

The European Union's Seventh Framework Programme

Overview of FP7 Legal and Financial Rules of Participation

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FP7 Legal and Financial: South Africa

- FP7 general principles
- Financial issues
- Negotiation
- Reporting
- Auditing
- General administration issues
- Legal issues

FP7 basic principles

- Proposals can only be submitted in response to publicly-announced calls for proposals with strict deadlines
<http://cordis.europa.eu/fp7/dc/index.cfm>
- All proposals* are presented by multinational consortia of organisations with one European partner nominated as the Project Coordinator.
- Proposals are evaluated by independent experts
- All proposal coordinators receive an Evaluation Summary Report
- Funding follows successful evaluation, selection and negotiation of grant agreement

* except certain Support actions

Who can participate?

- Participants from EU Member States
- Associate Candidate Countries
- Associate States (International Agreement)
- EU Scientific Cooperation Agreements
- International Cooperation Partner Countries (ICPC) and Third countries specifically outlined in the Work Programme description for a Specific Call

Types of organisations

- Research organisations, Universities
- High-tech Small and Medium Sized Enterprises (SMEs)
- SME Associations (Specific instruments)
- Public Administrations (ERA-NET)
- Individual researchers wishing to work in another country (Marie Curie)
- Institutions running a research facility of multi-national interest

Organisation registration

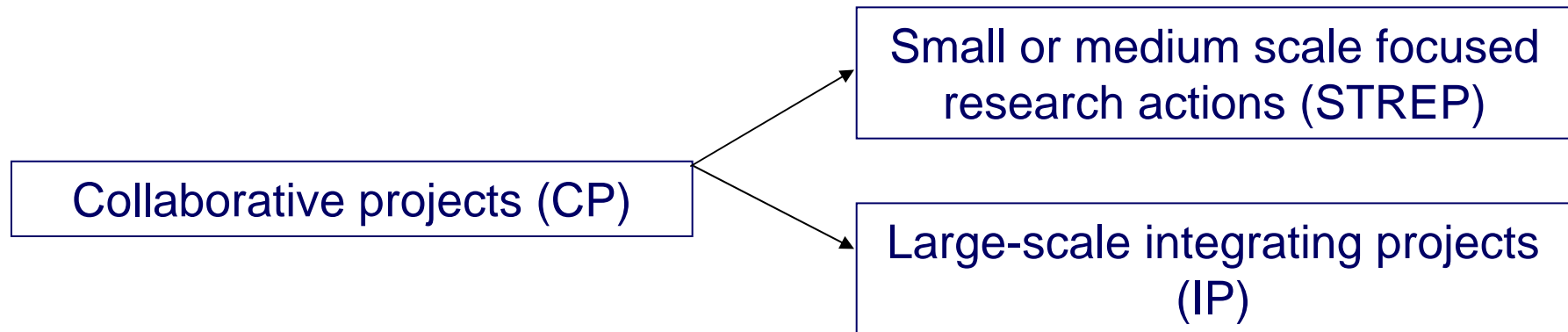
Unique registration facility (URF)

http://cordis.europa.eu/fp7/urf_en.html

Participant identification code (PIC)

Legal Entity Authorised Representative
(LEAR)

FP7 funding schemes



Support to research projects carried out by consortia with participants from different countries, aiming at developing new knowledge, new technology, products, demonstration activities or common resources for research. The size, scope and internal organisation of projects can vary from field to field and from topic to topic.

Networks of Excellence (NoE)

Support to a Joint Programme of Activities implemented by a number of research organisations integrating their activities in a given field, carried out by research teams in the framework of longer term co-operation

Coordination and Support actions (CSA)

Support to activities aimed at coordinating or supporting research activities and policies (networking, exchanges, trans-national access to research infrastructures, studies, conferences, etc)

What should be considered.....

