



FP7-SSH-2009-3.2.2

FP7 legal and financial aspects

Brussels, 23 October 2008



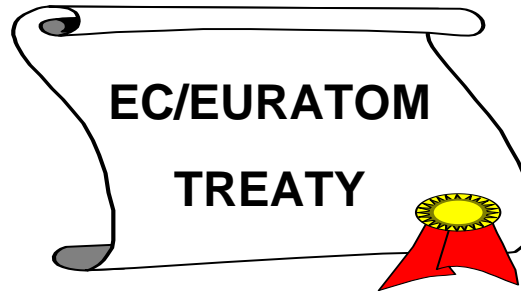


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Legal Framework

**FRAMEWORK
PROGRAMMES
(EC/Euratom)**



**RULES FOR
PARTICIPATION
(EC/Euratom)**

SPECIFIC PROGRAMMES:
Cooperation
Ideas
People
Capacities
Nuclear Research (Euratom)

WORK PROGRAMMES

CALLS FOR PROPOSALS

**FINANCIAL
REGULATION &
Implementing Rules**

**Grant
Agreement**

**Rules on
evaluation and
selection
procedures**

**Rules on
financial
capacity**



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FP7 GA:

Similarities with FP6 contract

- Structure:
 - Core part: Grant Agreement parameters
 - Annex I: Description of Work (DoW)
 - Annex II: General Conditions
 - Annex III: Specific provisions for funding schemes
Research for the benefit of specific groups (in particular SMEs)
 - Annex IV, V & VI: Forms A, B & C
 - Annex VII: Form D – Certificate on financial statements & Form E – Certificate on the methodology **(NEW)**

Consortium Agreement mandatory (except if excluded by Call) before start date of project



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Who can participate?

- Any natural or legal person established in a:
 - Member State (MS), or
 - Associated country (Ac)* , or
 - Candidate country (Croatia, Turkey, FYROM)
- International organisations and participants from third countries can participate **only if** in addition to the minima established by the call for proposals
- 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

** Iceland, Liechtenstein, Norway, Croatia, Serbia, Turkey, FYROM, Switzerland, Israel, Albania*



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Forms of Grants

- Reimbursement of direct and indirect eligible costs according to:
 - 1. the legal status of the organisation**
 - 2. the funding scheme**
 - 3. the type of activity**
- Lump sum amounts, in particular as option for participants from ICPC

Principles of co-financing and non-profit



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1. Legal status Validation and FP7 database

- Legal status, name, address and ICM of beneficiaries recorded in FP7 database (PDM-URF) – mandatory
- Analysed and validated by the Central Validation Team:
 - Allocation of a **P**articipant **I**dentification **C**ode (**PIC**) for validated participants
 - **New** : Identification of a **L**egal **E**ntity **A**ppointed **R**epresentative (**LEAR**) after validation, who will be in contact with the CVT for updating via URF website the legal and financial data already held by the Commission



2. Funding Schemes

- Collaborative projects : At least 3 independent legal entities from 3 different MS or Ac
- Coordination and Support Actions (coordinating): At least 3 independent legal entities from 3 different MS or Ac
- Coordination and Support Actions (supporting): At least 1 independent legal entity
- Research for the benefit of specific groups - Civil society Organisations*(CSO) : At least 3 independent legal entities and among them at least one CSO

* *Any legal entity that is non governmental, non-profit, not representing commercial interests and pursuing a common purpose in the public interest*



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3. Type of activity

- **RTD activities:**
 - Up to **50%** of eligible costs
 - Up to **75%** for: *Non profit* public bodies, secondary and higher education establishments, research organisations and SMEs
- **Demonstration activities:** up to **50%**
- **Management of the consortium:** up to **100%**
- **Other activities:** up to **100%**



Upper funding limits

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/**average** personnel costs
- Incurred during duration of project
- In accordance with the usual accounting and management principles of beneficiary
- Recorded in the accounts of beneficiary
- Used for the sole purpose of achieving the objectives of the project

