

FP7 / Amendments
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INFSO S4 - Legal Aspects



What is an amendment?

An amendment to a GA is a legal act modifying the commitments initially accepted by the parties and which may create **new rights** or impose **new obligations** on them, or modify significant parts of the GA



Differences with FP6

- Amendment requests by coordinator versus Notification of changes by beneficiary
- Coordinator can also accept amendment requests from the Commission on behalf of the Consortium
- The request for termination at the initiative of the consortium should include all relevant reports and deliverables
- For addition/withdrawal, tacit approval after 45 days (not 42!)
- No legal obligation to submit the amendment request by registered mail



Procedure (1)

Introduction of the request

- In principle, the coordinator on behalf of the consortium

Only when change of coordinator without its agreement:

- all other beneficiaries
- 1 beneficiary on behalf of the others

- or the Commission



Procedure (2)

Valid request

A request from the **coordinator** is valid when:

- It is submitted by mail to the address in Article 8(1)
- It is dated and signed by the legal representative of the coordinator on behalf of the consortium
- The supporting documents are included in the request
- It is introduced in due time

Invalid requests will be rejected by the Commission



Procedure (3)

Approval and rejection

- **Approval (or rejection) within 45 days of receipt**
- If no reaction: **tacit rejection**
- Addition or termination of a beneficiary:
tacit approval by the Commission

Except:

1. Termination of a member of the consortium without its agreement
2. Appointment of a new coordinator
3. The request for addition or removal of a beneficiary is sent together with other non-related amendment requests
→ explicit approval necessary



Procedure (4)

Possible reactions on amendment requests

- 1) Invalid requests will be returned
- 2) Valid requests can be explicitly accepted or rejected
- 3) If Commission does not react within 45 days:
tacit rejection/approval.
- 4) NEW: Commission sends a counter-proposal:
 - agreement by the coordinator has to be explicit within 45 days of reception
 - the Commission receives the letter from the coordinator within 60 days



Procedure (5)

Amendment packages (1)

Amendment requests containing more than one modifications to be considered as package

- no separation into several requests but
- explicit approval or rejection on the whole package
- except if explicitly stated

Example of package:

Addition and termination of beneficiaries
+ change in bank account of the coordinator
+ modification of the reporting periods

Sentence in the model letter: *This amendment request contains separate requests that can be approved independently*



Procedure (6)

Entry into force and date of effect

- Entry into force: date of last signature
- Date of effect: date from which the action or effects described in the amendment start to apply
- Article II.37.4: amendments shall take effect on the date agreed by the parties or the date of the Commission's approval

Amendment cases (1)

Addition of a beneficiary

- Modified Annex I to the GA describing the work of new beneficiary + revised budget breakdown
- Form B
- The financial documents of the new beneficiary where required
- GPFs and electronic NEF for new participant
- PIC of the new beneficiary
- If competitive call, the documents required by the GA
- If no competitive call, justification for the selection of the new participant
- Accompanying letter from the coordinator explaining the request



Amendment cases (2)

Termination of a beneficiary at the consortium's request

- Documents to be sent together with the request: proposal for reallocation of tasks / budget, reasons, date of effect, opinion letter, reports and deliverables
- If the opinion of the beneficiary whose termination is requested is not included, a proof that the opinion has been requested.
- If agreement of the beneficiary, tacit approval
- Explicit approval from the Commission needed in cases of non-agreement of the beneficiary
- Termination effective when agreed by the parties, when the Commission approves or on 45th day if tacit approval



Amendment cases (3)

Change of coordinator (1)

1) Coordinator remains in the consortium

1.1 New coordinator is already a beneficiary

- Signed written request from the former coordinator and the new coordinator
- The amendment request includes the request to modify Article 5.3 and 8 of the GA (coordinator's banking details and communication data)
- GPF banking details of the new coordinator together with the new coordinator's mail and email address for communication purposes
- Financial documents of the coordinator if required
- Accompanying letter from the former coordinator explaining the request (optional)

1.2 New coordinator is a new beneficiary

- Same documents +
- GPFs and electronic NEFs of new coordinator
- Form B of the new coordinator
- PIC of the new coordinator



Amendment cases (3)

Change of coordinator (2)

The coordinator leaves the project at the consortium's request

- One signed written request from the former coordinator and the new coordinator in case of agreement of the coordinator (also possible 2 separate requests and letters)
- The amendment request includes the request to modify Article 5.3 and 8 of the GA (coordinator's banking details and communication data)
- Documents for new coordinator (Form B, PIC, etc)
- Plus documents listed in Article II.36.6

If the coordinator's participation is terminated **without its agreement**,

- The request is signed by all other beneficiaries or by one of them representing the others
- All documents + an opinion letter by the former coordinator (or a proof it was requested in written to express its opinion but failed to do so) has to be joint to the request



Amendment cases (4)

Modification of Annex I and budget table

- 1) Amendment of DOW:
 - removal/addition of tasks or substantial changes in the distribution of work between beneficiaries
 - introduction of third parties and subcontracting of tasks
- 2) Amendment of budget table:
 - substantial changes linked to changes in description of work
 - addition/termination of participants
- 3) Budget transfers without amendment:
 - budget transfers between beneficiaries and activities allowed if work carried out as foreseen in Annex I



Amendment cases (5)

Others (1)

- Removal of an entity for non-accession to the GA
- Modification of project title or Acronym
- Modification of duration and/or start date
- Modification of reporting periods
- Change of Community financial contribution
- Reimbursement as a lump sum to ICPC participants
- Change of banking details
- Change of the pre-financing and/or contribution to the guarantee fund



Amendment cases (5) *Others (2)*

- Addition, removal or modification of special clauses
- Change to Commission or coordinator's contact details
- Amendment requested for reinstatement of the work after suspension of the project
- Partial transfer of rights and obligations



Information letters (1)

Changes not depending on agreement of parties

- no need for amendment
- one single information letter from beneficiary to Commission
- notification from Commission to coordinators of all projects concerned



Information letters (2)

Cases of information letters

1. Universal transfer of rights and obligations
2. Change of name and legal details of a beneficiary
3. Changes in the accounting system of the beneficiaries, in legal status under FP7 rules and mistakes in indirect costs calculation



Other cases in which the Commission should be informed

- Normal obligation of the beneficiary to inform the Commission through the coordinator in II.3.f)
- Change of authorised representative of the beneficiary



The "Amendments Guide for FP7 Grant Agreements" is published on CORDIS under the following link:

ftp://ftp.cordis.europa.eu/pub/fp7/docs/amendments-ga_en.pdf

Thank you for your attention!