- Are you the: Chief bottle-washer; Technical master; Captain of your own ship; Subcontractor in drag...
- NDA; Non-competitive agreement
- Succinct organisation and team overview (including any similar FP6, FP7 participations)
- Details of envisaged project interaction:
 - introduction including relevant prior art;
 - objectives;
 - tasks & associated activities, including dissemination activities;
 - deliverables;
 - timelines;
 - milestones;
 - person-months & person-month rate (€);
 - budget (categorised);
 - IPR issues (background; IPR Bill; exploitation);
 - ethical issues;
 - sub-contracting; 3rd parties
 - management versus R&D
- Impact; value-addition; mutual benefit

Financial issues

Maximum grant

- The maximum grant is based on an estimation of eligible costs prepared by the consortium partners
- You will get reimbursed for eligible costs BUT you must co-finance a portion of the costs
- The amount you must co-finance depends on the **type of organisation** to which you belong and **the activity** being funded
- What you actually spend is taken into account to determine the final financial contribution by the EC

Types of organisation

- **Public body:** legal entity established as such by national law, and international organisations
- **Research organisation:** legal entity established as a non profit organisation which carries out research or technological development as one of its main objectives
- **Secondary and higher education establishments** includes universities, schools for applied sciences and similar
- **SMEs:** small and medium-sized enterprises as defined in Europe:
 - fewer than 250 employees,
 - annual turnover not exceeding €50 million, and/or
 - annual balance-sheet total not exceeding €43 million

R&D activities: funding rates

- Public bodies: up to 75%
- Secondary and higher education establishments: up to 75%
- Research organisations (non-profit): up to 75%
- SMEs: up to 75%
- Otherwise up to 50% of eligible costs

Other activities: funding rates

- Demonstration activities: up to 50%
- Management: up to 100%
- Frontier research actions: up to 100%
- Coordination and support actions: up to 100%
- Training and career development of researchers: up to 100%

- ACTUAL, ECONOMIC, USED SOLELY TO ACHIEVE PROJECT OBJECTIVES
 - Must actually be incurred
 - Must be incurred during the project
 - Must be determined according to usual accounting and management principles/practices
 - Must be recorded in accounts

AUDIT TRAIL

Non-eligible costs

- Identifiable indirect taxes including VAT
- Duties
- Interest owed
- Provisions for possible future losses or charges
- Exchange losses, cost related to return on capital
- Costs declared or incurred, or reimbursed in respect of another project
- Debt and debt service charges
- Excessive or reckless expenditure

Preparing a budget

- **Total project budget** = Eligible direct costs
+
Indirect costs
- Eligible direct costs
 - Personnel costs
 - Subcontracting costs
 - Other direct costs
 - capital equipment
 - travel and subsistence
 - Consumables
 - audit certificate
 - IP protection, etc

Personnel costs

- WILL REQUIRE A TIMESHEET “SYSTEM”!
- Permanent and temporary employees at TOTAL COST OF EMPLOYMENT, not just salary; must be paid in accordance with the normal practices of the organisation
- Can use average personnel costs only when CoM approved
- Must work under sole technical supervision and responsibility of the organisation
- If you normally consider certain costs as overheads (e.g. HR support staff) then their costs cannot be included as direct costs
- Public officials paid directly from government are also eligible

Subcontracting

- Beneficiaries shall implement the indirect action and shall have the necessary resources to that end
- Specialised jobs that it cannot carry out itself or because it is more efficient to use the services of a specialised organisation
- Agreement based on "business conditions"
- Works without the direct supervision of the beneficiary and is not hierarchically subordinate to the beneficiary
- Interest in the project is only the profit that the commercial transaction will bring
- No IPR rights on the foreground of the project
- Responsibility for the work subcontracted lies fully with the beneficiary
- **Subcontracting between beneficiaries in the same GA is not to be accepted**
- **Does not concern the research work itself**, but tasks or activities needed in order to carry out the research, auxiliary to the main objective of the project
- Work (the tasks) to be performed by a subcontractor **has to be identified in Annex I to the GA**
 - identity of the subcontractors does not need to be indicated
 - description of the tasks to be subcontracted should include a financial estimation of the cost
- Best value for money (best price-quality ratio), under conditions of transparency and equal treatment
- Framework contracts with a third party for routine or repetitive tasks – prior arrangement
- Minor tasks / services are not project tasks identified as such in the Annex I - needed for implementation of the project