– Non-eligible

- Identifiable indirect taxes including **VAT**
- Tolls, bank-debts, exchange-rate differences
- Costs in other EU-projects
- Overpriced or economically unjustifiable costs



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Eligible Costs

The reimbursement of beneficiaries shall be based on their actual eligible **direct and **indirect** costs**



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Direct costs

- No cost models
- All beneficiaries report **all their real direct costs**
- Personnel costs: total remuneration of the **actual hours worked on the project** by permanent or temporary employees **directly hired by the beneficiary**. Working time to be charged must be **recorded throughout the duration of the project** by any reasonable means (e.g. timesheets) on a daily, weekly or monthly basis using a paper or a computer-based system. The time-records have to be authorised by the project manager or other superior.



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Indirect Costs

- a) Actual indirect costs**
- b) Flat rate**
- c) Special case of CSA**



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a) Indirect Costs: actual

- 1) Real indirect costs
- 2) Simplified method:

A participant may use a **simplified method** to calculate its indirect costs at the level of the legal entity:

- If the organisation does not have an accounting system with a detailed cost allocation
- If in accordance with its usual management and accounting principles: allocation of the overheads at the level of the legal entity to the individual projects by using a fair "driver" (e.g. total productive hours)
- Based on actual costs of the last closed accounting year



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b) Indirect Costs: flat rate

- 1) **Standard flat rate of 20%**
- 2) **Special *transitional** flat rate of 60%** only applicable for funding schemes with RTD activities** for:
 - Non-profit Public Bodies
 - Secondary and Higher Education establishments
 - Research Organisations
 - SME

Unable to identify real indirect costs

* *until 31/12/2009 (40%)*

** Not applicable for **CSA**

Calculation = Flat rate * Direct costs (personnel+other direct costs) **excluding** subcontracting



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c) Special case of CSA

- The reimbursement of indirect costs cannot exceed a maximum of **7%** of the direct eligible costs (personnel+other excluding subcontracting)
- This 7% is not a flat rate, it is a maximum reimbursement rate:
 - Beneficiaries which identify actual indirect costs will still have to declare their indirect costs, and their auditor will have to certify them in the Certificate of Financial Statements in the cases foreseen in the GA. However, they will be reimbursed a maximum of 7%
 - Beneficiaries using the standard 20% flat rate will also be reimbursed a maximum of 7%, but indirect costs will not need certification due to the use of the flat rate



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Third parties

- Beneficiaries should have the capacity to carry out the work themselves: costs eligible in a project must be incurred by the beneficiaries identified in the GA
- 3rd party: any legal entity which **does not sign the GA**
- Third parties:
 - making their resources available to a beneficiary
 - carrying out part of the work:
 - ✓ Subcontracting
 - ✓ Special Clause 10



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Subcontracting

- Limited part of the project: **core** parts of the project **cannot** be subcontracted
- Tasks and estimation of costs duly described and justified **in Annex I**
- Principle of best value for money
- Charge of price (profit for the subcontractor)
- Subcontracting does not occur between beneficiaries
- External support services may be subcontracted for minor tasks: not in Annex I



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Special Clause 10

Third parties carrying part of the work

- Formal relationship **prior** and **not limited** to the GA: "**ad hoc**" collaboration agreements are **not** covered
- Name, tasks and resources of the 3rd party described in Annex I
- Charge of costs (no profit for 3rd party)
- Third parties fill in Form C & provide CFS: summary report integrating costs of beneficiary and third party
- Cases specifically covered:
 - Joint Research Units (JRU)
 - European Economic Interest Grouping (EEIG)
 - Affiliates
 - Groupings



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Third parties

Making their resources available to a beneficiary

- Prior general cooperation agreement to use resources at beneficiary's will
- Principle of non-profit
- Name and resources of 3rd party described in Annex I (no special clause)
- Costs directly charged by beneficiary in its Form C
- Third parties must submit Form C

Special cases:

