Basic information on financial issues in H2020: what do I need to know for drafting a consortium agreement?

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• LEGAL FRAMEWORK
• GRANT AGREEMENT
• CONSORTIUM AGREEMENT
• FINANCIAL ISSUES
• IPR
Legal Framework

Consortium Agreement

Legal Framework

Financial Regulation – Reg. 966/2012 de 25 de outubro

Rules for Participation – Reg. 1290/2013 de 11 de dezembro

Work Programme

Coordinator

Partner 1
Partner 2
Partner 3
Partner 4

Subcontract
Licences

Other parties

NDA
Confidentiality Agreement
Etc
CA is a complement for GA

Grant Agreement
- Core Text
- Annex 1
- Annex 2
- Annex 4

Annex 1 (technical annex)
- Excellence
- Impact
- Implementation

Consortium Agreement
- Implementation
- Follow Up
- Management structure
- Financial issues
- Technical implementation
- etc

Grant Agreement
Grant Agreement

Chapter 1: General
- Single article: subject of the agreement

Chapter 2: Action
- Action, duration and budget

Chapter 3: Grant
- Amount, reimbursement rates, eligible costs

Chapter 4: Rights and obligations
- To implement the action: resources, in-kind contributions, subcontracts
  - Grant administration: reporting, payments, audits
  - Background and results: access rights, protection of results, exploitation, dissemination
  - Others: gender equality, ethics, confidentiality

Chapter 5: Division of roles
- Roles and responsibilities, internal arrangements

Chapter 6: Rejection, reduction, penalties, termination, etc.
- Rejection, reduction, recovery and penalties
- Suspension and termination of the action

Chapter 7: Final provisions
- Accession, entry into force, amendments, applicable law

GA annexes

Annex 1: Description of the action
Annex 2: Estimated budget
Annex 3: Accession forms of beneficiaries
Annex 3a: Declaration joint liability of third parties
Annex 4: Model financial statements
Annex 5: Model certificate on financial statements
Annex 6: Model certificate on the methodology
Grant Agreement – Financial issues on the Core text

**Budget**

Article 4 — Estimated Budget And Budget Transfers.
4.1 Estimated budget.
4.2 Budget transfers

**Grant**

Article 5-grant amount, form of grant, reimbursement rates and forms of costs

**Eligible Costs**

Article 6 - Eligible and Ineligible costs

**Reporting and Payments**

Article 18 — Keeping Records — Supporting Documentation
Article 19 — Submission Of Deliverables
Article 20 — Reporting — payment requests
Article 21 — Payments and payment arrangements

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Consortium Agreement

ARTICLE 41 — DIVISION OF BENEFICIARIES’ ROLES AND RESPONSIBILITIES
41.1 Roles and responsibilities towards the EC/REA/EASME
41.2 Internal division of roles and responsibilities
41.3 Internal arrangements between beneficiaries — Consortium agreement

- Internal organisation of the consortium;
- Management of access to the electronic exchange system;
- Distribution of EU funding;
- Additional rules on rights and obligations related to background and results;
- Settlement of internal disputes;
- Liability, indemnification and confidentiality arrangements between the beneficiaries.

The consortium agreement must not contain any provision contrary to the Agreement.
1. Excellence

2. Impact
2.1 Expected impacts
2.2 Measures to maximise impact
   a) Dissemination and **exploitation of results**
   b) Communication activities

3. Implementation
3.1 Work plan — Work packages, deliverables
3.2 **Management structure, milestones and procedures**
3.3 Consortium as a whole
3.4 Resources to be committed

**Consortium agreement**
Article 41.1

The beneficiaries are jointly and severally liable for the technical implementation of the action as described in Annex 1. If a beneficiary fails to implement its part of the action, the other beneficiaries become responsible for implementing this part (without being entitled to additional funding)

Article 5.2 (*): A Party’s aggregate liability towards the other Parties collectively shall be limited to Insert: once or twice the Party’s share of the total costs of the Project as identified in Annex 2 of the Grant Agreement provided such damage was not caused by a wilful act or gross negligence.

The EU funding belongs to the Commission until the final payment

(*) DESCA version 1.2, March 2016
Guarantee Fund

Article – 21.2 Pre-financing payment — Amount retained for the Guarantee Fund (GA)

Partners are not liable each other on financial terms

Important on case of bankruptcy
6.4.2 In particular, the Coordinator shall be responsible for:

- monitoring compliance by the Parties with their obligations
- collecting, reviewing to verify consistency and submitting reports, other deliverables (including financial statements and related certifications) and specific requested documents to the Funding Authority
- administering the financial contribution of the Funding Authority and fulfilling the financial tasks described in Section 7.3
The financial contribution of the Funding Authority to the Project shall be distributed by the Coordinator according to:

- the Consortium Plan
- the approval of reports by the Funding Authority, and
- the provisions of payment in Section 7.3.

