

Fuel cells and hydrogen

Joint undertaking

Communication campaign

Most common issues identified: - 3rd Parties
- Indirect Costs

Third parties & other sensitive relations

Link with the project	Legal situations
Carry out the projects (core tasks)	A. Beneficiary
Carrying out work (core tasks)	B. A third party working as a sub-contractor
	C. A third party linked to a beneficiary working under special clause 11
Not carrying out work but making available resources (e.g. staff or giving access to laboratories)	D. A third party making available resources for free
	E. A third party making available resources and being reimbursed by the beneficiary

Subcontracts (1)

– Who ?

- Works under business conditions with profit purpose
- Not subordinated to nor under supervision of beneficiary
- Not another beneficiary
- Not an affiliate

– In What Conditions ?

- Limited and non core part of the project
 - Not R&D
 - Not the coordinator's tasks
- Tasks and amount indicated and justified in technical annex
- Beneficiary remains responsible
- If IP, it must belong to beneficiary
- Best value for money, transparency and equal treatment
 - ⇒ Several bids (or public procurement)
 - ⇒ Except for pre-existing framework agreement

Common errors:

- Subcontracting costs (core tasks) are claimed without being indicated in the DoW (technical annex-I). If not in the DoW, request approval/amendment.
- Subcontracting costs (minor tasks e.g. website, catering etc) are claimed as other direct costs. To be claimed under subcontracting cost category
- Subcontracting between beneficiaries is not allowed. If beneficiary A (the “seller”) sells to beneficiary B (the “buyer”), then it is the beneficiary A (and not the beneficiary B) to claim the costs (NB without any mark-up and profit, only the costs)

Consultants: sub-contractor or personnel?

Personnel costs

Subcontract

if the following cumulative criteria :

- beneficiary has a contract with a person to work tasks under the FCH JU project,
- person must work under the instructions of the beneficiary + in the premises of the beneficiary
- the result of the work belongs to the beneficiary
- costs of employing the consultant not significantly different from the employees
- The remuneration is based on working hours rather than on the delivering of specific outputs/products and should be recorded in the accounts of the beneficiary,
- Travel and subsistence costs related to such consultants' have to be paid directly by the beneficiary in order to be eligible.
- Not a criteria: whether the consultants are self-employed or employed by a third party,

if hiring consultants to perform part of the work & the conditions of Art. II.7 of FCH JU GA are fulfilled:

- Sub-contracting agreement based on business conditions w/ profit included
- Sub-contractors do not have any IPR or ownership rights on the deliverables
- does not usually work on the premises of the beneficiary and is not under the direct instruction /hierarchical supervision by Beneficiary
- remuneration based on the delivering of specific outputs/products rather than on working hours ;
- Sub-contracting between beneficiaries of the GA cannot be tolerated.

Third parties under special clause 11

– Who ?

- EEIG, Joint research unit, affiliates and groupings carrying out part of the work.

Common error: 3rd party not identified in the GA with SC-11

– In what conditions

- tasks to be indicated in Annex I
- Beneficiary retains sole responsibility
- Financially, third party treated as a beneficiary

Common error: Costs claimed by the beneficiary whereas incurred by the 3rd party and recorded in its accounts.

Third parties making available resources

– Who ?

- Typical example : a third party giving access to its lab and lab staff.

– In what conditions

- Third party and its contribution to be indicated in Annex I
- Two types:
 - Third party making available resources free of charge. The beneficiary may claim costs on condition that (a) these costs are recorded in the accounts of the 3rd party and be auditable, (b) the equal amount to be declared as receipt. **Common errors: receipts not declared, indirect costs are claimed for personnel made available from a third party to a beneficiary but not working in the premises of the beneficiary.**
 - Third party making available resources and being reimbursed by a beneficiary. **Common error: the 3rd party reimbursement (and thus the cost claim by the beneficiary) does not only cover costs but also profit for the 3rd party**

Indirect Costs

Indirect costs are all those **eligible** costs which cannot be identified by the beneficiary as being directly attributed to the project, but which can be identified and justified by its accounting system as being incurred in direct relationship with the eligible direct costs attributed to the project


Costs excluded

- Identifiable indirect taxes including VAT
- Duties
- Interests owed
- Provisions for possible future losses or charges
- Exchange losses, costs related to return on capital
- Costs declared or incurred, or reimbursed in respect of another FCH JU or EU/Euratom project
- Debt and debt service charges, excessive or reckless expenditure



Actual indirect costs

Indirect costs are all those eligible costs which cannot be identified by the beneficiary as being directly attributed to the project, but which can be identified and justified by its accounting system as being incurred in **direct relationship** with the eligible direct costs attributed to the project

- ✓ **Linked to the project itself?**
- ✓ **Linked to EU-research projects in general?**
- ✓ **Linked to research in general?** 
- ✓ **Including other activities such as teaching, production or sales?**
- ✓ **Including all indirect costs at the level of the organization?**

Indirect Costs

Methods of calculation

Actual indirect costs

Beneficiaries with an analytical accounting system that can identify their indirect costs and assign them to the different projects and activities

Simplified method

Beneficiaries that cannot aggregate their indirect costs at a detailed level (centre, department), but only at the level of the legal entity

Flat rate 20%

Industry whose accounting systems do not make a distinction between direct and indirect costs

Non-profit public bodies, secondary and High Education establishments and research organisations (optional)

Indirect Costs reimbursement

Identification method	Reimbursement	
Actual indirect costs Including simplified methods	Reimbursement of indirect costs with a max of 20% of direct costs(*)	if indirect costs < 20% of DC(*) => reimbursement = actual indirect costs
		if indirect costs >20% of DC (*) =>reimbursement = 20% of DC
	For CSA: same reasoning but 7%	
Flat rate of 20% of direct costs (*)	20% of direct costs (*)	
	For CSA: same reasoning but 7%	

* For this calculation costs of subcontracting and resources made available by third parties outside of beneficiary's premises must be deducted from direct costs



Questions?