Best regards

**Answer**

Please see below article 3, the answer to your question:


Do not hesitate to contact us for further information.

Best regards,

EASME SME Helpdesk

**Question (follow-up)**

Dear Helpdesk,

thanks for your quick answer, but the reference to Art. 3 of the SME definition does not help me further. We have checked Art. 3 and the SME Def. Handbook before.
Maybe I wasn't clear enough in my explanation. In our question the enterprise is a SME according to the SME definition (Art. 3) and the linked enterprise is also a SME. Both are two different legal entities, one in Germany one in the UK, but the German one controls the other one 100%, therefore it's a wholly-owned subsidiary.

My question was not whether the enterprises are SMEs according to the SME definition but whether this two legal entities (the parent company and the linked enterprise (wholly-owned subsidiary)) both SMEs according to Art. 3.3) are allowed to apply for the same call at the same time because they are two different legal entities or would this circumvent the provision, just one application per enterprise because they are linked and controlled by the other one (wholly-owned subsidiary).

Thanks a lot for your assistance,

Best regards

Answer

Thank you for contacting the SME instrument team.

The wholly-owned subsidiary is an example of a linked enterprise (SME user guide, page 23 http://ec.europa.eu/enterprise/policies/sme/files/sme_definition/sme_user_guide_en.pdf).

If both SMEs fulfil the SME requirements according to the SME definition stated in Commission Recommendation of 6 may 2003. And if both legal entities are for profit SMEs (and they are in compliance with the eligibility criteria stated in the Work Programme http://ec.europa.eu/research/participants/data/ref/h2020/wp/2014_2015/annexes/h2020-wp1415-annex-ga_en.pdf ), each SME may submit one proposal.

Best regards,

EASME SME Helpdesk

14.4 Status of SME lost during the duration of the project

Question

Dear Helpdesk,

Lately we received the following questions, we can only assume the answer.

What happens in the SME instrument if after signing the grant agreement with one or several SMEs and one or more SMEs lose their SME status? While signing they had the status. But during the project they lose the status. Will the project be stopped because the specific conditions for the SME instrument do not exist any longer or will the Commission carry on with the project because the status existed while signing the grant agreement?

Thanks for your assistance, best regards

Answer

We have to distinguish between the eligibility criteria and the financial advantages linked to a validated status.
1. The eligibility criteria have to be fulfilled from the date of the proposal until the signature of the grant. It implies that if a beneficiary does not meet eligibility criteria or stop to fulfil these criteria before the signature, its participation will be rejected or the grant will not be signed with this beneficiary.

If it stops to fulfil the criteria after the signature of the Grant a distinction has to be made between the status SME and the status “for profit”. According to art. 53.2 of the Rules for participation, once a company has been validated as an SME, that legal status shall be assumed to prevail for the entire duration of the project, even in cases where the company, due to its growth, later exceeds the ceilings of the SME definition. This implies that if an SME loses its status of SME after the signature of the Grant, the Commission will not terminate its participation for this reason. This exception does not apply for the status of “for profit”. If an SME “for profit” becomes “non profit”, the Commission may terminate its participation if the change in its legal, financial, technical, organisational or ownership situation calls question the decision to award the grant (art. 50.3.1 MGA).

2. The financial advantages are determined at the date of the signature of the Grant. Nevertheless, if a change in the status leads to the loss of certain advantages, the beneficiary will retain the advantages for the whole duration of the already signed grants. Please note that if the status granted was based on false declarations or manipulated intentionally with the sole purpose of obtaining the H2020 grant, the change will be applied retroactively and the beneficiary will lose the advantages. (Guide on beneficiary registration, validation and financial viability check, http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/lev/h2020-guide-lev_en.pdf, page5)

It should be mentioned that for a beneficiary which makes false declarations or provide manipulated information, the Commission may withdraw and correct the validated status, terminate the on-going grants (and recover any amounts undue), impose financial or administrative penalties, including excluding the beneficiary from future EU/Euratom grants and inform the European Anti-Fraud Office (OLAF) (guide on beneficiary registration, validation and financial viability check, page 12).

Kind regards,

Legal and financial helpdesk

14.5 Parent company and affiliated company applying in the same call

Question

Dear Helpdesk,

thanks for your quick answer, but the reference to Art. 3 of the SME definition does not help me further. We have checked Art. 3 and the SME Def. Handbook before.

Maybe I wasn't clear enough in my explanation. In our question the enterprise is a SME according to the SME definition (Art. 3 ) and the linked enterprise is also a SME. Both are two different legal entities, one in Germany one in the UK, but the German one controls the other one 100%, therefore it's a wholly-owned subsidiary.

My question was not whether the enterprises are SMEs according to the SME definition but whether this two legal entities (the parent company and the linked enterprise (wholly-owned subsidiary) both SMEs according to Art. 3.3) are allowed to apply for the same call at the same time because they are two different legal entities or would this circumvent
the provision, just one application per enterprise because they are linked and controlled by the other one (wholly-owned subsidiary).

Thanks a lot for your assistance,

Answer
Thank you for contacting the SME instrument team.

The wholly-owned subsidiary is an example of a linked enterprise (SME user guide, page 23 [http://ec.europa.eu/enterprise/policies/sme/files/sme_definition/sme_user_guide_en.pdf]). If both SMEs fulfil the SME requirements according to the SME definition stated in Commission Recommendation of 6 May 2003. And if both legal entities are for profit SMEs (and they are in compliance with the eligibility criteria stated in the Work Programme [http://ec.europa.eu/research/participants/data/ref/h2020/wp/2014_2015/annexes/h2020-wp1415-annex-ga_en.pdf]), each SME may submit one proposal.

Disclaimer: EASME is committed to providing accurate information through the enquiry services, however, the answer or information contained in this message is based on the information you gave us. This information may not be sufficiently detailed or complete to allow an accurate answer to your question. The information provided by EASME has therefore no binding nature and EASME cannot be held liable for any use made of this information or for its accuracy.

Best regards,
EASME SME Helpdesk

14.6 Official end of project

Question
Dear Helpdesk,
we were wondering, when is the official end of a project? Is it according to ARt. 3 GA the end of the project duration? Or is the official end, when the beneficiary has sent the final report to the Commission/EASME. This is important for the SME instrument if a beneficiary is already active in a phase 1 project not having ended the project but wants to apply for phase2.

Best regards

Answer
The official end date of a project is the last day of the last reporting period (start date + X month), e.g.
Start date: 01/10/2014
Duration: 4 months
End date: 31/01/2015
Kind regards,
Research Enquiry Service - SME Helpdesk

**Question (follow-up)**

Dear Helpdesk,

thanks for the quick response.

At the last legal and financial meeting it was mentioned that the project is only closed/has ended when the final report has been sent to the PO. So we were not sure about that. Could you confirm that practice for the SME instrument?

Best regards

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**Answer**

The project has ended after the final payment has been paid, however the submission to phase 2 can be done after the final report has been sent to the PO.

Best regards

Research Enquiry Service-SME HELPDESK

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**14.7 SME taken over by an international company from a non-EU or AS country during the duration of a project**

**Question**

Dear Helpdesk,

we have a question concerning the legal consequences of GA Art. 30 transfer and licensing of results in a running SME project. What are the legal consequences if during a running SME phase 2 project the SME beneficiary is taken over by an international company from a non-EU or AS country/ or will get a new investor. During the takeover the SME will/has to transfer all Background and Results to the new owner outside the EU and AS (J, CAN, US, China). What are the legal consequences of a transfer of Results in case optional article GA 30.3 is not included in the GA. How is the situation if GA 30.3 applies, the SME notifies the transfer, the COM/EASME objects the transfer. What are the legal consequences for the beneficiary? Will the project be stopped in case the beneficiary does not accept the Commission's rejection or does not notify the transfer? Could you please clarify the situation because in AGA to Art. 30.3 we do not find much information.

Thanks in advance for your assistance,

best regards

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**Answer**

From the question, it is not entirely clear what this takeover/investment will look like (e.g. “universal takeover” [all the rights and obligations of the beneficiary will be transferred], or a “partial takeover”). This change may have to be implemented via an amendment to the grant agreement depending on the case. See the annotations to Article 55 of the grant agreement in the Annotated Model Grant Agreement (AGA):
However, any transfer of results must comply with the conditions set out in Article 30 of the grant agreement. If the option in Article 30.3 of the SME model grant agreement phase 2 is not inserted in Article 30 of the specific grant agreement, no notification to the Agency is needed of an intended transfer to a third party established in a non-associated third country under this provision. If the option in Article 30.3 is inserted in Article 30 of the grant agreement and the Agency would object to an intended transfer, the grant specifies that no transfer may take place. If the Agency objection comes with conditions, no transfer may take place until the conditions are complied with. Non-respect of any element of this provision is likely to be considered as a serious breach of the agreement. As indicated in the consequences of non-compliance in Article 30, such a breach may lead to a reduction of the grant, recovery, suspension, termination as well as administrative and financial penalties.