- Foundations, spin-off companies, etc., created in order to manage the administrative tasks of the beneficiary
- The case of resources (professors/equipment) working for, or used by a university but whose salaries/costs are paid by the Government: beneficiary is free to use these resources at will



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Receipts

Eligible costs \geq Community financial contribution + the receipts of the project

- Financial transfers or contributions in kind from third parties to the beneficiary:
 - “Ad hoc”: specifically for the use of the project
 - No full reimbursement
- Income generated by the project

Eligible costs: 100

EC contribution: 50

Receipts: 60

$100 \not\geq 50 + 60 = 110$

The EC contribution will be reduced to 40





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Example of estimation of costs

University participating in a **CSA** using the **60%** flat rate for indirect costs

Direct Costs

Indirect Costs (20%)

CSA activities	100,000 (*20%)=	20,000
Managemen. act.	50,000 (*20%)=	10,000
Other activities	10,000 (*20%)=	2,000

Total Project Costs

RTD	120,000
Demonstration	60,000
Other	12,000

Total estimated costs 192,000



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Calculation of EC contribution

Direct Costs (100%)

CSA activities	100,000 (*7%)=
Managemen. act.	50,000 (*7%)=
Other activities	10,000 (*7%)=

Indirect Costs (7%)

7,000
3,500
700

Total EC contribution

CSA	107,000
Management	53,500
Other	10,700
Total EC contribut.	171,200



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Certification of costs

Report of factual findings

Mandatory use of templates - Annex VII

3 types of certificates:

1. Certificate on Financial Statements (CFS):
expenditure verification - Form D
2. Certification on the methodology:
accounting system verification - Form E
3. Certificate on average personnel costs -
Form E



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1. Certificate on financial statements

- Template provided in Annex VII (Form D)
- Mandatory for a beneficiary when its **cumulative** EC contribution exceeds **375,000€**
- When the EC contribution is **less** than 375.000€, **no CFS not even at the end of the project**
- For projects of **2 years or less**, no intermediate CFS. Obligation of submission only at the end if contribution \geq 375.000€ and covering **all eligible costs**
- If a certification on the methodology is provided, no intermediate CFS, only at the end if contribution \geq 375.000€ and covering **all eligible costs**



1. Certificate on Financial Statements Examples

Example 2: Projects of a duration of more than two years:

<i>Claim No.</i>	<i>Eligible Costs</i>	<i>EC contribution</i>	<i>Cumulative amount for which a CFS has not been submitted</i>	<i>CFS required</i>	
<i>1</i>	<i>EUR 350,000</i>	<i>EUR 175,000</i>	<i>EUR 175,000</i>	<i>NO</i>	
<i>2</i>	<i>EUR 350,000</i>	<i>EUR 200,000</i>	<i>EUR 375,000</i>	<i>YES</i>	<i>(1)</i>
<i>3</i>	<i>EUR 300,000</i>	<i>EUR 150,000</i>	<i>EUR 150,000</i>	<i>NO</i>	<i>(2)</i>

Therefore:

(1) A certificate has to be submitted (since $EUR\ 175,000 + EUR\ 200,000 = EUR\ 375,000$). The certificate should include all eligible costs not yet certified: EUR 700,000

(2) No need for a certificate for the EUR 300,000 because $EC\ contribution = EUR\ 150,000 < EUR\ 375,000$



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2. Certification on the methodology

- In a first stage, only for legal entities which have participated in at least 8 FP6 projects with an EC contribution $\geq 375,000\text{€}$ for each project
- Aims at certifying the methodology of calculating (average) **personnel costs** and **indirect costs**
- Submitted on a voluntary basis, must be accepted by EC, valid throughout FP7: request only via email
- Report on factual findings using template provided in Annex VII (**Form E**)

Consequences:

- No CFS for interim payments, only at the end
- Simplified certificate for final payments if contribution $\geq 375,000\text{€}$



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3. Certificate on average personnel costs

