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Other Direct Costs. Subcontracts. Third parties

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Background:

In FP 7, one of the most common errors is:

Third parties and subcontracting costs not properly reported.

- Wrong qualification of third party
- Wrong qualification of budget category

Third Parties - a Classification (ART. 8 MGA/ AGA)

Туре	Defintion	Budget Category	
Purchase of goods / services = CONTRACTOR	This category covers all cases in which the participants need additional help or equipment, but carry out the promised project work themselves.	Other direct costs	
SUBCONTRACTOR	The beneficiaries may award subcontracts covering the implementation of certain action tasks described in Annex 1.	Subcontracts	
LINKED THIRD PARTY	Affiliated entities and third parties with a legal link to the beneficiaries may implement the actions tasks attributed to them in the Annex I.	Form C of third party: each type of costs in its corresponding category	
IN KIND CONTRIBUTOR	If necessary to implement the action, the beneficiaries may use in-kind contributions (e.g.: personnel, use of equipment) provided by third parties against payment / for free.	Form C of beneficiary: : each type of costs in its corresponding category	

Project Reporting and Payment

- Periodic Report
 - Periodic technical report
 - Periodic financial report
- Final Report
 - Final technical report summary for publication
 - Final financial report CFSs

The periodic financial report consists of:

- Individual financial statements;
 - Explanation of the use of resources and the information on subcontracting and in-kind contributions;
- A periodic summary financial statement

Periodic Report Template:

http://ec.europa.eu/research/participants/data/ref/h2020/gm/reporting/h2020-tmpl-periodic-rep_en.pdf

Article 20 of the MGA

Budget categories

Α. Ι	Direct perso	nnel costs	B. Direct costs of subcontracting	[C. Direct costs of fin. support]	D. Other direct costs	E. Indirect costs ²
A.1 Employees (o	r equivalent)	A.4 SME owners				
		without salary			D.1 Travel	
A.2 Natural perso	ons under	A.5 Beneficiaries that			D 2 Favriane aut	
direct contract		are natural persons without salary			D.2 Equipment	
A.3 Seconded per	rsons				D.3 Other goods	
[A 6 Personnel fo	r providina				and services	
[A.6 Personnel for providing access to research					[D.4 Costs of large research	
infrastructure]					infrastructure]	
Actual	Unit ⁷	Unit ⁸	Actual	Actual	Actual	Flat-rate

In kind contributor:
 Corresponding budget
 category of the beneficiary

• <u>Linked third Party:</u> Individual financial statement, submitted by the beneficiary

Subcontractors: implementing limited parts of the project

Linked third parties Beneficiary Affiliated entities Third parties with a legal link Subcontractors

- Ensure <u>best value for money</u> and avoid any conflict of interests in all cases (eligibility criterion!) NB: Framework contracts insufficient as basis
- Estimated costs and tasks must be identified and justified <u>in the Annex I</u> and Annex II (eligibility criterion!)
- Subcontracting <u>between beneficiaries or</u> <u>to affiliates</u> is NOT allowed
- The Coordinator may not subcontract the <u>management and general</u> <u>administration</u> of the project.
- No indirect costs

A subcontractor <u>carries out a task</u> which is a part of the project and is identified as such in the Annex I

Contractors:

necessary for implementing a task in the project

PURCHASE eneficiarv **CONTRACTS** (goods, works & services) Contributions in kind

- Limited in costs and scope
- Ensure best value for money and avoid any conflict of interests (eligibility criterion!) N.B: Framework contracts insufficient as basis
 - Depreciation and percentage of use
- Contracts between beneficiaries: not allowed as against RfP - the beneficiary who provides the goods/ services should charge the costs of providing, not the price
- Contracts with affiliates: only if it complies with BVFM!
- Generate 25% indirect costs

A contractor does not carry out a task, but provides the goods or services necessary for carrying it out

Contractors and Subcontractors: how to differentiate?

Article 10	Article 13
<u>Contracts</u>	<u>Subcontracts</u>
to purchase goods, works or	
services	
These contracts do not cover the	Subcontracts cover the
implementation of action tasks, but they are necessary to implement action tasks by beneficiaries.	implementation of action tasks; they imply the implementation of specific tasks which are part of the action and are described in Annex 1.
The price for these contracts will be declared as 'other direct costs'— column D in Annex 2— in the financial statement; they will be taken into account for the application of the flatrate for indirect costs.	The price for the subcontracts will be declared as 'direct costs of subcontracting' — column B in Annex 2 — in the financial statement; they will not be taken into account for the application of the flat-rate for indirect costs.

