

Legal framework: model grant agreement & consortium agreement

RICH training 26/10/2015 in Brussels

The Brussels Enterprise Agency
NCP Academy – Partner

Why you(r clients) should bother?

Contractual obligations deriving from getting H2020 funding

- Sign Grant Agreement (Coordinator) or Accession Form (Partner)
- Sign Consortium Agreement **before** start of project (all)



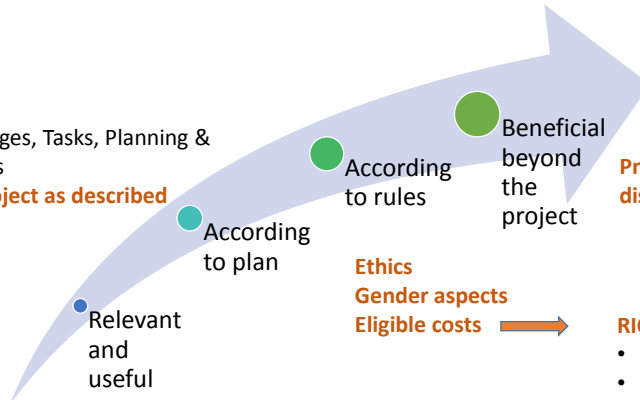
Inform briefly your client at proposal stage

- Submitting a proposal = implicit acceptance of these obligations
- Potential Partner who disagree should not take part and loose time in setting up / writing a proposal

Key commitments

Work Packages, Tasks, Planning & Deliverables

Execute project as described in proposal



Relevant and useful

(otherwise your proposal would not have been selected)

Co-ordinator or Partner roles



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Proper implementation

Art. 7.1 General obligation

The Beneficiaries must implement the action (= project) as defined in Annex 1 (= submitted proposal) and in compliance with the provisions of the **Grant Agreement** (GA) and all legal obligations under EU, international and national laws

Art. 7.2 Consequences of non-compliance

Final grant amount can be reduced (Art. 43) + other measures (Section 6)

How is this assessed

- **Technical analysis** by the EC
work performed vs activities defined
- **Financial analysis** by the EC (and external audit)
financial rules



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What does this mean?

- each beneficiary must ensure that it complies with its obligations under the GA
- each beneficiary must ensure swift and proper implementation of the action (i.e. that there are no delays which can be attributed to it)
- each beneficiary is responsible (towards the Commission/Agency) for the tasks performed by its subcontractors and linked third parties
- the Commission/Agency is not responsible for the implementation of the action and has no responsibility for the way in which the action is conducted (or any adverse consequences).



Link with Art. 41.1 Beneficiaries are jointly and severally liable for the technical implementation

If a Beneficiary fails to implement its part, the other Beneficiaries become responsible for implementing this part (no additional funding) unless the EC expressly relieves them of this obligation (ex through Amendment to the GA)

Management obligations

Art. 41.2 Internal division of roles and responsibilities



European
Commission
or Agency

Responsible

- Coordinate & manage grant
- Consortium agreement
- Do own tasks and deliver

Contribute to smooth & successful implementation

- Do own tasks and deliver
- Send all documents via the Co-ordinator (unless specifically required by EC)



All beneficiaries should

- Refer to the Co-ordinator (or WP leader) proactively
- Adapt to the consortium set-up and culture

Key items in practice

Co-ordinator's main tasks (NO delegation to other Beneficiaries, NO sub-contracting)

- Monitor that the action is implemented properly (Art. 7)
- Act as intermediary for all communication
- Request and review any document or information required and verify their completeness and correctness
- Submit deliverables and reports to EC/Agency (Art. 19 & 20)
- Ensure all payments are made to the other Beneficiaries without unjustified delay
- Inform EC/agency of amounts paid where required

Each Beneficiary must

- Keep info in the Beneficiary Register up to date (Art. 17)
- Inform the Co-ordinator immediately of any event/circumstance likely to affect/delay implementation (Art. 17)
- Submit timely to the Co-ordinator: own financial statement (+ its linked parties), certificate for financial statement, data for the technical report (Art. 20), ethical opinion report/notifications (Art. 34), any other doc/info required

Co-ordinator must check quality of docs submitted by other Beneficiaries (consistency vs. Tasks, totals, 25% flat rate) BUT NOT the eligibility. **Each Beneficiary remains responsible for the costs it declares** (eligibility, recording and supporting docs)



Consortium Agreement

Art. 41.3 The Beneficiaries must conclude a **written consortium agreement** to ensure a proper implementation, which may cover

- Internal organisation of consortium
- Management of access to e-exchange system
- Distribution EU funding
- Additional rules on access to background and results (see IPR)
- Settlement of internal disputes
- Liability, indemnification, confidentiality arrangements between Beneficiaries

Not formally endorsed by EC
but comprehensive and
widely used



Consortium Agreement can not contradict Grant Agreement

Ethics: a real commitment



Art. 34 Beneficiaries must carry out the action in **compliance with ethical principles** and applicable international, EU and national law

http://ec.europa.eu/research/participants/docs/h2020-funding-guide/cross-cutting-issues/ethics_en.htm

Main ethical principles:

- Respecting human dignity and integrity
- Ensuring honesty and transparency towards research subjects and notably getting free and informed consent (as well as assent whenever relevant)
- Protecting vulnerable persons
- Ensuring privacy and confidentiality
- Promoting justice and inclusiveness
- Minimising harm and maximising benefit
- Sharing the benefits with disadvantaged populations, especially if the research is being carried out in developing countries
- Maximising animal welfare, in particular by ensuring replacement, reduction and refinement ('3Rs') in animal research
- Respecting and protecting the environment and future generations
- Following the highest standards of research integrity (i.e. avoiding any kind of fabrication, falsification, plagiarism, unjustified double funding or other type of research misconduct; see also the [European Code of Conduct for Research Integrity](#)⁵³).

