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Legal and Financial Aspects of FP7: Funding Schemes, Rules for participation, Negotiations and Budgetary issues

Natascia Lai

G5 – Administration and Finance

Industrial Technology Directorate





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FP7 Funding schemes (NMP priority)

- Collaborative projects
 - Small & medium < 4 millions euro
 - Large >4 millions euros
 - SME Targeted projects (no limits but 35% for SMES)
- Network of excellence (Noe)
- Coordination and support actions (CSA)
 - aiming at coordinating
 - aiming at supporting



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Who can participate?

- Any undertaking, university or research centre or other legal entity, whether established in a:
 - Member State (MS), or
 - Associated country (Ac)* , or
 - candidate country, or
- International organisations and participants from third countries can participate only if in addition to the minima
- * *Iceland, Liechtenstein, Norway, Croatia, Serbia, Turkey, FYROM, Switzerland, Israel*





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Conditions for participation

- **Minimum number**, as a general rule at least 3 independent participants from 3 different Member States (MS) or Associated countries (Ac)
 - Joint Research Centre (JRC) - is deemed to be established in another MS or Ac
- **Additional conditions** can be established by the work programme or specific programme (number or type of participant, place of establishment)
- **Specific conditions** apply for:
 - **For specific cooperation actions dedicated to International Cooperation Partner Countries (ICPC)** – minimum is 4 participants, 2 of which from MS or Ac and another 2 from ICPC countries unless otherwise foreseen in work programme



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Eligibility for funding

- Legal entities from **MS and Ac** or **created under Community law** (and JRC)
- **International European interest organisations**
- Legal entities established in **international cooperation partner countries** (ICPC), and
- **International organisations** and legal entities from **third countries other than Ac or ICPC** may receive funding only if:
 - - provided for in SP or WP; or
 - - the EC financial contribution is essential for carrying out the action; or
 - - provision for funding is provided for in a bilateral agreement between Community and the third country





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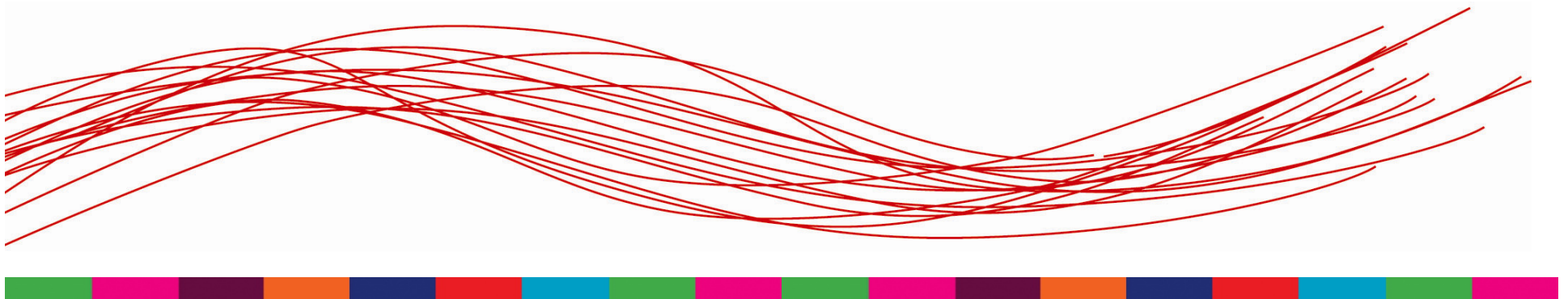
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Two Main Negotiation Stages

1 – Technical Negotiations

2 – Legal and Financial Negotiations

n.b. The two are essentially linked and often take place in parallel.





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Technical Negotiations

To agree on the final content of the DoW including:

- Addressing the comments made in the ESR
- Verifying that the project objectives are SMART (S-Specific, M-Measurable, A-Attainable, R-Realistic, T-Timely)
- The list of deliverables, their timing, content and dissemination level.
- The project milestones and their assessment criteria
- An indicative time schedule for the reporting and the project reviews.





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Annex I

The DoW forms Annex I to the Grant Agreement.

It is based on part B of the proposal, following the same basic layout and is similar for all funding schemes.

Is comprised of two parts:-

Part A = List of Participants, Copies of the budget breakdown (GAPF Form A3.2) and Project Summary Forms (GAPF Form A1).