Finally, please note that under Art. 17.2 each the beneficiary must immediately inform the Commission via the coordinator of any events likely to significantly affect or delay the implementation of the action or affect the EU’s financial interests of as well as of any circumstances affecting the compliance with the requirements under the Agreement or the decision to award the grant. As indicated in Article 17.3, if a beneficiary breaches any of these obligations, this may lead to a reduction of the grant as well as any of the other measures described in Chapter 6 of the H2020 SME MGA Phase 2 (e.g. suspension, termination, administrative and financial penalties etc).

For instance, the Agency may terminate the participation of a beneficiary (under see Art. 50.3.1 (b)), there was a change to its legal, financial, technical, organisational or ownership situation of that is likely to substantially affect or delay the implementation of the action or calls into question the decision to award the grant. In addition, the Agency may also terminate the GA if, it cannot be amended after the termination of the beneficiary’s participation because the necessary changes to the GA would call into question the decision awarding the grant or breach the principle of the equal treatment of applicants.

We hope you find this information useful. Please contact us again if you have other questions.

Kind regards,

EUROPE DIRECT Contact Centre/ Research Enquiry Service

14.8 SME owner working in FP 7 and H 2020 rules: diverging maximum amount of hours worked

**Question**

Dear Res,

I have a question regarding the personal costs for an SME owner not receiving salary. This person is working in FP7 and H2020 projects. In FP7 the total amount of hours worked in EU projects is limited up to 1575, in H2020 the total amount is 1720.

This person works about 1720 hours in total in both projects, i.e. FP7 and H2020. Can he
charge up to 1720 hours to the projects even if the limitation of 1575 is given by the FP7 rules?

Best regards

**Answer**

Indeed, two different ceilings apply for H2020 and FP7 programmes as regards the total number of hours worked in a year in EU grants for a SME owner/natural person not receiving a salary:

- Under H2020, the total number of hours declared in a year in European Union and Euratom grants for one SME owner/natural person not receiving a salary may not be higher than the standard number of annual productive hours which has been set as 1 720 hours (Commission Decision C(2013) 819 available at: http://ec.europa.eu/research/participants/data/ref/h2020/other/legal/unit_costs/unit-costs_sme-owners_natural-persons-no-salary_en.pdf).

- Under FP7 model grant agreements, the total number of hours claimed in European Union projects in a year cannot be higher than the standard number of productive hours per SME owner/natural person which has been set as 1 575 hours (Commission Decision C(2011) 174 available at: http://ec.europa.eu/research/fp7/pdf/c-2011-174-final_en.pdf).

In practice, if the SME owner is declaring hours in a year both in FP7 and H2020 projects/actions, it will have to comply with the lower ceiling of standard number of annual productive hours (i.e. 1 575 hours). The reason is that any hours claimed on top of 1 575 would have to be deducted from the number of hours to be claimed to the FP7 project to comply with the applicable ceiling. In contrast, if no hours are claimed in a year in the FP7 projects, then the applicable ceiling would be the one of H2020 (i.e. 1720 hours).

Kind regards,

Research Enquiry Service - Legal and financial helpdesk

**14.9 When can a SME beneficiary phase 1 apply for a phase 2 project?**

**Question**

Dear Helpdesk,

We are wondering, when is it possible for a sme beneficiary phase 1 to apply for a phase 2 project (because only one project in the sme instrument is allowed at the same time).

1. Is it after the end date i.e. 31.7.2015, application possible from 1st of August on?

2. Or is it the date after sending the final report of phase 1 of EASME (maybe before or after the project end date)?

3. Or is it after the receipt/acceptance of the final report, or the payment of the balance?

It would be nice, if you could clarify the situation because it is not clear for the phase 1 beneficiaries and because of the cut-off dates it is vital to know for some beneficiaries.

Best regards
Answer

Thank you for your message.

We kindly advise you to consult the FAQ section of the relevant call page, which state that:

“Successful completion of phase 1 will have allowed you to make the feasibility assessment and elaborate the business plan required for phase 2. Support in phase 1, including coaching, should have helped to mature the project to a stage that a proposal for funding in phase 2 can be well substantiated. However proposals from successful participants to phase 1 will be scrutinised and evaluated as any other proposal applying to phase 2.”

We hope you find this information useful. Please contact us again if you have other questions.

Kind regards,
EUROPE DIRECT Contact Centre/ Research Enquiry Service

Question (follow-up)

Dear Helpdesk,

Thanks for your quick answer, but the question is indeed, when is a phase 1 project successfully completed? Is it so when the project time runs out, the final report has been sent to EASME or when the final report has been approved by EASME and the payment of the balance is received. We do ask for clarification, because phase 1 beneficiaries do not understand the FAQ answer in detail, neither do we.

Sorry for that. In one of the NCP meetings for legal and finance it was said that sending the report should be sufficient. But we cannot find this answer in any other official document. For advising clients and for applicants themselves it’s important to know whether they are allowed to apply for phase 2 right after phase 1 or if they have to wait till the next cut-off day.

Thanks for your understanding and clarification of the situation.

Best regards,

Answer

There are two conditions to be considered eligible for phase 2 applicants who received a phase 1 grant:

1. The grant agreement needs to be ended (the action has been finalised) before the cut-off date and

2. The final report must be submitted to EASME before the cut-off date.

With Kind regards,

EASME SME HELPDESK
14.10 Contact person for legal clarification of SME status

Question

Dear Helpdesk,

We urgently need a contact person for the clarification of the sme status. Because in the sme instrument the sme status is necessary and a lot of questions arise when smes are linked to other companies and applicants need legal certainty about their status. The answers of the RES are not really helpful in this case, because the answers are not for the individual case and do not give legal certainty to the applicant. If the sme status is not clear applicants apply in vain or have to pay back the grant or are ineligible. Is Mr. Fumero also the contact person for the sme selfcheck and the sme status? It would be very helpful, if you could provide us with a contact person or maybe someone at EASME?

Thank you for your assistance,

Best regards

Answer

Thank you for your question.

Following your enquiry, please consider that the assessment on the ‘SME’ status is based on the COM Recommendation 2003/361/EC (hereinafter the SME Recommendation) according to which any organisation requesting the SME status must first qualify as an enterprise and then meet the rest of the criteria set out (namely to employ fewer than 250 persons and to have an annual turnover not exceeding EUR 50 million and/or an annual balance sheet total not exceeding EUR 43 million).

When determining the eligibility of an enterprise for the 'SME’ status, the staff headcount and financial data of linked/partner enterprises have also to be taken into account under the terms set in Article 6 of the SME Recommendation. In particular:

- All 100% of the linked enterprise's data must be added to those of the enterprise requiring the 'SME’ status to determine whether it complies with the staff headcount and financial threshold of the definition.

- In case of a partner enterprise, a proportion of the other enterprise's staff headcount and financial details must be added to the data of the enterprise requiring the SME status (this proportion shall be calculated based on the percentage of shares and voting rights held).

This being explained in general terms, please consider that, in order to submit a proposal for which the SME status is an eligibility criterion (namely the Dedicated SME instrument under H2020), entities have to fulfil the web-based SME self-assessment available in the Beneficiary Register of the Participant Portal, which has been designed in compliance with the SME Recommendation. When the SME-status is not an eligibility criterion of a call/topic, entities may simply declare their SME status in the Beneficiary Register without having to go through the SME-questionnaire.

Before starting the online questionnaire it is strongly recommended to first read the SME recommendation (available at http://el.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:124:0036:0041:EN:PDF) and the new SME guidance (available at http://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition/index_en.htm) and to prepare the relevant financial documents of the last closed accounting period (Balance Sheet, Profit and Loss Accounts, Staff Headcount) of the entity and those of any other organisation that might be directly
or indirectly related to it.

When fulfilling the SME self-assessment, the system guides the entity in the insertion of relevant data under the terms and conditions of the SME Recommendation.

Please also consider that an SME Self-Assessment Wizards’ User manual is available at this link: SME Self Assessment User Manual

Finally, for any questions regarding specific cases, the entities may contact the following helpdesks:

• For IT related matters: “Participant Portal IT helpdesk” via the following web-link: http://ec.europa.eu/research/participants/portal/desktop/en/support/other_help_services.html;


I hope that the above may help you.