Can include

- Consortium management
 - Maintenance of consortium agreement
 - Legal, ethical, financial management
 - Certificates: costs incurred for the certificates on the financial statements and certificates on the methodology constitute eligible direct costs and are charged under management costs which are part of "Other activities".
 - Financial audits and technical reviews
 - Competitive calls (permitted & foreseen)
- Training activities, excluding trainees (permitted & foreseen)
- Networking & dissemination, including publication
- IPR protection

- Determined according to the information you have from your accounting system:
 - Actual indirect costs:
 - If your accounting system allows you to determine your actual indirect costs for the project
 - Simplified actual indirect costs:
 - If your accounting system allows you to determine your indirect costs for the organisation but not for the project
 - Flat rate:
 - If you can't determine your indirect costs from your accounting system then you can use 20% of direct costs less subcontracting costs OR
 - a **transitional flat rate** depending on the activity and type of organisation (see next slide)
- For Coordination and Support Actions, the maximum indirect costs allowed are 7% of direct costs less subcontracting costs

Indirect costs - Transitional flat rate

- Eligible activities:
 - Research and technological development
 - Demonstration
- Eligible types of organisations:
 - Non-profit public bodies
 - Secondary and higher education establishments
 - Research organisations
 - SMEs
- Transitional flat rate applied:
 - 2007 – 2009: 60% of direct costs less subcontracting costs
 - 2010 – 2013: **60%** of direct costs less subcontracting costs

- Costs shall be reported in €
- Exchange rate applied either on the basis of:
 - the rate applicable on the first day of the month following the end of the reporting period

OR

 - on the date that the actual costs were incurred
- Based on European Central Bank rates
<http://www.ecb.int/stats/eurofxref/>

Legal issues

Contractual aspects

- Grant agreement
 - Signed between beneficiaries and EC
 - Establishes rights and responsibilities of the beneficiaries to each other and to the EC
 - Consists of core grant agreement and annexures including Annex 1 (Description of Work)
- Consortium agreement
 - Signed between beneficiaries
 - Implements the grant agreement, establishes provisions related to consortium management, distribution of the Community financial contribution and IP
 - Mandatory unless otherwise specified in Call for Proposals
- It is important to make sure that the grant agreement and the consortium agreement talk to each other, particularly in relation to IP sharing
- Note that there exists “*Technical collective responsibility*”

Grant agreement

- Core grant agreement
- Annex I - Description of Work
- Annex II - General conditions
- Annex III - [Specific provisions related to [this funding scheme or activity]
- Annex IV - Form A – Accession of *beneficiaries* to the *grant agreement*
- Annex V - Form B – Request for accession of a new *beneficiary* to the *grant agreement*
- Annex VI - Form C – Financial statement per funding scheme as published in
- Annex VII - Form D – Terms of reference for the certificate on the financial statements and Form E - Terms of reference for the certificate on the methodology

Consortium agreement

- A CA is **required for all projects** financed unless otherwise stipulated in the call for proposals
- EC is not a party to any CA and does not establish the terms and conditions of the CA
- Provisions of a CA should not affect the participants' obligations to the Community and/or to each other arising from the Rules for Participation and the Grant Agreement
- Checklist
- Model consortium agreements

- Granting of access rights:
 - Exact rights to be transferred are defined
 - Purposes for which the access rights may be used
 - Confidentiality / Royalties
- Grant agreement establishes economic conditions for the granting of access rights
- Beneficiaries may further define it in their consortium agreement

Access rights	For project execution purposes	For use purposes
To background	Royalty-free unless otherwise agreed <u>before</u> signature of the grant agreement	Royalty-free or on fair and reasonable conditions
To foreground	Royalty-free	



- <http://www.ipr-helpdesk.org>
- A project funded by the European Commission, DG Enterprise and Industry under the RTD Framework Programme of the European Union
- Documents and information provided by the IPR-Helpdesk are free of charge

THANK YOU!

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