Part B = Based on Part B of the proposal





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Legal & Financial Negotiations

To agree on budgetary/partnership matters including:

- Budget for full duration of project
- Budget breakdown per period
- Subcontracting and third party issues
- The pre-financing
- The analysis and review of the legal status of each participant
- The capacity of the Coordinator to fulfil this role
- The start date of the project
- Any special clauses required





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Beneficiaries

- General rule:

PARTICIPANT=BENEFICIARY

Every legal entity contributing to a project must have a contractual link with the Community

- Exceptional cases : subject to very restrictive rules
 - Third parties
 - Subcontractors

Their participation must be clearly identified in the Annex I





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The Coordinator

Contractually, the Coordinator:

- Administers the EC Contribution
- Keeps the records and financial accounts
- Informs the EC of the distribution of Funds
- Reviews the reports to ensure consistency with the tasks foreseen
- Monitors the compliance of beneficiaries with their contractual obligations
- Must be financially viable.
- Coordination tasks cannot be outsourced.





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Subcontracting

- Beneficiaries are supposed to perform the work, as identified in Annex I, themselves.
- Exception:
 - Where it is necessary to subcontract certain elements of the work, this should be clearly identified in Annex I.
- Full details need to be provided in Annex I including:
TASKS, ESTIMATED COSTS, JUSTIFICATION FOR NEED TO SUBCONTRACT, METHOD OF SELECTION (best price / transparency, equal treatment etc.)
- Cannot take place between beneficiaries
- Cannot be used to fund a legal entity that would not have been eligible for funding under the FP
- Coordinator' tasks cannot be subcontracted





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Third parties

- **Third parties carrying part of the work**

EEIG, JRU, affiliates and groupings carrying out part of the work (special clause) tasks to be indicated in Annex I

- **Third parties making available resources**

“Third parties”: to be indicated in Annex I
Costs may be claimed by the beneficiary
Resources “free of charge” may be considered as receipts





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Upper funding limits (1)

Reimbursement according to the type of organisation, of action and/or activity

- **Research and technological development *activities***: up to **50%** of eligible costs.

However, it can be up to **75%** for:

- *Non profit* public bodies, secondary and higher education establishments and research organisations, SMEs, and
- Security related research (in certain cases)
- **Demonstration *activities***: up to **50%**
- **Other *activities*** : up to **100%**
- **Management**: up to **100%**
- **Coordination and support actions**: up to **100%**





Upper funding limits (2)

Maximum reimbursement rates	Research and technological development activities (*)	Demonstration activities	Management of the consortium activities	Other activities
Network of excellence	50% 75% (**)		100%	100%
Collaborative project (****)	50% 75% (**)	50%	100%	100%
Coordination and support action			100% (***)	100% (***)

(*) Research and technological development includes scientific coordination.

(**) For *beneficiaries* that are non profit public bodies, secondary and higher education establishments, research organisations and SMEs

(***) The reimbursement of indirect eligible costs, in the case of coordination and support actions, may reach a maximum 7% of the direct eligible costs, excluding the direct eligible costs for subcontracting and the costs of reimbursement of resources made available by third parties which are not used on the premises of the beneficiary.

(****) Including research for the benefit of specific groups (in particular SMEs).





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Eligible Costs

– Eligible

- actual
- during duration of project
- in accordance with its usual accounting and management principles
- recorded in the accounts of beneficiary
- used for the sole purpose of achieving the objectives of the project

Ex. Travel costs and durable equipment

– Non-eligible (identifiable indirect taxes including VAT...)





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Reimbursement of eligible costs

- **Direct costs :**
 - can be directly attributed to the project
 - No cost models (NEW) but all beneficiaries report all their real direct costs
- **Indirect costs:**
 - either actual overhead or simplified method
 - flat rate of 20% of direct costs minus subcontracting and 3rd parties not used on the premises of the beneficiary
 - For Non-profit Public Bodies, Secondary and Higher Education establishments, Research Organisations and SMEs (! **Definition of SME!!**) **unable to identify real indirect costs**, may apply for a flat rate of 60%* (until 31/12/09) for **funding schemes with RTD**.
 - For CSA limit of 7% of direct costs minus subcontracting and 3rd parties not used on the premises of the beneficiary.



