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Info-day on European research activities concerning CSOs

Rules of participation and the Model Grant Agreement

**European Commission
Research DG - Directorate L
Unit L5 - Administration and Finances**

Brussels, 02.03.2007

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Overview

- **Who can participate**
- **Funding schemes**
- **Who can receive funding**
- **Certification of costs and on the methodology**
- **The Guarantee Fund**
- **Grant agreement**
- **IPRs**



Important definitions

- **Public body:**
 - any legal entity established as such by national law, and international organisations.
- **Research organisation**
 - a legal entity established as a non-profit organisation which carries out research or technological development as one of its main objectives.
- **Non-profit entity**
 - When considered as such by national or international law
- **Civil Society Organisation (CSO)**
 - Any legal entity that is non governmental, non-profit, not representing commercial interests and pursuing a common purpose in the public interest



Important definitions⁽²⁾

- **Higher and secondary education establishments**
 - Includes universities, schools for applied sciences and similar.
- **SMEs**
 - Micro, small and medium-sized enterprises within the meaning of Recommendation 2003/361/EC in the version of 6 May 2003 (OJ L 124, 20.5.2003, p. 36).
- **International cooperation partner countries:**
 - FP6 INCO countries – three categories according to income per capita will be identified as such in the work programmes
 - low-income, lower-middle-income, or upper-middle-income.



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WHO can participate?

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Who can participate?

- Any undertaking, university or research centre or other legal entity, whether established in a:
 - Member State (MS)
 - Associated country (Ac) , or
 - Third country
- Joint Research Centre (JRC) - is deemed to be established in another MS or Ac
- International organisations and participants from third countries can participate only if in addition to the minima



Conditions for participation

- ***Minimum condition:*** general rule, at least 3 independent participants from 3 different MS or Ac. ***Additional conditions*** can be established for CSOs funding scheme:
 - **SSH Call:**
 - At least 3 civil society organisations (CSO) established in at least 3 Member States (MS) or Associated Countries (AC), **or**
 - one European network of CSO established in a MS or an AC (made up of at least three CSO established in 3 MS or AC), **and**
 - at least 2 RTD performers (having the capacity to carry out research at the request of CSO), independent from any other participant
 - **ENV Call**
 - At least 3 independent legal entities, each of which is established in a MS or AC. At least 1 of the legal entities has to be a civil society organisation (CSO).



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Funding schemes

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Funding Schemes

- **Collaborative projects**
 - Range: from small or medium-scale focused research actions to large-scale integrating projects for achieving a defined objective.
- **Research for the benefit of specific groups**
 - Projects should also target specific groups such as CSOs and other actors (**SMEs**)
- **Coordination and support actions**
 - Support for activities aimed at coordinating or supporting research activities and policies (networking, exchanges, trans-national access to research infrastructures, studies, conferences, etc.).



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WHO can receive funding?

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Eligibility for funding

- Legal entities from MS and Ac or created under Community law and the 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 ICPC only if:
 - provided for in SP or WP; or
 - their contribution is essential for carrying out action; or
 - provision for funding is provided for in a bilateral agreement between Community and the third country



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Upper funding limits (1)

- Reimbursement according to the type of action and/or activity
- **Research and technological development *activities*:** up to **50%** of eligible costs, or up to **75%** for:
 - *Non profit* public bodies
 - secondary and higher education establishments
 - research organisations
 - SMEs
 - Security-related research, for development of capabilities with very limited market size and a risk of market failure and for accelerated equipment development in response to new threats
- **Demonstration *activities*:** up to **50%**



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Upper funding limits (2)

Actions that will be reimbursed up to 100%:

- **Coordination and support actions**
- ***Other activities:***
 - **management activities , training, coordination, networking and dissemination**



Maximum reimbursement

Maximum reimbursement rates of eligible costs	Research and technological development (*)	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 operational activities directly related to the protection of foreground and coordination of research activities.

(**) Other activities means any "specific activity" covered by Annex I.

(***) 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.



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Reimbursement of eligible costs

- Most funding schemes, particularly at beginning of FP7 will use reimbursement of **eligible** costs

Eligible:

- Actual (average personnel costs may be used if do not differ significantly from actual costs)
- Incurred within the duration of project
- In accordance with the beneficiary usual accounting and management principles
- Recorded in the accounts of beneficiary

NEW

- Used for the sole purpose of achieving the objectives of the project

Non-eligible

- identifiable indirect taxes including VAT (among others...)