- The certificate on the methodology replaces the certificate on average personnel costs
- Report on factual findings using template provided in Annex VII (personnel costs in **Form E**)
- This certificate can be introduced only by email to a functional mailbox
- Intermediate CFS still mandatory if EC contribution $\geq 375,000$ €



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Payment modalities

- 1. Pre-financing** (45 days after entry into force of GA=date of signature by EC)
- 2. Interim payments** based on financial statements (EC contribution= amounts justified & accepted * funding rate)
- 3. Final payment**



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1. Prefinancing

- Article 6 of GA: paid within the 45 days after entry into force of GA
- 60%-80% of maximum EC contribution for projects of two or less periods
- 160% of estimated average EU funding per reporting period ($= \text{max EC contribution} / n^\circ \text{ of periods}$) for projects of three or more periods
- 5% of maximum EC contribution (Art. 5.1 GA) is transferred by the EC from the prefinancing to **Guarantee Fund**
- Coordinator is deemed to have received full prefinancing



2. Interim payments

- **Based on submission of periodic reports** within **60** days after the end of each reporting period including:
 1. Overview of the progress of work
 2. Report on the use of the resources
 3. Form C for each beneficiary (financial statement)
 4. Summary Financial Report consolidating claimed EC contribution of all beneficiaries
 5. Certification of costs if needed (cumulative EC contribution $\geq 375,000\text{€}$)
- *Community financial contribution* corresponding to the amount **accepted** for each reporting period
- Prefinancing+Interim payments $\leq 90\%$ of max. EC contribution
- EC has **105** days after reception of reports to evaluate and execute the payment: EC may approve, suspend the time limit, reject (possible termination of the project) or suspend the payment



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3. Final payment

- Final reports to be submitted by coordinator **60** days after end of project:
 1. Publishable summary report, conclusions and socioeconomic impact
 2. Report on wider societal implications and a plan on use and dissemination of foreground
 3. Forms C for each participant + Summary Financial Report
 4. Report on the distribution of the EC contribution 30 days after receipt of final payment
- Final amount recovers 10% retention + 5% to GF
- Final total Community contribution \leq Total eligible costs + Receipts



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Guarantee Fund

- In FP7, no financial **but** technical collective liability
- Establishment of a participant's **Guarantee Fund** to cover risks: 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 per project
- Financial interest generated by the Fund will serve to cover financial risks
- In principle the amount contributed to the Fund will be reimbursed at the end of the action



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Example

Project duration: 36 months

Reporting periods (18-month rule):

- » P1: Months 1-18
- » P2: Months 19-36

Maximum EC contribution: 3.000.000 €

90% rule → Prefinancing + Interim payments ≤ **90%** of EC contribution = **2.700.000€**

- **Pre-financing** (60%) → 1,8 Mio€ - 150.000€ to GF = 1.650.000€ → *The coordinator is deemed to have received 100% of the prefinancing*
- **1st Interim payment** 1Mio€ accepted but payment → 900.000€ (90% rule → 1,8Mio € + 900,000 € = 2,7Mio €)
- **Final payment (the left-over)** really paid 2,550.000€: 150,000 from GF + 300,000 left-over = 3,000.000€



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Amendments

- The **budget breakdown** table included in Annex I-DoW to the GA is an **estimate**: the transfer of budget between activities and beneficiaries is allowed **without the need for an amendment** with the condition that the work is carried out as foreseen in Annex I and the maximum EC contribution in the GA is not increased
- Coordinator requests amendments on behalf of the consortium or can accept an amendment proposed by the Commission



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Open access pilot project

- EC pilot project (covering 20% of the FP7 budget: health, energy, environment, social sciences and information and communication technologies) to give **unrestricted online access to EU-funded research results** (primarily research articles published in peer reviewed journals) after an embargo period of 6-12 months
- SSH grant agreements will have « open access » special clause 39





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Information

- **FP7 Helpdesk →**
<http://ec.europa.eu/research/enquiries>
- **FP7 Documents and guidance →**
http://cordis.europa.eu/fp7/find-doc_en.html



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Thanks for your attention

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