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Example

Collaborative project submitted by a university,
using the 60% flat rate for indirect costs

Project Direct Costs

100,000 RTD Costs

50,000 Demonstration

10,000 Management

Indirect Costs (60%)

60,000

30,000

6,000





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60% flat rate – example

Total Project Costs (Direct + Indirect costs)

RTD	160,000
Demonstration	80,000
Management	16,000

=>

Reimbursement i.e. EC contribution

RTD	$160,000 * 75%$	= 120,000
Demonstration	$80,000 * 50%$	= 40,000
Management	$16,000 * 100%$	= 16,000

Total EC Contribution = 176,000



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Payment modalities

- One **pre-financing** (upon entry into force) for the whole duration
- **Interim payments** based on financial statements (EC contribution= amounts justified & accepted * funding rate)
- Retention (10%)
- **Final payment**



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Payment modalities (2)

EXAMPLE: Project duration 3 years, EC funding 3 Mio€

- **Pre-financing** (average EU funding 1M/year, usually 160%) = 1.6 Mio€
- **1st Interim payment** 1Mio€ accepted, payment 1Mio€
- **2nd Interim payment** 1Mio€ accepted, payment 0,1Mio€ (retention 10%!)
- **Final payment** 0,3Mio€ (retention 10%)



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Certificate on financial statements (CFS)

= Audit certificate in FP6

Mandatory for a **beneficiary** when its requested funding for the **project** equal or more than 375,000€

–exception for project of 2 years or less, no intermediate CFS submitted only at the end

Who can provide these certificates :

- Qualified auditors (according to Directive 2006/43/CE repealing 8th Council Directive)
- Independent
(Public bodies, secondary and higher education establishments and research organisations may opt for a competent public officer)





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Certificate on financial statements (CFS)(2)

Summary:

- EC contribution $< 375.000\text{€}$ No certificate (not even at the end)
- EC contribution $\geq 375.000\text{€}$ Certificate has to be submitted:
 - CFS every time $\geq 375.000\text{€}$
 - If certificate on methodology: no interim CFS but at the end



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Example

–Year 1 EC contribution= 185.000€
CFS because $<375.000€$

No

–Year 2 EC contribution=
200.000€

CFS has

to be submitted (since $185.000€+200.000€>$
 $375.000€$)

–Year 3 EC contribution= 250.000
because $<375.000€$

No CFS





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Receipts

2 kinds of receipts must be taken into consideration to avoid any profit:

- Transfers from third parties to the beneficiary (if specifically attributed to the project and not reimbursed):
 - Financial transfers
 - Contributions in kind
- Income generated by the project

At final payment the EC contribution will take into account any receipts of the project

For each beneficiary:

the eligible costs \geq EC contribution + the receipts for the project





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Reporting (1)

- Periodic reports to be submitted by coordinator 60 days after end of period:
 - overview of progress of the work, including a publishable summary report,
 - use of the resources and
 - Financial Statement
 - A Certificate on the Financial Statement (if the cumulative EC Contribution is >375,000 €)
- Final reports to be submitted by coordinator 60 days after end of project:
 - publishable summary report, conclusions and socioeconomic impact,
 - covering wider societal implications and a plan on use and dissemination of foreground.



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Reporting (2)

- Commission has 105 days to evaluate and execute the corresponding payment
 - No tacit approval of reports
 - Automatic payment of interest (NEW)
- After reception Commission may:
 - Approve
 - Suspend the time-limit requesting revision/completion
 - Reject them giving justification, possible termination
 - Suspend the payment



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Guarantee Fund (1)

- No financial collective responsibility
- Instead: establishment of a participant's Guarantee Fund to cover risks
- However, there is “technical responsibility” to carry out the project jointly and severally *vis-à-vis* the Commission.
- Amount of 5% of EC contribution



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Guarantee Fund (2)

- The Fund **belongs to all beneficiaries** of grant agreements under the FP7
- All beneficiaries contribute to the Fund to insure against financial losses of the project
- The contribution equals **5%** of the EC financial contribution foreseen for each participant
- Financial interest generated by the Fund will serve to cover financial risk
- In principle the amount contributed to the Fund will be reimbursed at the end of the action





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Guarantee Fund (3)

EXAMPLE: Project duration 3 years, EC funding 3 Mio€

- **Pre-financing** = 1.6 Mio€ of which 0,15Mio€ to the Fund
- **1st Interim payment** 1Mio€ accepted, payment 1Mio€
- **2nd Interim payment** 1Mio€ accepted, payment 0,1Mio€ (retention 10%!)
- **Final payment** 0,3Mio€ (retention 10%)+0,15 Mio€ of the Fund





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Guarantee Fund (4)

Consequences:

- Verification of financial viability only for
 - Coordinators
 - beneficiaries requesting more than 500.000€
- No bank/financial guarantee may be requested



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Information

- **Find a document →**
http://cordis.europa.eu/fp7/find-doc_en.html
- **FP7 Helpdesk →**
- <http://ec.europa.eu/research/enquiries>





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