Kind regards,

The Research Enquiry Service Back-Office

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**Question (follow-up)**

Dear Helpdesk,

Thank you for the explanation on the sme status. We already provide the applicants with this kind of information as sme ncps in Germany. But my question was, whom and how to contact in the validation team if a sme wants to get legal certainty on its status because they have a complicated partner enterprise or linked enterprise structure and the sme is not totally sure about their own status after filling out the self-check. We as ncps cannot give this legal certainty. If a sme makes an error in filling out the self-check and is applying for the sme instrument nevertheless, assuming that he is a sme but in reality he is not, this sme will lose the project and has to pay back the grant received so far. This is quite a financial risk for an enterprise and cannot be in the intention of EASME. Because of this legal uncertainty a lot of sme with links to other enterprises do not apply for the sme instrument for not running into that risk, at least in Germany.

Is there a possibility to get a legal statement from the validation team on the sme status in special cases? At the beginning of H2020 the legal and financial ncps had been told that it is possible to contact the validation team in special cases via REA-URF-Validation@ec.europa.eu but this e-mail had been closed by now. If it is not possible anymore to get a statement on the legal status for smes, it is an important information to spread to the smes concerned.

Thank you very much for your assistance in clarifying the situation.

Best regards

---

**Answer**

Thank you for your question.

Following your enquiry, as already clarified, the SME status under H2020 is granted based on a self-declaration through a web-based questionnaire in the Beneficiary Register of the Participant Portal. This questionnaire, which has been designed in compliance with the SME Recommendation, allows entities to determine their status and to submit...
proposals under calls that require the SME status as an eligibility criteria (as it is the case with the SME Instrument for H2020).

Nevertheless, once the web-based questionnaire is completed, and provided that the SME status is an eligibility criterion, entities may request the Validation Services to additionally review and confirm the SME status obtained. In this case, the entity shall inform the Validation Services about this request in the Participant Portal (via a "message") and shall upload the following documents (also in the Participant Portal):

- balance sheet, profit and loss accounts, staff head count expressed in annual work units - AWU (for the organisation requesting the SME status and for its linked and partner companies);

- in case of newly established companies (e.g. start-up companies) that has not yet closed accounts, a self-declaration, including a bona fide estimate (in the form of a business plan) made in the course of the financial year;

- in case of an enterprise whose activity implies a long time-to-market, a declaration of the investment made and the likely expected return to demonstrate that, despite the lack of turnover, the enterprise is engaged in an economic activity.

The review of the SME status obtained via the web-based questionnaire can be requested to the Validation Services at any time provided that the self-declaration of the web-based questionnaire is completed. In the course of this review procedure, the participant will be directly contacted by the officer of the Validation Services in charge.

Please also note that, in order to submit proposals under the call SME instrument, entities do not need to have completed the validation process and to have obtained a valid PIC. A positive outcome of the SME self-questionnaire in the Beneficiary Register is the only condition for submitting proposals to these calls.

We hope this could clarify our procedures.

Kind regards,

The Research Enquiry Service back office

**Question (follow-up)**

We received the following message from the RES service concerning the question, how to contact the validation team via the participant portal in order to get the sme status validated.

To get into contact with the validation team, the sme should send a message to the validation team.

We as legal and financial and sme neps checked our own LEAR account (non sme) for searching this possibility but couldn’t find it. We could only find a message function if the LEAR wants to modify the registered data. (See screenshot below) but no real possibility to write or edit or contact the validation team anyhow.

Could you please help? Could you provide us with a screen shot?

Applicants ask us how to find the button in the system and we cannot find it neither. The situation is a bit unpleasant.

Thanks for your assistance

**Answer**
Dear User,

On the Participant Portal, only the Self Registrant, the LEAR or the Account Administrator can go to MY AREA and click on My Organisation(s): In My Organisations, you can modify all the core data of the organisation that was originally provided during the initial registration process. When you modify the Legal Name, the Business Registration Number and/or the Establishment/Registration Country of the organisation, you are required to specify the Effective Date when this modification is to enter into force. This information is required for grant amendment reasons. Please note that the Effective Date entry field is read-only by default and will only become editable after one or more of the updates mentioned above are made.

As a LEAR or Self Registrant, click on the Modify Legal Entity Details to request updates to the data of your organisation. A separate URF window will open for data updates.

The update option is indicated by the accessible button on the URF Update Panel (see Figure below).

If your organisation is validated please be informed that only the LEAR of an organisation can modify its validated data.

If you can't select the Documents or Messages tabs please do as follows:
Check the Legal Form field (Organisation TAB), this field must be completed.
If your organisation does not have registration number and a registration authority please do as follows

Registration number: not applicable
Registration date: 01-01-1900
Registration authority: not applicable
Also if any filed is in yellow colour it means that you may correct it or fill it
Please consult the User Manual on URF, section *Updating Core Organisation Data* for more information:


I hope this helps,
Best regards,

14.11 Calculation of staff headcount

**Question**

Dear Helpdesk,

we have a question regarding the sme definition and how to calculate the staff headcount. In Art. 5 of the SME definition it is explained how to calculate the staff headcount. At the end of the article the exceptions are listed like maternity or parental leave. We are now wondering whether longterm illness could be an exception as well? It would be very helpful if you could give an interpretation of article 5 whether staff with longterm illness has to be counted for the statt headcount or not.

Thanks a lot for your assistance,
best regards

**Answer**

Thank you for your message.

Kindly allow me to stress that NCP should contact the Research Enquiry System for legal validation issues, of which the SME-status is part.

The staff headcount threshold being 250, the issue doesn't seem very relevant, except if indeed this threshold would be exceeded.

Anyway Art. 5 is clear. The work of persons who have not worked the full year is counted
as fraction of the AWU.

Of course if needed to be deducted from the formal staff headcount, a formal document could be requested, certifying the absence of the person.

We hope you find this information useful. Please contact us again if you have other questions.

Kind regards,

14.12 At what time the conditions for SME status have to be met?

Question

Dear Helpdesk,

We have one further question due to the status of a smes in the sme instrument. At which time the sme status has to be met? Is it the time when the sme is applying or latest when signing the contract? During the application the sme status is an eligibility criterion for the sme instrument but will not be checked by the Commission (only self declaration). Therefore some sme want to know at what time exactly they need the status in case the Commission might audit the status: time of application, time of signing the grant or at least from applying till signing?

Thanks for your assistance,

best regards

Answer

Dear Madam,

To participate in the SME instrument to be an SME is an eligibility criterion. Only SMEs can participate. Therefore, in order to participate, the applicant has to be an SME (to be an SME is necessary but not sufficient, an applicant has to fulfil the eligibility criteria of the SME instrument, see par C og the General Annexes of the Work Programme 14-15) http://ec.europa.eu/research/participants/data/ref/h2020/wp/2014_2015/annexes/h2020-wp1415-annex-ga_en.pdf

It is an obligation of the participant to update its status in the participant portal, meaning this, that if an applicant loses its SME status, they have to update its entity data.

A non SME cannot participate as a beneficiary in the SME instrument.


For SME instrument, in article 53.2 Rules for Participation http://ec.europa.eu/research/participants/data/ref/h2020/legal_basis/rules_participation/h2020-rules-participation_en.pdf it is stated that in case that during the implementation of the project (once the GA is signed), the applicant loses its SME status due to its growth, the SME status shall be assumed to prevail for the entire duration of the project.

Kind regards,

Research Enquiry Service/ SME Helpdesk
14.13 Transfer the project from one SME to another SME

**Question**

Dear helpdesk,

We have a question concerning the sme instrument. In case a sme in a phase 1 project faces insolvency during the project lifetime, is it possible to transfer the project to another sme to carry on with the project? If it is not possible the money and project idea will fall into the insolvency asset.

Thanks for your assistance in advance,

best regards

**Answer**

Dear Madam,

As the project is linked to one specific entity, it is not possible to transfer it to another one.

If another company wants to take over the project, it has to be submitted again for a new evaluation (the entity is also evaluated).

Best regards,

Research Enquiry Service - SME HELPDESK

14.14 How to define "market", "same market", "adjacent market"

**Question**

Dear Helpdesk,

we currently receive several questions on how to define "market", "same market", "adjacent market" in Art. 3.3 of the COM Recommendation 2003/361/EC. Is there a formal definition how to define "market". Is it an economic understanding or for example a more administrative, legal one. as a company listed when they got registered in the national register? It would be helpful if you could provide information on the understanding of "market and adjacent market"

Thanks for your assistance in advance,

best regards

**Answer**

Dear Madam,

thank you for your question.