Direct Cost

- Participants may charge eligible **direct** and **indirect** costs
- Reimbursement of **direct costs**:
- Average personnel costs accepted if:
 - Consistent with the management principles and accounting practices
 - they do not significantly differ from actual personnel costs, and
 - if identified according to a methodology approved by the Commission (**NEW**)



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Indirect Cost

- Reimbursement of **indirect costs**:
 - For all:
 - either actual overhead, or simplified method, or
 - flat rate of 20% of direct costs
 - For Non profit Public Bodies, Secondary and Higher Education establishments, Research Organisations, and SMEs unable to identify real indirect costs
 - may apply for a flat rate of **60%** for funding schemes with Research, Technological Development & Demonstration (calls published up to 31.12.2009. 40% from 01.01.2010 to 31.12.2013)
 - For Coordination and Support Actions
 - limit of **7%** of direct costs



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Certification of costs and on the methodology

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Certification on financial statements

- Mandatory for beneficiaries when its requested funding reaches **375,000 Euro**
 - except for project of 2 years or less: CFS submitted at the end.
- If above the threshold, mandatory for every beneficiary, except if a **certification on the methodology** is provided



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Certification on the methodology

- It aims at certifying the methodology of calculating (average) personnel costs and overhead rates
- Waives the obligation of certificates for interim payments
- Simplified certificate for final payments
- Valid throughout FP7, on a voluntary basis, but must be accepted by the EC
- Particularly aimed at legal entities with multiple participation



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Who can provide these certificates?

- Qualified auditors under the 8th Directive on statutory audits
- Independent
- Public bodies, secondary and higher education establishments and research organisations may opt for a competent public officer



Third parties

- **Third parties carrying part of the work**
 - **Subcontracts:** tasks have to be indicated in Annex I
 - Awarded according to best value for money
 - External support services may be used for assistance in minor tasks (not to be indicated in Annex I)
 - **Specific cases:** EEIG, JRU, affiliates carrying out part of the work (special clause)
- **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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The Guarantee Fund

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Implementation

- Participants are **technically responsible** to carry out the project jointly and severally towards the Community and have to carry out the work of a defaulting participant
- But: **no more collective financial responsibility as under FP6**
- Instead: establishment of a **participant Guarantee Fund** to cover risks



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Risk avoidance mechanism (1)

Participant **Guarantee Fund** (“the Fund”):

- **All beneficiaries contribute to the Fund** to insure against losses of a defaulting participant
- **The contribution shall not exceed 5%** of the EC financial contribution due to each participant
- Financial interests generated by the Fund will serve to cover financial risk
- In principle this amount will be reimbursed at the end of the action



Risk avoidance mechanism (2)

- Only if interests are insufficient, Commission may deduct up to **1%** from the Community financial contribution to be returned
- This retention will not apply to public bodies, entities guaranteed by a MS or Ac, and higher and secondary education establishments
- Exoneration of verification of financial viability of participants (excluding Coordinators) requesting less than **500.000 EUR**
- No bank/financial guarantee may be requested
- The Commission has to establish the Guarantee Fund and its modalities of implementation



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Grant agreement

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Terminology

Sources: Financial Regulation/Implementing Rules, FP7 and Rules for Participation

- “Contract” becomes “Grant Agreement”
- “Contractor” becomes “Beneficiary”
- “Instruments” become “Funding Schemes”
- “Audit certificate” becomes “Certificate on Financial Statement”
- The results of the project (knowledge in FP6) becomes “Foreground”
- Pre-existing know-how becomes “Background”



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Similarities with FP6

- Signature by coordinator & Commission
- Accession of beneficiaries via “Form A”
- Later accession of beneficiaries via “Form B”
- Entry into force upon signature by coordinator & Commission



Similarities with FP6 ⁽²⁾

- **Structure:**
 - Core part: GA parameters,
 - Annex I: DoW,
 - Annex II: General Conditions,
 - Annex III: Specific provisions for funding schemes
 - Annex IV, V & VI: Form A, B & C
 - Annex VII: Form D: terms of reference for the certificate of costs and Form E: certificate on the methodology (**NEW**)



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Differences & improvements with FP6

- **Financial provisions**
 - Payment modalities
 - Eligible costs
 - Indirect costs
 - Certificates
 - Third parties
 - Upper funding limits
 - No financial collective responsibility
- **Other provisions**
 - Reporting



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Payment modalities

- One **pre-financing** (within 45 days following the date of entry into force) for the whole duration of the action
- **Interim payments** based on financial statements (EC contribution= amounts justified & accepted * funding rate)
- Retention (10%)
- **Final payment**



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Consortium agreement

- Unless **exempted by the call for proposals**, participants will have to draw up a “consortium agreement”, to govern the following:
 - The internal organisation of the consortium
 - The distribution of the Community financial contribution
 - Additional rules on dissemination and use including intellectual property rights arrangements, as appropriate
 - The settlement of internal disputes.