Ethics self-assessment, EC review



At proposal stage: Ethics self-assessment (identify & describe a plan to handle potential ethical issues)

http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/hi/ethics/ethics-eit_en.pdf

- Human embryos /foetuses →
- Humans
- Human cells / tissues
- Personal data →
- Animals

1. HUMAN EMBRYOS/FOETUSES		Page
Does your research involve Human Embryonic Stem Cells (hESCs)?	<input checked="" type="radio"/> Yes <input type="radio"/> No	
Will they be directly derived from embryos within this project?	<input checked="" type="radio"/> Yes <input type="radio"/> No	
4. PERSONAL DATA (ii)		Page
Does your research involve personal data collection and/or processing?	<input checked="" type="radio"/> Yes <input type="radio"/> No	
Does it involve the collection and/or processing of sensitive personal data (e.g.: health, sexual lifestyle, ethnicity, political opinion, religious or philosophical conviction)?	<input checked="" type="radio"/> Yes <input type="radio"/> No	

At project stage:

Projects raising ethical issue must **submit ethics committee opinion before starting**

The EC can do **ethics review**



Gender equality



Art. 33 The Beneficiaries must take all measures to **promote equal opportunities between men and women** in the implementation of the action. They must aim, to the extend possible, **for a gender balance at all levels of personnel** assigned to the action (including supervisory/managerial)

http://ec.europa.eu/research/participants/docs/h2020-funding-guide/cross-cutting-issues/gender_en.htm

⚠ Sex and gender refer to biological characteristics and social/cultural factors respectively. For guidance on methods of sex / gender analysis and the issues to be taken into account, please refer to http://ec.europa.eu/research/science-society/gendered-innovations/index_en.cfm



Best efforts obligation – Risk of grant reduction

- Keep documentation of measures taken (Art. 18)
- If balanced participation is not achieved in the project team despite active efforts : explain why in first and final technical reports (Art.20.3 & 20.4)

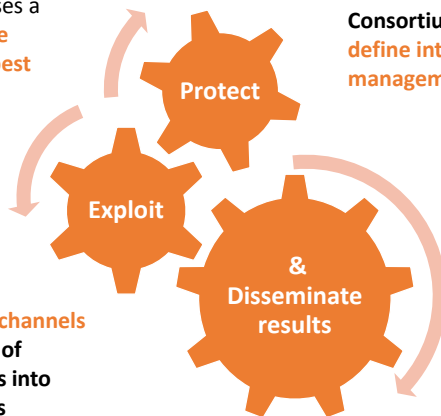
Benefits beyond the project



Art. 27, 28, 29

The Grant Agreement imposes a **contractual obligation to the Beneficiaries to “use their best efforts to”**

Consortium Agreement should define intellectual property rights management



Exploitation strategy & channels
Convert the knowledge of publicly-funded projects into socio-economic benefits

Open access to publications & data



Rules on IP management

Art. 24 & 31. Provide access rights to “background” & “results” (previously foreground) so that other Partners can conduct R&I and exploit results

→ Describe Background in the Consortium Agreement

Purpose	Access to background	Access to results
Implementation of project	Royalty-free, unless otherwise agreed by participants before their accession to the grant agreement	Royalty-free
Exploitation of owned results	Subject to agreement, access rights must be granted under fair and reasonable conditions (which can be royalty-free).	

Art. 26 **Who owns the project results ? The Participant who generates them**

Results automatically jointly owned if generated by 2 or several Participants AND not possible to establish the respective contribution or impossible to separate them for IP protection/exploitation

Exploitation & dissemination

Art. 28 **Ensure exploitation of results by Beneficiaries or by others**

- Use results in further research activities
- Contribute to new/on-going standardisation activities
- Develop and create new services/products for commercial exploitation



Art 29 Unless it goes against their legitimate interests, **Beneficiaries must disseminate results asap**
http://ec.europa.eu/research/participants/docs/h2020-funding-guide/grants/grant-management/dissemination-of-results_en.htm

- Scientific and non-scientific publications **Peer-reviewed journal articles should be Open Access** = on-line access to scientific information that is free-of-charge for the reader
- Conferences, networking events, business fairs
- Project website, leaflets, posters, social media



Establish roles of
Partners in the
Consortium Agreement

Essential free-of-charge resources



- Participant Portal H2020 On-line Manual
- Annotated Grant Agreement
- European www.iprhelpdesk.eu
Learn about **IPR** and ask your specific questions



- NCP network including Legal & Financial NCP
http://ec.europa.eu/research/participants/portal/desktop/en/support/national_contact_points.html
Get support on **legal, financial, administrative aspects** of H2020 projects, ex:



- Enterprise Europe Network <http://een.ec.europa.eu/>
Promote your product/service in 60 countries, **find partners** (R&I, tech transfer, licencing...), ask about regulations related to your product...



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Q/A



Legal obligation to **provide visibility to the EU funding** (Art. 29.4)



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