Following to your enquiry, please consider that the assessment on the 'SME' status of the participants is based on the COM Recommendation 2003/361/EC on the definition of micro, small and medium-sized enterprises' (SME Recommendation).
Article 3.3.4 of the Commission Recommendation (2003/361/EC) stipulates that enterprises linked, under the meaning of Article 3.3.1, through a natural person - or group of natural persons acting jointly - are to be considered as “linked” each other if they engage in their activity or in part of their activity in the same relevant market or in adjacent markets.

Therefore, the condition of the "same or adjacent market" is relevant only for enterprises linked each other via a natural person or a group of natural persons.

Concerning your specific question, please note that one of the major remarks addressed to the SME Recommendation (and to the SME User Guide) is that it fails to give definition and examples of "relevant market" and "adjacent market".

This being said, a relevant market (“the same market”) is understood from an economic perspective to cover all those products and/or services which are regarded as interchangeable or substitutable by the consumers.

An 'adjacent market' is considered from an economic perspective to be the market for a product or service situated directly upstream or downstream of the relevant market. In principle, they are closely related neighbouring markets where the products are complementary to each other or when they belong to a range of products that is generally purchased by the same set of customers for the same end use. To give an example, a company producing powder coating services would be operating in an adjacent market to a company producing steel sheets. It should be mentioned that the scale of trade (whether volume or percentage is big or small) between two companies does not influence the assessment as to whether the companies are active on adjacent markets.

Accordingly, each case has to be analysed on the basis of its own merits and in its own particular context.

Kind regards,

Research Enquiry Service - Legal and financial helpdesk

15 ERC

15.1 Are Clinical studies in ERC projects allowed?

Question

Dear Granting Team,

I have a question regarding clinical studies in ERC projects. A client wants to include clinical studies in its project application.

The AGA states that unit costs for clinical studies are not allowed in ERC projects, whereas they are allowed under the General Model Grant agreement.

“Clinical studies eligible as unit costs” (Page109 of the general AGA)
"It does NOT use the unit costs of category F ‘specific cost categories’ of the General MGA." (Page 378 of the ERC AGA)

My question is: In general, are clinical studies allowed in ERC projects, if they are charged as actual costs or if they are not charged to the project? Why does this exception exist for ERC projects?

Thank you very much in advance for your support.

Best regards

Answer

Thank you for your email and apologies for the delayed answer.

Regarding the first question, the answer is positive: Clinical studies are allowed in ERC projects and the related costs would be eligible for reimbursement provided that the conditions laid down in the relevant grant agreement are met.

Regarding the second question, as indicated in the H2020 MGAs, the use of unit costs under article 5.2 (f) requires the prior adoption of a Commission decision authorising it explicitly (see also Article 181.3 of the new Financial Regulation).

In the specific case of the costs for clinical studies, the relevant decision is that of 25.11.2016: Commission Decision C(2016) 7553* (which modifies a previous Commission decision of 7.3.2014) “authorising the reimbursement on the basis of unit costs for actions requiring the conduct of the clinical studies under 'Societal Challenge 1: Health, Demographic Change and Wellbeing' of the Horizon 2020 Framework Programme”.

Please note that this exception is authorised only for the actions under 'Societal Challenge 1: Health, Demographic Change and Wellbeing'.

For any other cases, the use of unit costs for clinical studies has not been authorised yet, but these expenses could still be eligible as actual costs.

We hope that this email answers your question.

Best regards,

ERC Starting Grant Call Coordination team

15.2 Clarification regarding ERC STG Application / Eligibility

Question

Dear Granting Team,

I have a question regarding clinical studies in ERC projects. A client wants to include clinical studies in its project application.

The AGA states that unit costs for clinical studies are not allowed in ERC projects, whereas they are allowed under the General Model Grant agreement.

“Clinical studies eligible as unit costs” (Page 109 of the general AGA)

"It does NOT use the unit costs of category F ‘specific cost categories’ of the General MGA.” (Page 378 of the ERC AGA)
My question is: In general, are clinical studies allowed in ERC projects, if they are charged as actual costs or if they are not charged to the project? Why does this exception exist for ERC projects?

Thank you very much in advance for your support.

Best regards

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**Answer**

Thank you for your email and your interest in the ERC Starting Grant Call.

Provided that the rules remain the same, for the STG Call 2020, the Principal Investigator must have been awarded his/her first PhD or equivalent doctoral degree at least 2 and up to 7 years prior to 1st January 2020 [i.e. between (including) 1st January 2013 and (including) 31st December 2017].

For medical doctors (or applicants holding a degree in medicine), a medical doctor degree will not be accepted by itself as equivalent to a PhD award. ERC rules state that, to be considered an eligible Principal Investigator (PI), medical doctors (or applicants holding a degree in medicine) need to provide the certificates of both a medical doctor degree and a proof of an appointment that requires doctoral equivalency (e.g. post-doctoral fellowship, professorship appointment). Additionally, candidates must also provide information on their research experience (including peer reviewed publications) in order to further substantiate the equivalence of their overall training to a PhD. In these cases, the certified date of the medical doctor degree completion plus two years is the time reference for calculation of the eligibility time-window (i.e. 4 - 9 years past the medical doctor degree for Starting Grant and over 9 - 14 years past the medical doctor degree for Consolidators). If these conditions are fulfilled, then you will indeed be considered an eligible PI.

Please note that the ERC rules are referring to the basic medical doctor degree that is applicable to all countries: the university degree when the applicant has finalised the basic medical studies. The Dr.med. degree thus cannot be considered as the first graduate degree in medicine. The ERC can consider the MD completion date but not the Dr.med. Please consult the examples provided in the 2019 Information for Applicants (pages 38-39) for further clarification.

Please also note that applicants having a PhD or equivalent doctoral degree date outside of the eligibility window can request an extension under certain properly documented circumstances such as for maternity and paternity leave, clinical training, long-term illness or national service as described in the ERC Work Programme 2019, page 17. You can check the Information for Applicants document, pages 40 & 41, for the supporting documents needed for requesting extension. Clinical training can be counted to extend the eligibility window - from the date of completion of the first eligible PhD or equivalent doctoral degree.

I hope this helps.

Best Regards,

ERCEA STG Call Coordination team
Question

Dear ERC team,

we are currently receiving several questions of applicants on how to apply for the additional EUR 750.00 in the running CoG application process.

The main problem for the applicants is the missing definition of what exactly means c) access to large facilities and what kind of costs might be eligible in case of applying for the additional funding.

For example:

a) in one case an applicant needs big data information from a telescope. Apparently he won’t get access to the telescope himself for getting the data but has to purchase it like in a subcontract. Are these cost eligible? A direct access to the telescope is not possible but the data is needed for the research and really expensive USD 500 000.

b) in another case the project will include the sequencing of bat genomes, using PacBio sequencing for that.

The project-specific costs (consumables, technician time) for this part would be 180000 Eur in total.

They have a local facility that possesses 3 PacBio sequencers and that is able to produce the sequences the project will need. Would these costs be eligible for "(c) access to large facilities" Which facilities are covered by c)?

b) what happens with the project if the additional costs are refused by the evaluators but the material is essential for the project? Does it mean automatically that the project will become ineligible because the applicant will not be possible to carry out the research proposal in practice (change of the proposal content)?

p.7 guide CoG

"However, up to an additional EUR 500 000 for Starting Grants and EUR 750 000 for Consolidator Grants can be requested in the proposal to cover:

(a) eligible "start-up" costs for Principal Investigators moving to the EU or an Associated Country from elsewhere as a consequence of receiving the ERC grant and/or (b) the purchase of major equipment and/or (c) access to large facilities."

It would be great if you could help with the definition.

Thanks a lot,

Best regards

Answer

Thank you for your message.

The ERC Work Programme 2018 does not define what is meant by "access to large facilities" nor by "major equipment" and this is quite deliberate. It was the intention of the ERC Scientific Council to leave the interpretation of this additional funding to each evaluation panel depending on the field of study.
In general, large research facilities refer to where the PI would have to buy time in order to access the facility for the research experiments. If additional funding is requested for "access to large facilities", the costs can be included either under the 'Other goods and services costs' category in case the facilities are in-house or under 'C2 - Other Direct Costs with no overheads' in case the facilities are external facilities (no indirect costs should be included in the proposal budget for these costs) and thus not located on the premises of the Host Institution (budget table, part B2). In any case the maximum additional budget requested (including overheads) should not go above 750,000 €.