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Reporting

- 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 (Form C)
- 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
- 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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Intellectual Property Rights

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General application

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Ownership

- **Basic rule:**

- Foreground arising for work carried out shall be the property of the participant carrying out the work generating that foreground

- **Joint ownership**

- Where several participants have jointly carried out work generating the foreground and where their respective share of the work cannot be ascertained, they shall have joint ownership of that foreground



Ownership

- **Introduction of a default regime in joint ownership cases**
 - Each of the joint owners shall be entitled to grant non-exclusive licenses to third parties, without any right to sublicense, subject to both prior notice and fair and reasonable compensation to the other joint owner(s). Participants may agree on another regime which is preferable to them.
- **Employees' scope is widened**
 - employees, scholars, collaborators may claim to the results but the beneficiary should ensure that the obligations assumed by the Grant Agreement are not prejudiced.



Ownership⁽²⁾

Much more autonomy on the contractor's part regarding transfer of ownership

- Obligation of notifying participants (not the Commission), who can even waive their right to be notified in advance with respect to transfers towards a specifically identified third party.
- Notification of the Commission may be foreseen by the grant agreement, where appropriate.
- Commission's right to object to a transfer/granting of access rights:
 - the rule now applies only in relation to a plan for transferring foreground or for granting an exclusive licence to foreground to a third party not established in a country associated to the FP7.



More room for negotiation between contractors

- Beneficiaries may transfer results to other participants if they are not interested in protecting the results themselves, which implies a transfer of ownership
 - If no beneficiary is interested, the CE may take over these duties.
 - In any case, no dissemination activities may take place before informing the CE of the lack of interest
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- **Specific provisions on publication disappear**



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Protection₍₂₎

- **Enhanced visibility of EC support**
 - Any publication or any other dissemination activity, patent applications filed and patents issued on the results shall include a statement specifying that the foreground in question was made with assistance of financial support from the European Community.



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Use & Dissemination

- **Simplification of dissemination rules**
- **Publication is now included within the dissemination activity**
- **Participants are obliged to notify other participants before any dissemination activity.**
- **Objection is possible if they consider that their legitimate interests in relation to their foreground or background could be affected.**



Access Rights

Simplification of the regime and increased protection of participants' interests.

- **Participants will define the background needed for the purpose of the project, and where appropriate, exclude specific background: positive lists are allowed**
- **Access rights for use granted either under fair and reasonable conditions or royalty-free.**
- **The period during which access rights for use may be requested is reduced from 2 years to 1, unless the participants agree differently**



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Access Rights ⁽²⁾

- **Introduction of provisions on exclusive licences**
 - Exclusive licensing is expressly accepted (both for foreground and background) but is conditional on all participants waiving their access rights to the specific resource and confirming this in writing.



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Particular provisions for the funding scheme ‘Research for the benefit of specific groups

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Particular provisions for Research for the benefit of specific groups

- The specific groups benefiting from these actions have the joint ownership of all foreground generated.
- If the owner of foreground is not a member of the group benefiting from the action, it shall ensure that the group is granted all rights necessary in order to use and disseminate said foreground.
- If beneficiaries of these actions are represented by a legal entity, sublicensing is expressly accepted. In such cases, the legal entity shall be entitled to sublicense any access rights granted to it to those of its members established in a MS or an Ac



Particular provisions for Research for the benefit of specific groups (2)

- **Access rights to background for implementation of indirect actions**
 - shall be granted to the other participants in the same indirect action if it is needed to enable those participants to carry out their own work under that indirect action provided that the participant concerned is entitled to grant them.
- **RTD performers shall grant access rights to background on a royalty-free basis.**



Particular provisions for Research for the benefit of specific groups ⁽³⁾

- **Access Rights for Use**

- Subject to the agreement of all the owners concerned, access rights to foreground shall be granted to a RTD performer, on fair and reasonable conditions to be agreed, for the purposes of pursuing further research activities.
- RTD performers shall grant access on a royalty-free basis, or on fair and reasonable conditions to be agreed prior to the signing of the grant agreement, to background needed to use the foreground generated in the indirect action.



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Information

- EU research: <http://ec.europa.eu/research/>
- Seventh Framework Programme:
http://ec.europa.eu/research/future/index_en.cfm
- Information on research programmes and projects:
<http://cordis.europa.eu/>
- RTD info magazine:
<http://ec.europa.eu/research/rtdinfo/>
- **FP7 Helpdesk →**
<http://ec.europa.eu/research/enquiries>



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- These slides are based on the rules and conditions contained in the legal documents relating to FP7 (in particular the seventh Framework Programme, Specific Programmes, Rules for Participation and the Work Programmes), all of which can be consulted on Cordis.
- These slides do not in themselves have legal value, and thus does not supersede those documents



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**Thank you very much for your
attention and...
good luck!**

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