Some examples

Examples of contracts:

- Contract for purchasing a computer (purchase of goods)
- Contract for an audit certificate on the financial statements (purchase of service)
- Contracts for purchasing consumable/ supplies (purchase of goods)
- Contract for an IPR consultant (purchase of service)
- Contracts for dissemination costs of open access (purchase of service)
- Contracts for catering for meetings (purchase of service)
- Setting up a website, if not specifically identified in Annex I as a task in the project

Examples of subcontracts:

- Testing and analysis of the resistance of a new component under high temperatures, if described in Annex I as actions task
- Building a prototype, if defined as action task
- Setting up a website, if defined as action task

Linked Third Parties

Linked third parties

Affiliated entities

Third parties with a legal link

Affiliated entity

- Under the direct or indirect control of the beneficiary
- Under the same direct or indirect control as the beneficiary
- Directly or indirectly controlling the beneficiary

'control' = >50 % shares or majority voting rights or decision-making powers

Linked Third Parties

Beneficiary

Linked third parties

Affiliated entities

Third parties with a legal link

- Must be identified in the GA + Part B
- Same cost eligibility criteria as beneficiaries

 FCH 2 JU may request them to accept joint and several liability for their EU contribution

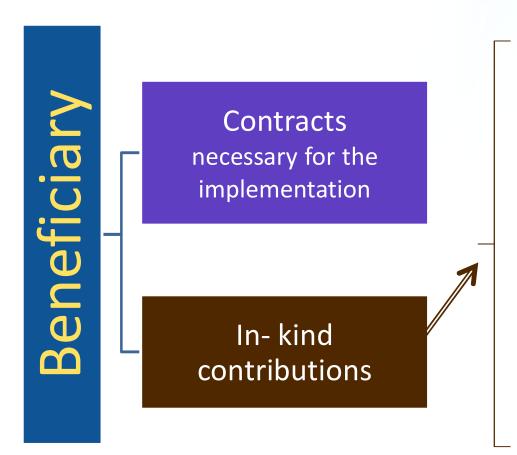
Affiliated entity

Legal link

A legally established relationship **not** specifically created for the Grant Agreement.

It may be in the framework of a legal structure (e.g. the relationship between an association and its members) or through an agreement or contract (not limited to the action).

In-Kind Contributors



- 2 types: free of charge or against payment
- Beneficiaries may declare the costs related to the payment of inkind contributions <u>up to the third</u> <u>parties' costs</u>
- Must be set out in Annex 1
- if not identified in Annex 1, FCH 2 JU may still approve them. HOWEVER: beneficiary bears the risk of rejection
- E.g.: seconded staff, use of equipment

In-kind contributions are <u>non-</u> <u>financial resources of third parties</u> put at the beneficiaries' disposal

Third Parties: Warnings





The beneficiary retains the sole responsibility for the work and the costs declared!

If something goes wrong with the third party, the beneficiary will be responsible



The beneficiary must ensure that FCH2 JU, Commission, OLAF and European Court of Auditors can audit its third parties including subcontractors and providers



In case of an audit to a 3rd party, the beneficiary is also in copy of all relevant communications (announcement of the audit, audit report, etc.)

Case Study

• Situation: you need maintenance services for equipment used in the project which are not available in your company.

Step 1:

Is this a contract or a subcontract?

<u>Step 2:</u>

How do I ensure best value for money and avoid conflict of interest?

Case Study - Answers

- Step 1: contract or subcontract
- difference is substance of the work
 - Is it a task or adjacent?
 - Check the DOW Part B! what is defined as a project activity /task?
 - Step 2: you must demonstrate 'best value for money' for both

(subcontracting and purchases of goods/services)

- The best value for money principle does NOT in all cases require competitive selection procedures.
- Some level of tendering to demonstrate 'best value': e.g. tender, three offers, market survey, etc.
- Naming the supplier in the grant does not mean that you do not have to demonstrate best value
- We will normally accept your standard practices, when properly used

Case Study - One more question...

• Step 3: What happens if the answer is subcontract but the proposed subcontractor is an affiliate?

ANSWER:

Cost of subcontract is not eligible!

WHY?

Because according to the GA: no subcontracting to affiliates or to other beneficiaries!

HOW CAN I CHARGE THIS COST IN THE PROJECT?

An affiliate can be a linked third party to the project, charging its own <u>costs</u>. It must be identified as such in the GA and Annex 1.

THANK YOU FOR YOUR ATTENTION!