The ERC Annotated Model Grant Agreement (AMGA) gives all the information necessary concerning subcontracting and how to integrate these costs. On page 126, you can find a table which gives the differences between subcontracts and other contracts for purchase of goods, works or services. The price for the subcontracts will be declared as ‘direct costs of subcontracting’ in the financial statement; they will not be taken into account for the application of the flat-rate for indirect costs. In order to get all the details concerning subcontractors, please read pages 143-149 - Article 13 - of the AMGA.

Concerning additional funding for the purchase of major equipment, "major equipment" needs to be eligible costs (actual, incurred for the sole purpose of achieving the project objective and during the related period, determined according to the usual management and accounting practices of the beneficiary and indicated in the Annex I of the Grant Agreement). There is not a specific list defining these costs and it is not limited to one piece of equipment. In general, the evaluation panels interpret the term "major equipment" as something that is depreciated over time.

Concerning the equipment costs (standard and/or additional funding), please be aware that they should be included in the calculation of indirect costs. You should indicate the total costs for equipment under Direct Costs – costs category ‘Equipment’ (which should also include the major equipment costs).

We would recommend the applicant to make a very clear case in his/her proposal justifying the additional funding (explanatory box provided in part B2 for budget matters). Moreover, should the proposal be accepted for funding, budget categories will be further clarified and discussed during the preparation of the grant agreement.

Please find below more specific answers to your bullet points:

a) Based on the information under question a., the costs appear to refer to the purchase of data rather than access to large facilities subject to additional funding. These could be considered as other direct costs or subcontracting, depending on whether the criteria for subcontracting are met.

b) Based on our reading of the question, only access costs would be eligible for “access to large facilities”, but reference is made to “consumables” which are other direct costs and the technician’s time (which are deemed as being personnel costs if the technician is part of the HI’s team). If indeed only access fees are being budgeted, either for internal or external facilities, then those could be considered as eligible either as
access to large facilities or as 3rd party service or even as in-kind contribution.

c) Concerning your last question, panel evaluators would not reject the costs for additional funding if they judge them essential to carry out the scientific research. They might decide to cut down some costs which they would judge inflated/excessive, but never to the detriment of the project. Budget items are only revised by the panel for proposals which are selected for funding, and therefore the panel members are very cautious in their assessment of the impact of the budget items for the good implementation of the project.

We remain available for any further question you may have.

Kind regards,

The Consolidator Grant Call Coordination Team

15.4 Is the HI obliged to make a formal job advertisement even if the team is already known?

Question

Dear Granting Team,

I have a question concerning the researchers code of conduct as a project obligation under Art. 32 GA.

In the case that a PI of an e.g. a COG or AdG already has a team set that should work in the ERC project, but they are not yet hired at the new HI - for example, because of the change of HI - to what extend does the PI need to perform a full, open and transparent recruitment process?

Is the HI obliged to make a formal job advertisement even if the team is already known? Or is this covered by the best effort rule of Art. 32?

Best regards

Answer

In the context of a change of HI, Article 32.1(a) of the H2020 ERC MGA would not impose on the new HI the obligation to perform a full, open and transparent recruitment process to hire the PI's team members who were already hired by the former HI.

This would be without prejudice to the obligation of the principal investigator to follow, as applicable, any usual recruitment practices of the new beneficiary (see Article 32.1(b)(v) of the H2020 ERC MGA).

Best regards,

ERC ADG GRANTING.
15.5 Due to the political situation in Brussels (terror alert on highest level) Are the costs that will arise due to the cancellation of the events are they eligible cost because of force majeure or are they ineligible so that it would be better to carry out the event although not all participants will join?

Question

Dear EC Research Enquiry Service,

We have an urgent request, due to the political situation in Brussels (terror alert on highest level). Some H2020 projects have organised meetings and brockerage events this week in Brussels. But due to the situation a lot of participants cancel their participation, so that the projects think about cancelling the meetings. The question now is, are the costs that will arise due to the cancellation of the events are they eligible cost because of force majeure or are they ineligible so that it would be better to carry out the event although not all participants will join? Is the situation different if an interal instruction of the organising institution forbids the employees to go on business trips to Brussels because of the terror alert? It would be helpful, if you could clarify the situtaion. Some of the events are already on Wednesday and this Thursday (25/26/11/2015). Thanks for your assistance.

Best regards

Answer

Answer provided by the EC Research Enquiry Service:

We thank you for having raised this issue to our attention. In compliance with Article 51 of the H2020 MGA, there is no specific effect on the eligibility of costs in case of force majeure. Costs are eligible, if they fulfill the conditions set out in Article 6 — like any other costs incurred under the action. Therefore, if the travel cannot take place due to force majeure the costs may still be charged to the H2020 action if they fulfill the cost eligibility conditions. However, Article 51 of the H2020 model Grant Agreement still requires that:

• the beneficiary concerned must immediately formally notify the Commission/the Agency and,
• the beneficiary concerned takes all necessary steps to limit any damage due to force majeure. These may include, for example, trying to cancel the train/flight ticket, claim the reimbursement from the cancellation insurance (if applicable), change the flight/train ticket (if possible), etc.

Having reminded that, please also note that each particular situation has to be analysed on a case by case basis to be considered or not as force majeure:

In this case, and due to the threat level and the security-related measures decided by Belgian authorities (i.e. increase of the threat level to 4/4 from Friday 20th November (late evening) until Thursday 26th November but initially expected until Monday 30th November), we take note that, in some countries, the government has explicitly recommended avoiding travelling to Brussels during this period.

In this context, we consider that such a situation constitutes force majeure. Therefore, and taking all the above into account, any cancellation of a project meeting, for the dates that you mention, that results directly from this recent security situation in Brussels, may be considered covered by the H2020 rules regarding force majeure. Thus, the related costs incurred by the beneficiaries to attend initially such project meetings would have to be considered eligible but provided that:

• the beneficiaries concerned have immediately formally notified the Commission/the Agency and,
• they have taken all necessary steps to limit any damage due to the situation of force majeure as explained above.
16 Other

16.1 Signature of the Service Specific Privacy Statement (SSPS)

Question

We understand that according to Article 39.2, the SSPS, in principle, is a project-specific document. Our enquiry is for the SSPS of administrative staff members. Their personal data are usually collected and processed by the Commission or an agency as information on contact persons for administrative, legal and financial issues. We would like to know if these SSPS have to be project-specific as well. The reason for our enquiry is that competencies within our organisation are well-defined and internal processes organised in a way that, without the involvement of the administrative staff member concerned, a proposal cannot be submitted. It is also the same staff member who will continue working on the project if it comes to negotiations and to the execution of the project. It is thus ensured that our administrative staff, from the start of the whole process on, know in which H2020-funded projects they are involved. Under these conditions, would it suffice to have them sign one “universal” SSPS for all projects they are/ will be working on under H2020?

• SSPS Applicants v7.7.doc

Answer

Thank you for your question and please excuse our delay in answering.

The Service Specific Privacy Statement (SSPS) should not be signed by any staff of beneficiaries. The aim of the SSPS is to inform the applicants, beneficiaries and their staff (the data subjects) about the purposes and means of the collection and processing operations of their personal data by the research DGs, Agencies or Joint Undertakings.

There will be one generic SSPS (and not project-specific SSPSs) which describes the processing operations of the personal data of the applicants, beneficiaries and their personnel in the framework of proposal evaluation, grant management and follow-up. This SSPS will be published on the Participant Portal (PP) by the end of June this year.

As indicated in Article 39.2, the beneficiaries have to simply provide the SSPS to their concerned staff members before encoding for the first time their personal data into the PP or before transmitting their data to the relevant Controller (research DGs, Agencies or Joint Undertakings). There is no need to provide the SSPS to the same data subjects in case of new projects (provided that the same processing operations will take place), however, if there are new data subjects involved, then they should receive in advance the SSPS.

Pursuant to Article 12 of Regulation (EC) No 45/2001, the purpose of this is to provide the data subjects with essential information in case their personal data are not obtained directly from them (ensuring thus fair processing in respect of all data subjects and avoiding cases where the beneficiaries transfer personal data of their staff to the Controller without informing the concerned staff about the applicable privacy rules and provisions).
Kind regards,
Legal and Financial Helpdesk

**Question (follow up)**

Thank you very much for your answer to the question we raised concerning the SSPS. However, we do not fully understand your reply. I have attached the template of the SSPS as it is currently available on the EU site. It is right that the “core text” of this document is not project specific. But the document, on its last two pages, contains a model declaration of agreement which is supposed to be signed by the beneficiary’s staff. This model declaration of agreement contains terms like “project identification“, “employment period within the funded project” or “completion of the doctorate within the project”. That is why, so far, we have understood and still understand that it is meant to be project specific.