7.1.2 Justifying Costs
In accordance with own usual accounting and management principles and practices,

Article 6 (GA)
in accordance with the accounting standards applicable in the country where the beneficiary is established and with the beneficiary’s usual cost accounting practices.

7.1.3 Funding Principles
A Party that spends less than its allocated share of the budget as set out in the Consortium Plan...will be funded in accordance with its actual duly justified eligible costs only.

7.1.4.1 In any case of a Party having received excess payments, the Party has to return the relevant amount to the Coordinator without undue delay.

4.2 Budget transfers (GA)
The estimated budget breakdown indicated in Annex 2 may be adjusted—without an amendment (see Article 55)—by transfers of amounts between beneficiaries, budget categories and/or forms of costs set out in Annex 2, if the action is implemented as described in Annex 1.
Art. 7.1.4 Return of excess payments; receipts

Examples

- Conference fees
- Equipment sold
- Etc

Receipts generated by one beneficiary may result in a reduction of the grant due to the application of the non-profit rule (see Article 5.3.3 of the H2020 model Grant Agreement).

21.7 Payments to the coordinator — Distribution to the beneficiaries

Payments to the coordinator will discharge the [Commission][Agency] from its payment obligation. The coordinator must distribute the payments between the beneficiaries without unjustified delay.

7.3.1 Payments to Parties are the exclusive tasks of the Coordinator.

The Coordinator shall:
- notify the Party concerned promptly of the date and composition of the amount transferred to its bank account
- perform diligently its tasks in the proper administration
Financial provisions - payment schedule

Pre-financing | Interim Payments | Final Payment

The Coordinator should define a payment strategy according to the Gant Chart and to the funding availability.

The payment schedule, which contains the transfer of pre-financing and interim payments to Parties, will be handled according to the decisions of the General Assembly.

Payment Example

...partners should always receive enough contribution to be able to carry out their work as foreseen without having to do advance payments themselves.

<table>
<thead>
<tr>
<th>Grant</th>
<th>Guarantee Fund</th>
<th>Pre-Financing</th>
<th>Coordinator Withhold (art. 7.3.2)</th>
<th>Available for distribution</th>
<th>Available per partner</th>
</tr>
</thead>
<tbody>
<tr>
<td>100.00</td>
<td>5.00</td>
<td>42.50</td>
<td>4.25</td>
<td>38.25</td>
<td>9.56</td>
</tr>
</tbody>
</table>

Final Payment

<table>
<thead>
<tr>
<th>Available for the Coordinator</th>
</tr>
</thead>
<tbody>
<tr>
<td>10.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Available for the Coordinator</th>
</tr>
</thead>
<tbody>
<tr>
<td>13.81</td>
</tr>
</tbody>
</table>
## Intellectual Property Rights

## Access Rights

During and after the end of the project

<table>
<thead>
<tr>
<th>Background</th>
<th>Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>Needed to carry out the project (“Implementation”)</td>
<td>Royalty-free, unless otherwise agreed before the Grant Agreement is signed</td>
</tr>
<tr>
<td>Needed to exploit own project results (further R&amp;D and commercialisation)</td>
<td>Fair and reasonable conditions</td>
</tr>
</tbody>
</table>
Means appropriate conditions, including possible financial terms or royalty-free conditions, taking into account the specific circumstances of the request for access, for example the actual or potential value of the Results or Background to which access is requested and/or the scope, duration or other characteristics of the exploitation envisaged.

Article 29.2 Open access to scientific publications
Each beneficiary must ensure open access (free of charge, online access for any user) to all peer-reviewed scientific publications relating to its results

Self-archiving (also called’ Green open access) means that the published article or the final peer-reviewed manuscript is archived by the researcher – or a representative - in an online repository before, after or alongside its publication. Access to the article is often – but not necessarily - delayed (’embargo period’)as some scientific publishers may wish to recoup their investment by selling subscriptions and charging pay-per-download/view fees during an exclusivity period

Open access publishing (also called’ Gold open access) means that an article is immediately provided in open access mode by the scientific publisher. The associated costs are shifted away from readers, and instead to (for example) the university or research institute to which the researcher is affiliated, or to the funding agency supporting the research.
Examples of costs

- Consulting fees
- Fees paid to the patent office for patent registration
- IP Attorney fees
- Royalties paid for IP access rights
- Freedom to operate study – if foreseen on annex 1

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