



# Horizon 2020 – SME Instrument

European Innovation Council (EIC) pilot

Experts Briefing Part 3 – Subcontracting

# General rules under H2020

Art.13 of the General Model Grant Agreement (GMGA):

*"If necessary to implement the action, the beneficiaries may award subcontracts covering the implementation of certain action tasks".*

!! The SME Instrument Phase 2 actions **have some specificities.**

# General rules under H2020

- Subcontracting is **based on "business conditions"**. The subcontractor charges a price which usually includes a profit;
- The **subcontractor works without the direct supervision of the beneficiary** and is not hierarchically subordinated;
- **The responsibility towards the EC** for the subcontracted work **lies fully with the beneficiary**;
- **Subcontractor has no rights or obligations** towards the EC or other beneficiaries.

# SME Instrument specificities

- Subcontracting **is NOT restricted** to a limited part of the action.
- The beneficiaries have the right to **commercially exploit** the **results** generated by subcontractors (by transfer of intellectual property rights, licence or other).
- Compliance with **best value-for-money** must be **assessed during the evaluation** of the proposal.

# Best value-for-money assessment

## Why is the assessment of the best value-for-money so crucial?

- If a proposal is funded, **compliance with best value for money** in subcontracts **cannot be challenged** by future audits.
- It is of utmost importance that you carefully evaluate the merit of the subcontracting activities proposed.

# What to look for in the proposal

- **The tasks to be implemented** which are the works to be performed by a subcontractor (Part B);
- **An estimation of the costs** for each subcontract (Part B) and the total estimated costs for subcontracting per beneficiary (Part A). A complete costs table should be included;
- **A justification** for the need for a subcontract (Part B);
- **The Procedure** to select the best price-quality ratio.

# Best price-quality ratio assessment

**We are using public money and we are looking for the best price-quality ratio!**

- Costs must be reasonable and comply with the principle of **sound financial management**.
- This can be ensured by applying **a competitive selection** procedure and/or **demonstrating** how the **best value for money** is ensured.
- The price is an essential aspect but it is not automatically necessary to select the lowest price.
- The criteria defining "quality" must be clear and coherent with the purposes of the action tasks that are subcontracted.

# Important information

**Contractual arrangements** with the subcontractors to be mentioned to ensure compliance with the following obligations:

- Avoiding conflict of interest;
- Maintaining confidentiality;
- Promoting the action and give visibility to the EU funding;
- Liability for damages

This is an **added value in the proposal !!!**

# Things to watch out for

- **Subcontracting between beneficiaries** is NOT allowed.
- **Subcontracting to affiliates** is NOT allowed.
- **Coordination tasks** can NOT be subcontracted;
- **Existing contracts or subcontracts** must comply with best value-for-money and absence of conflict of interest.

# How to assess best value-for-money

If **subcontractors are known**, you should ensure that there are sufficient details for:

- The action tasks, the award procedure, the name of the subcontractor, the price and object, the explanation why the subcontractor and the price are appropriate.

If **subcontractors are unknown**, you should ensure that there are sufficient details for:

- The action tasks, the estimated budget, the procedure that will be followed to ensure best value-for-money.

If the above information is not provided, this shall be reflected in your assessment of the Quality & efficiency of implementation criterion.

# Your options in the IER

## Task 1 \*

No or lack of explanation  Yes

In case of non-compliance with "best value for money", please provide a short explanation and specify the subcontracting activity name/number as well as the page of the proposal where it is mentioned.

**NOTE:** If you are negatively assessing this subcontracting task, please make sure to lower the total score of Criterion 3 - Quality and efficiency of implementation to below threshold, in other words, less than 4.

To that effect, lower the scores given in the two first sub-criteria of Criterion 3 and align their comments with your assessment of the contracting tasks (NB: positive comments are incompatible with a negative assessment of the subcontracting task(s))

For each subcontracted task, there are **two** options:

- **Yes**
- **No or lack of explanation**

By default, the task is set to '**yes**' even when the proposal does not include any subcontracting. If there are no subcontractors in the proposal you shall not change this default "yes".

# Your options in the IER

When you indicate “**No or lack of explanation**”:

- You have to **justify and reflect** this in the assessment, in the Quality & Efficiency of Implementation criterion (score below the threshold: <4). The justification is essential to ensure a fair and transparent evaluation process and you have 4000 characters at your disposal for each subcontracted task.
- You have to **assess each subcontractor separately**. Cumulative assessment of all subcontractors is not allowed.
- The **distinction between known and unknown** subcontractor is crucial.

## 3 main points to bear in mind

- We are using **public money** and we want to award only the best SMEs;
- Subcontracting is **NOT** restricted to a limited part of the action but it is in the **SME Instrument spirit** that **the applying SME has the capacity** to carry out the activity;
- Compliance with **best value-for-money** must be **assessed** during the evaluation of the proposal and **cannot be challenged** by future audits.

# Example of good subcontracting

## Known subcontractor

### RED S.P.A.

The subcontractors will provide for the right of "the applicant" to **commercially exploit the results generated** during the subcontract implementation.

### Tasks subcontracted:

- Task 4.2 Quality Plans
- Task 4.4 1st stage of prototype construction on dry dock; load out
- Task 4.5 2nd stage of prototype construction from harbour pier
- Task 4.6 Coordination for supply and implementation of tower and nacelle

Price: 380.000 €

Description of the tasks: RED S.P.A. will be responsible for..... The works will last 3 months.

### Procedure to select RED S.P.A.:

- Identification of 3 or more companies specialised in... and located in our geographical area;
- Request for price offer of costs, the time requested for the work and the years of experience;
- Selection of the best offer in terms of costs, time requested and years of experience.

### Justification for the choice of RED S.P.A.:

RED S.P.A. fulfils the criteria indicated in the selection procedure. Beside this, the company has already collaborated in the construction of .....and is heavily familiarized with the construction of the..... RED S.P.A. has also experience in the .....one of the most critical aspects in the construction of concrete wind towers.

# Example of good subcontracting

## Unknown subcontractor

### Task to be subcontracted

Design of prototype filtration device and manufacture by rapid prototyping technology for laboratory evaluation.

### Description of the selection procedure

To ensure the compliance with the best value for money principle, we will:

- Prepare an estimate of the costs for this type of work and a full specification of the work to be subcontracted.
- Launch a call for expression of interest to all the companies specialised in..and located.....
- Select the best company according to the following criteria: 1)prices; 2)time requested; 3) years of experience; 4)previous participation to public funded activities; 5) years of guarantee.
- Sign an agreement for the commercial exploitation of the results.

# Example of bad subcontracting

## Known subcontractor

### Yellow LTD

#### Tasks subcontracted:

This company will follow all the works requested to build the earth dry-dock.

Price: 780.000€ - 2.500.000€

Description of the tasks: Yellow LTD will carry out all the works.

#### Procedure to select Yellow LTD:

Yellow LTD is a construction company located near our premises. Yellow LTD is well known and with successful previous experiences.

## Not enough information !!!

# Example of bad subcontracting

## Unknown subcontractor

### Task to be subcontracted

Clinical trials to provide evidence of the performance of the Cell Filtration Device and the Slide reading software.

### Description of the selection procedure

We will seek two companies located in two different areas. We will choose the best offer in terms of price, quality, etc.

**Not enough information !!!**