As we expect to be successful with our proposals for Horizon 2020-funded projects, we try to prepare for the implementation of these projects and wonder if the SSPS you will publish by the end of this month will not contain a form of “model declaration of agreement” similar to the one already available. We thus kindly ask you to clarify further.

Kind regards,

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**Answer**

The model declaration of agreement available on the last two pages of the FP7 Service Specific Privacy Statement (SSPS) shall be used for FP7 projects only in case of a need for prior and explicit consent by the concerned data subjects (beneficiaries and their staff), for instance in case of transfer of their personal data to third parties or publication of some of their data. There is no need for such a declaration within the course of proposals submission and evaluation, neither of projects management and monitoring.

The new generic SSPS for projects funded within Horizon 2020 will be promptly published on the Participant Portal at this place:


The SSPS will not contain such a model declaration of agreement as the one in the current FP7 SSPS. Nevertheless, in case the Controller needs to further collect and process personal data at a later stage of the project, the concerned data subjects shall provide their prior and explicit consent. This will be done via a declaration of agreement which will be tailored-made according to the specific needs of the project and will be provided to the beneficiaries in due time by the responsible Project Officer. The Horizon 2020 SSPS, common to the whole Research family (Commission’s General-Directorates, Agencies and Joint Undertakings), is therefore not project-specific. Possible specificities with respect to processing operations of personal data will be addressed later on a case-by-case basis.

Best regards,

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**Question (2. follow up)**

Thank you very much for your reply and the elucidations regarding the future SSPS.
We understand that, in case a declaration of agreement will be necessary, this declaration could be necessary at a later stage of a project and would then be tailor-made to the project. However, the issue is not sufficiently clear to us yet in order to adapt our internal procedures to H2020 requirements.

From a beneficiary’s point of view, there are still questions like:

- What can we tell our potential project staff – beforehand – about the content of such a tailor-made declaration?
- How can we ensure that our staff will sign a declaration of agreement once the project is under execution?
- What will be the consequences for the beneficiary organisation if one or several of their staff members refuse to sign this declaration?
- What does the Commission or the Agency concerned expect with regard to the handling of data of staff whose data would be required but who no longer work with the beneficiary organisation? The beneficiary will not be in a position to provide a declaration of agreement for these staff.

Furthermore, the Annotated Model Grant Agreement (2 May 2014, p. 223), with regard to Article 39 and the SSPS, gives the following example:

“If in an ex-post audit, the Commission requests the names, CVs, time sheets and salaries of the beneficiary’s staff (to check the eligibility of personnel costs), the beneficiary must tell the staff concerned and provide them with the SSPS.”

In addition to the questions above, we draw your attention to the fact that, under FP7 and the CIP, Project Officers asked for names, time sheets and salaries in the course of the usual reporting procedures (!) already and did not release payments without having received this information. We thus seriously doubt that, under H2020, beneficiaries will have to provide this kind of data in the context of ex-post audits only.

In the same context of reporting and auditing and also based on former experience, we are sure that it would not be fine with the beneficiaries’ staff to just inform them by providing the SSPS. (We feel that it would not even be fine with to come up with a declaration of agreement for the transfer of such sensitive data only at a later stage of a project. That would mean putting them in an awkward situation in case they do not agree with the passing on of their personal data, because it seems obvious that the Commission or Agency concerned will then reject the financial statements of their employer.)

As you will have noticed, we are quite concerned by this data protection issue and therefore kindly ask for your comments on these questions and remarks.

Answer (2. Follow-up)

1. The content of a tailor-made declaration of agreement for H2020 projects: please refer as an example of what such a declaration might be to the template annexed to the Service Specific Privacy Statement (SSPS) for applicants and participants in FP7 projects. The latter is not available anymore on the Participant Portal because it has been replaced by the SSPS for applicants and beneficiaries in H2020. You can find the SSPS for FP7 projects attached to the RTD notification DPO-978 which is available in the public register of the European Commission Data Protection Officer (DPO): http://ec.europa.eu/dpo-register/details.htm?id=32061. The exact content of such a declaration will depend on the data required and the related further processing operations foreseen for each project (e.g. publication of CVs or
pictures of scientific staff, statistics, impact evaluation of programmes, improvement of funding schemes for researchers, research networking, cross-cutting issues, etc.), if any.

2. **Signature of the declaration of agreement:** it is worth recalling that for most cases such a declaration will not be required as no additional processing operations will be necessary besides the ones described in sections 1.2.1 and 1.2.2 of the SSPS for applicants and beneficiaries in H2020. Nevertheless, in case additional processing is needed, it will only be possible for those data subjects who have “opted-in” through the signature of a declaration of agreement (meaning that they have given their prior informed consent). There will be no obligation for the concerned staff to give their agreement. We recommend that you acquaint your staff with the eventual need of such an ad-hoc declaration of agreement at the time of the project submission when you provide the above mentioned H2020 SSPS to them (as indicated in Article 39.2 last paragraph of the H2020 model grant agreement).

3. **Consequences for the beneficiary organisation if one or several of their staff members refuse to sign this declaration:** the concerned staff members have the right to disagree with the further collection and processing operations of their personal data, consequently the European Commission or Agency is not allowed to collect and processed the required data. The purpose of the request of prior consent in case of non-generic processing operations (c.f. chapters 1.2.3 and 1.2.4 of the above mentioned H2020 SSPS for the list of non-generic processing operations requiring prior consent) is above all to give the choice to the data subjects to agree or not with these further processing operations before they take place. In case of absence of explicit prior consent, the foreseen processing operations will not take place for the concerned data subjects, which might have a certain impact on the project’s objectives. However, there will be no consequences for the beneficiary organisation such as any of the measures described in Chapter 6 of the H2020 model grant agreement because the processing operations will not be related to checks, reviews, audits or investigations.

4. **Handling of data of staff whose data would be required but who no longer work with the beneficiary organisation:** within the generic processing operations of a project (submission, evaluation, management and monitoring) the concerned data subjects (staff of beneficiaries) have the right to modify or delete their data at any time, as explained in sections 3.1 and 3.2 of the above mentioned H2020 SSPS. Therefore staff who no longer work with the beneficiary organisation are entitled to have their data erased by the concerned data controller (European Commission or Agency). For the cases where staff have provided their explicit prior-consent for additional processing operations (via the signature of a declaration of agreement) and do not work anymore for the beneficiary organisation, this will be addressed on a case-by-case basis, depending on the processing stage of the data (e.g. if the data have been already published on a website of the European Commission or Agency, they could be subsequently removed).

5. **Data required in ex-post audits:** the purpose and means of the processing operations in case of ex-post audits (as described in RTD notification DPO-3398 for FP7 projects: [http://ec.europa.eu/dpo-register/details.htm?id=36367](http://ec.europa.eu/dpo-register/details.htm?id=36367), plus a new notification will be issued in due-time for H2020 external audits) are different to the ones in case of proposal evaluation, grant management and follow-up (as described in the above mentioned H2020 SSPS). Within the case of ex-post audits, the FP7 notification explicitly states that the Commission will collect all necessary data to efficiently conduct a control, including indeed CVs, time sheets and salaries (cf. chapter 10 of DPO-3398). The SSPS for FP7 and H2020 ex-post audits is
attached to the letter initiating the external audit and the controlled entity has to internally inform all its concerned staff. The possibility for the Commission to carry out financial audits and controls is foreseen in Article 22 of the H2020 model grant agreement and in this case the collection and processing of data does not need the prior consent of the concerned data subjects (i.e. no need for signature of a declaration of agreement). The consequences of non-compliance are described in Article 22.6 of the H2020 model grant agreement.

Kind regards,
Legal and financial helpdesk

16.2 Storage of data

Question

Dear Madam/Sir,

With regard to personal data that the EU may request from H2020 beneficiaries in order to verify the proper implementation of a project, we kindly ask you to let us know how long the data we would have to transmit will be stored in your premises.

Our question refers to data covered by the “declaration of agreement” attached to the former (FP7) SSPS as well as to data related to time recording and remuneration.

Kind regards,

Answer

Thank you for your message and for your interest in the EU research funding.

The information about the retention period of the personal data collected for verifying the proper implementation of a project, such as time recording and remuneration, is provided in the RTD notification DPO-3398 covering external audit and controls in FP7 projects: http://ec.europa.eu/dpo-register/details.htm?id=36367 (a new notification will be issued in due time for H2020 external audits). Chapter 13 of DPO-3398 stipulates that data are stored until 10 years after the final payment on condition that no contentious issues occurred. On the contrary, should contentious issues occur, data will be kept until the end of the last possible legal procedure. Please note that in case of an audit, a link to the relevant Service Specific Privacy Statement (SSPS) will be provided in the letter initiating the audit in order to inform the audited entity about the applicable data protection provisions, including the retention period of the collected data, before the audit takes place. Furthermore, controls and checks are also done by the Project Officer throughout the implementation of a project. Chapter 5 of the SSPS for applicants and participants in H2020 projects: http://ec.europa.eu/research/participants/data/support/legal_notice/h2020-ssps-grants_en.pdf stipulates that personal data of applicants receiving funding is retained for 10 years after the closing of the project, in accordance with the rules in the Commission’s Common Retention List (SEC(2012)713).

The information about the retention period of the personal data collected within a declaration of agreement (i.e. data of applicants receiving funding), such as the one attached to the former SSPS for applicants and participants in FP7 projects, is equally 10 years after the end of the project as stipulated in chapter 13 of DPO-978 covering award
16.3 Technology Readiness Level

Question

Dear Research Enquiry Service,

I have a question regarding Technology Readiness Levels (TRL) in H2020. In parts of the Work Programmes it is not quite clear if the TRLs are referring to the starting point or to the aim of the project.

E.g. in WP 5 ii) it is explicit: "The implementation of this proposal is intended to start at TRL 4-5, target TRL 6."

But e.g. in WP 5 i) Micro- and nano-electronic technologies, Photonics (page 55): “The JTI will facilitate multi-disciplinary industry-driven research and innovation along the full innovation and value chain, covering Technology Readiness Levels (TRLs) 2 to 8.”

Or: “Generic Technology Development on micro- and nanoelectronics focused on advanced research and TRLs 2 to 4; please see part G of the General Annexes.”

Or page 63 “Innovation Actions, TRL 5 and 6 (please see part G of the General Annexes)”

And “Innovation Actions, TRLs 5-7 (please see part G of the General Annexes)”

In these cases it is not clear if TRL should be reached during the project or if these are the starting point. Does this mean it is very flexible and the indicated levels can either be starting points or end points of the project?

Kind regards

Answer

The TRLs give an indication of technology readiness at the end of the project. In most topics a range of TRLs is mentioned which gives a relatively large flexibility to the proposers for the technology readiness level to aim at.

Kind regards,

Nano Helpdesk

16.4 Treatment of Norwegian and Swiss Partners in the Ethics Issues Table

Information from Europe direct

Norway and Switzerland are non-EU countries, so you are right in ticking the involvement of third countries in the Ethics Issues Table. The applicants indeed have to confirm that the research is compatible with EU and international law and show that it could have been legally conducted in (at least) one of the EU Member
States. By submitting the opinion of the ethics committee of the hosting institution is a good way of ensuring compatibility with EU standards and laws.

In this case, the Norwegian [probably the Swiss team as well; addition by NCP] team can refer to similar research conducted in the EU. A positive opinion of the local ethics committee of one of the partner located in the EU can also be a practical solution. You have to provide the documents which are available at the time of submitting the proposal, or the application for the approval can also be attached. You have to indicate when the approval can be expected. 'Appropriate ethics structure' means the competent local/national Ethics Boards/Bodies/administrations.

Templates are not provided, but some ethics committees have their forms to fill in.

16.5 Costs Open Access

Question

Dear RES,

I have a question regarding the costs for Open Access after the end of the project in both FP7 (with Special Clause 39) and H2020. It is stated in the guidelines for open access for H2020 that the COM will discuss certain measures in order to compensate the costs after the end of the project. As this issue already becomes crucial for some FP7 projects, is there already a solution from COM side?

Best regards

Answer

Thank you for your message.


the costs of 'gold' open access publications (open access publishing) incurred after the end of projects are not eligible for reimbursement via the budget of the specific action. However, at the beginning of Horizon 2020, a mechanism will be piloted for also dealing with open access publication charges incurred after the end of grant agreements with the Commission.

This pilot is supported via 2014-15 European Research Infrastructures Work Programme (e-Infrastructures part, topic EINFRA-2-2014 – e-Infrastructure for Open Access) as part of a larger EU funded project on open access. Details will be announced when available. The pilot is expected to start in the first half of 2015 (exact dates TBD) and, under conditions to be determined, funds will be available for peer reviewed publications that result from FP7 funded projects.

Best regards,

Legal and Financial Helpdesk
16.6 Horizon 2020 and state aid rules

Question

Dear Helpdesk,

could you confirm that H2020 comply with the state aid rules? In the rules for participation (nb 27) it is only mentioned that they should comply with the state aid rules. The questions is asked quite often especially by applicants especially within the SME instrument applicants are unsure whether H2020 complies or rather applicable at all.

Maybe you could clarify the situation. Thanks for your assistance,

best regards

Answer

Recital 14 of the Horizon 2020 Rules for Participation does not render EU State-aid rules, notably the Community Framework for State aid to Research, Development and Innovation directly applicable in the setting of funding rates under Horizon 2020. EU State-aid rules are addressed to Member States, as they only apply to "State aid" as defined by Article 107 (1) of the TFEU, i.e. any form of selective advantages which are granted through resources that are under Member State control and which distort or threaten to distort competition. EU State-aid rules provide for concrete limits and obligations to ensure the compatibility of State aid with the Internal Market. EU-funding under Horizon2020 is not put under Member-State control, and thus not directly caught by EU State-aid rules.

In that context, Recital 14 of the Rules for participation recalls that the design of Horizon-2020 funding should nevertheless take the same basic Internal Market considerations into account that apply to State aid to research, development and innovation, most notably maintaining a level playing field for all undertakings in the EU. H2020 financing ensures a level playing field by being open for enterprises from all MS (and even beyond) which can receive funding in view of the excellence of their research and innovation projects and not of their place of establishment. Thus, it is ensured that funding will not preserve inefficient firms. Furthermore, since collaborative Horizon 2020 projects have to be multi-partner as well as cross-border and since participants are requested to disseminate results widely, the funding of Horizon 2020 research and innovation projects will be beneficial for the creation of effective market structures.

Best regards,

Legal and financial helpdesk

16.7 No need of listing H2020 funding in de-minimis report

Question

Dear Helpdesk,

Does funding received under H2020 have to be listed in the de-minimis report of a company? Why, why not?

Thanks for your assistance.
Best regards

Answer

Thank you for your message.

Since H2020 funding is not state aid as confirmed in point 9 of the Framework for State aid for research and development and innovation (2014/C 198/01), there is no requirement for listing such funding as 'de minimis'.

Kind regards,

Research Enquiry Service-Legal and financial helpdesk

16.8 Deliverables “restricted to other programme participants”

Question

Dear RES,

for the classification of deliverables there are several possibilities. What does "restricted to other programme participants" mean? I am referring to the current running FP7 projects. What are programme participants?

e.g. All other projects in FP7? All other projects in FP7 and H2020? All other projects within that specific WP? All other projects of European Funding Programmes? All other projects within that part (e.g. coordination, MC, Ideas, capacities) of FP7?

Thank you very much for your support.

Best regards

Answer

Thank you for your question.

In practice, deliverables are limited to the participants of a certain programme; for example, deliverables of FP7 will be limited to FP7 participants. However, some exceptions may apply.

If you want to obtain further information on the issue, please send us the original document, which you quote in your question. This will enable us to provide you with an exact response.

Kind regards,

Legal and financial helpdesk

16.9 Who pays in case a partner leaves the consortium?

Question

Dear Helpdesk,

We were addressed by a partner in a FP 7 consortium who should leave the consortium before the official ending of the project (next October). The coordinator will initiate the amendment soon. The leaving partner has already sent all information
for the reporting to the PO and the coordinator and is preparing the financial reporting as well. Due to the timeline of the project at the moment there is no cash-flow anymore in the project (pre-financing and interim payment have been received and used) and the consortium is waiting for the 10% final payment and 5% Guarantee Fund. The question is now, who will pay the leaving party? The coordinator, the Commission (cause the PO initiated the exit of the partner) or does the leaving partner has to wait till the official final payment in 1 1/2 year? How will the Commission handle these cases in H2020?

Thanks for your assistance,
Best regards

Answer

Thank you for your message.

We understand from your e-mail that the participation of a participant in an FP7 consortium will be terminated before the end of the project and a new participant will be introduced. It is not completely clear from your question if the termination is at the initiative of the Commission or the consortium.

1. If this is a case of termination of the beneficiary at the initiative of the Commission, the Commission has to establish the rights and obligations of the beneficiary whose participation is terminated. Under FP7, the consortium has up to 30 days after the effective date of the beneficiary's termination to provide the Commission with information on the share of the contribution of the Union. The beneficiary has 45 days to submit through the coordinator the reports and deliverables referred to in Article II.4 relating to work carried out up to effective termination.

The financial contribution from the Union is limited to eligible costs incurred and accepted up to the effective date of termination. However where the beneficiary was requested to rectify a breach before the termination, costs are only eligible until the date of receipt of the written request to rectify.

The Commission may request the beneficiary to reimburse an amount due to the Commission or transfer it to the coordinator within 30 days. If the due amount is not reimbursed by the beneficiary, the Guarantee Fund may intervene.

2. In case the consortium requests for an amendment to the grant agreement for the termination of a beneficiary's participation and the addition of a new beneficiary, the procedure is described in the grant agreement (Article II.36), and in the FP7 amendments guide (points 5.2 and 7.1): http://ec.europa.eu/research/participants/data/ref/fp7/89604/amendments-ga_en.pdf

According to the procedure, part of the requested documents to be submitted with the amendment are reports and deliverables referred to in Article II.4 (including Form C and CFS if required), relating to the work carried out by this beneficiary up to the date on which termination takes effect, together with a comment of the coordinator on these reports and deliverables and a declaration on distribution of payments to this beneficiary by the coordinator.

Based on the information received from the consortium, the Commission/Agency will proceed to the calculation of the amount due to the beneficiary whose participation is terminated.

When the termination of the participation of the beneficiary is requested by the consortium with the agreement of the beneficiary concerned and there is an amount to be reimbursed by this beneficiary, it is understood that the beneficiary has
already reimbursed to the consortium the said amount or will do it rapidly and that, in any case, no action on the part of the Commission is required to recover this amount. It should then be stated in the request that this amount is at the disposal of the consortium and under its responsibility. In any other case, for example, when the beneficiary concerned does not agree, or it is not in a position to reimburse (e.g. bankruptcy), this should be explained in the request for amendment.

As regards the Guarantee Fund, the conditions and the procedural steps to be taken in order to make use of the Guarantee Fund are clearly indicated in Article II.21 of the FP7 model grant agreement. The guarantee fund was established under FP7 as a mutual benefit instrument establishing solidarity among participants in indirect actions which aims at covering the financial risks incurred by the EU and the participants during the implementation of FP7 actions. It is a kind of insurance contract by the beneficiaries to guarantee the financial losses of the project. The amounts transferred from the Guarantee Fund shall substitute the financial contribution of the Union not reimbursed by the beneficiary.

In both cases, if the Commission/Agency owes amounts to the concerned beneficiary, those amounts will be included in the next payment to the consortium (e.g. according to our understanding of your email, in your case the final payment). In any case payment is made through the coordinator. The contribution to the guarantee fund is only refunded at the end of the project.

Kindly note that the payment of the EU financial contribution to the coordinator discharges the Commission from its obligation to make this payment to the rest of the beneficiaries. This applies both in FP7 (in accordance with Article II.2.4 of the FP7 ECGA (see http://ec.europa.eu/research/participants/data/ref/fp7/93289/fp7-ga-annex2_en.pdf which provides that the consortium agreement will govern the distribution of the EU financial contribution) and H2020 (see the Annotated Model Grant Agreement p. 175 under Article 21 at http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/amga/h2020-amga_en.pdf).


Under H2020 actions the procedure is to a large extent similar. For more information please see the Horizon 2020 Annotated Grant Agreement available at http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/amga/h2020-amga_en.pdf, and in particular the explanations provided for Articles 41, 44, 50 (notably 50.2.2 and 50.3.3) and 55.

Kind regards,

Research Enquiry Service - Legal and financial helpdesk

16.10 Are there any restrictions on collecting ESRs

Question

Dear ERC team,
we have received a question from a university that wants to collect as many ERC evaluation summary reports as possible from ERC proposals in order to analyse them during a study (national project). Is there any legal restriction from your side to collect the ESR from the applicants and to use them and maybe publish them within that study? We do not see any obstacles so far if the applicants are willing to give their ESR to that project.

Thanks for your assistance.

Best regards

Answer

From ERCEA view we do not have any restrictions on collecting ESRs, given the applicant agrees to provide the summary of his/her evaluation report.

However, we would like to stress that it is important to clarify in a transparent way, when contacting the applicants for asking the ESRs, that the project is not linked to nor supported in any form by the ERC/ERCEA.

I hope this helps! Have a nice day,

CoG Call Coordination Team

16.11 How long you are obliged to host official websites?

Question

Dear Helpdesk,

for how long is a former beneficiary of a FP 6 and FP7 project obliged to host the official website of the project and of the research data base (foreground/results of the project)? We couldn't find any provisions on this so far. It would be great if you could help. Thanks for your assistance,

Best regards

Answer

There is indeed no specific obligation, mentioned explicitly in the Grant Agreement, to maintain a website and/or a research database after the end of the project.

Having said that, according to Article II.29.3 of the FP6 Grant Agreement:

- the contractors shall keep the original or, in exceptional cases, duly substantiated, authenticated copies, of all documents relating to the contract;
- such elements have to be kept for up to five years from the end of the project and shall be put at the Commission's disposal where requested during the execution of any audit.

Similarly, according to Article II.22(3) of the FP7 Grant Agreement and Article II.23.1:

- the beneficiaries have to ensure that the Commission's services, and/or any external body(ies) authorised by it, have on-the-spot access at all reasonable times to all relevant data/information required to carry out audits covering the whole project period and,
such access has to be ensured for up to five years after the end of the project. Therefore, even if there is no specific obligation to maintain a website and/or a research database after the end of a FP6 or FP7 project, the information available on it/them must be accessible to the Commission auditors upon request during the periods established (e.g. in case of a technical audit where one of the deliverables was the creation of the website and/or the research database).

In addition, and according to Article II.34.2 of the FP6 Grant Agreement, the contractors shall ensure that the 'knowledge' (i.e. the results) disseminated within a period of two years after the end of the project.

Similarly, according to Article II.30.1 of the FP7 Grant Agreement, each beneficiary has the general obligation to disseminate, as swiftly as possible, the 'foreground' (i.e. the results) of which it has ownership.

Therefore, if the chosen channel to disseminate the results is the website and/or the research data base, they would have to be maintained until this task is completed.

Kind regards,
Legal and financial helpdesk

16.12 Are industrialized third countries (USA, Canada, South Korea, Japan etc.) to become coordinator of a H2020?

Question

Dear Helpdesk,

is it possible for institutions of industrialized third countries (USA, Canada, South Korea, Japan etc.) to become coordinator of a H2020 action although they are not allowed to receive funding for their own? The rules for participation do not forbid coordinatorship for third country institutions explicitly.

Maybe you can help. Thanks for your assistance,

Best regards

Answer

Thank you for contacting the Legal and Financial Helpdesk.

Please kindly note that the Research Enquiry Service cannot validate specific cases but only provides general guidance.

Under Horizon 2020 legislative framework, according to Article 7(1) of the Horizon 2020 Rules for participation (RfP) "any legal entity, regardless of its place of establishment, or international organisation may participate in an action provided that the conditions laid down in this Regulation have been met, together with any conditions laid down in the relevant work programme or work plan." Article 24 RfP provides that "the members of any consortium wishing to participate in an action shall appoint one of them to act as coordinator, which shall be identified in the grant agreement". On this basis, there is no specific rule prohibiting a non-EU entity from acting as coordinator in an action, unless
the Horizon 2020 Work Programme includes any particular derogation for a specific call.

However, in the context of Horizon 2020, the coordinator is one of the legal entities member of the consortium that assumes certain core tasks in relation to the implementation of the grant agreement and towards the Commission/Agency. The role and tasks of a consortium coordinator are set out in Article 41 of the model grant agreement. The key tasks of the coordinator (as listed under Art 41.2.b MGA) may not be delegated or subcontracted to any other beneficiary or third party (including linked third parties). For more information, you may also refer to the Annotated Grant Agreement: http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/amga/h2020-amga_en.pdf

Moreover, the coordinator must be an entity with a satisfactory financial capacity, as in cases where the requested funding from the Union is equal or superior to EUR 500 000, the financial capacity of the coordinator of the respective action will be checked (Art 15.9 of the Horizon 2020 rules for participation).

Therefore, given the role of the coordinator as manager of Union funds, and the added difficulties to recover the funding in case of dispute, court action or default from third countries not within the reach of Union law, the acceptance of an entity from a third country as coordinator in a Horizon 2020 project requires a case by case assessment and justification, as appropriate.

Kind regards,

Legal and financial helpdesk