

LEGAL ASPECTS

Webinar on grant agreement
preparation – CBE JU Call 2022

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Core Part

Datasheet

a summary of the specific data of the grant agreement

1. General Data
2. Participant
3. Grant
4. Reporting, payment and recoveries
5. Consequences of non-compliance, applicable law and dispute settlement forum
6. Specific rules Annex 5 & Standard time-limits after project end

Articles

grouped in six chapters

- Chapter 1** – General (Articles 1-2)
- Chapter 2** – Action (Articles 3-4)
- Chapter 3** – Grant (Articles 5-6)
- Chapter 4** – Grant Implementation (Articles 7-26)
- Chapter 5** – Consequences of non-compliance (Articles 27-35)
- Chapter 6** – Final provisions (Articles 36-44)

Annexes

Annex 1 Description of the action

Annex 2 Estimated budget

Annex 3 Accession forms for beneficiaries

Annex 4 Model for the financial statement

Annex 5 - Specific rules (for Horizon Europe)

Annex 2a – Additional information on unit costs and contributions

Annex 3a – Declaration on joint and several liability of Affiliated Entities

Security (Article 13)

Ethics (i.e. research integrity) (Article 14)

Values (i.e. gender mainstreaming) (Article 14)

IPR (Article 16)

Communication, Dissemination, Open Science and Visibility (Article 17)

Specific rules for carrying out the action (Article 18)

recruitment and working conditions,

specific rules for access to research infrastructure actions,

specific rules for PCP and PPI procurements,

specific rules for co-funded partnerships,

specific rules for ERC actions,

specific rules for EIT-KIC actions,

specific rules for MSCA actions

specific rules for EIC actions

Three main obligations under Annex 5 concern CBE JU:

1. Private members obligation regarding IKAA and IKOP in the Grant Agreements (pag.131):

- When implementing JU actions, **the members and contributing partners of the Joint Undertaking must fulfil their obligations regarding contributions to the Joint Undertaking.** The description of the action in Annex 1 must include, for beneficiaries, affiliated entities, associated partners or other participants or third parties which are members or contributing partners, the estimated contributions to the action, i.e.:
 - in-kind contributions to operational activities ('IKOP'; if applicable)
 - in-kind contributions to additional activities linked to the action ('IKAA'; if applicable)
 - the contributions must be reported during the implementation of the action in the Portal Continuous Reporting tool

2. Contributions must comply with the following conditions (pag.132) :

- For Clean Aviation JU, SNS JU, Europe's Rail JU, **CBE JU grants**: if provided in the call conditions, **a certain percentage of the total costs of the action must be covered by contributions (IKOP, IKAA or FC)**

3. Communication and dissemination (pag.132): sentence + logo

- The project is supported by the [insert JU name] and its members [OPTION for actions with national contribution top-ups: (including top-up funding by [name of the national funding authority])].”

Annex 2 – General Horizon Europe MGA cost categories



A. PERSONNEL COSTS

- **A.1** Employees
- **A.2** Natural persons under direct contract
- **A.3** Seconded persons
- **A.4** SME owners and natural person beneficiaries



B. SUBCONTRACTING COSTS



C. PURCHASE COSTS

- **C.1** Travel and subsistence
- **C.2** Equipment
- **C.3** Other goods, works and services



D. OTHER COST CATEGORIES

- **D.1** Financial support to third parties
- **D.2** Internally invoiced goods and services
- **[D.3 Transnational access to research infrastructure unit costs]**
- **[D.4 Virtual access to research infrastructure unit costs]**
- **[D.5 PCP/PPI procurement cost]**
- **[D.6 Euratom Cofund staff mobility costs]**
- **[D.7 ERC additional funding]**
- **[D.8 ERC additional funding (subcontracting, FSTP and internally invoiced goods and services)]**



E. INDIRECT COSTS

Beneficiary

- Signs the grant agreement
- Has all rights and obligations

Associated partner

- Does work but can NOT declare costs

Subcontractor

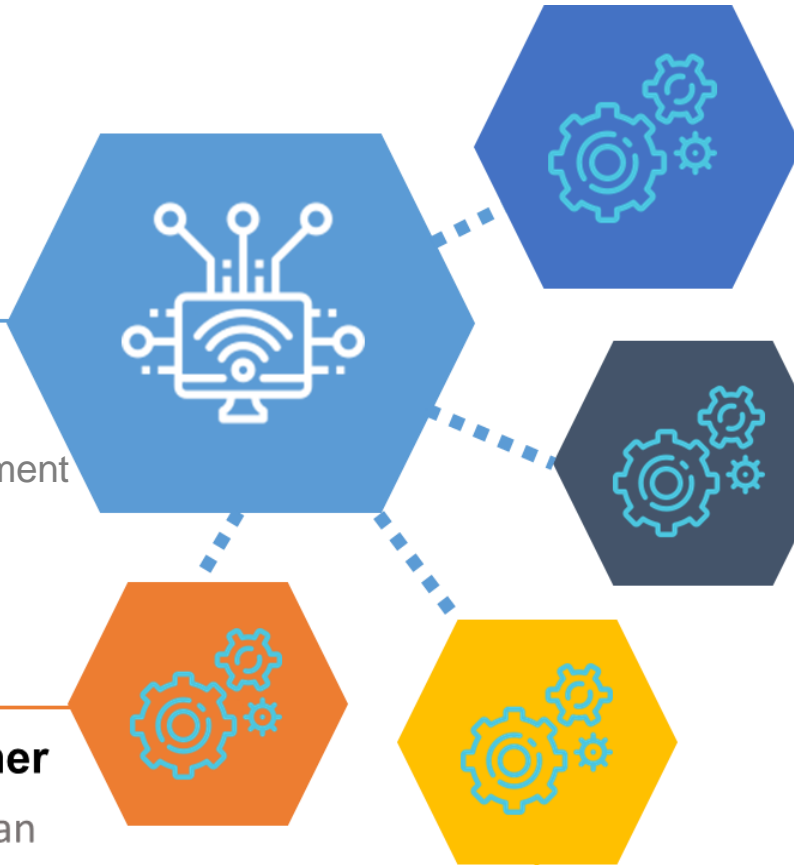
- Does work and invoices the beneficiary
- The beneficiary may declare the invoice

Affiliated entity

- With a legal or capital link with the beneficiary
- Does work and may declare costs

Third party providing contributions

- Does NOT do work just give in-kind contributions
- The beneficiary may declare the costs of the contributions



Beneficiaries & Coordinators

BENEFICIARIES

- **Signatories** → Accession form
- **Fully responsible** towards the granting authority for implementing the action and complying with all its obligation
- Jointly responsible for the **technical implementation**
- Must have the **appropriate resources**
- Must remain **eligible** under HE for the entire duration
- **Obligations:**
 - ❖ submit to the coordinator in good time: financial statements, technical reports, deliverables
 - ❖ inform the granting authority (and beneficiaries) of any events likely to affect or delay the action
 - ❖ submit via the Portal data and information related to the participation of their affiliated entities

COORDINATORS

- **Directly sign** the Grant Agreement
- Central **contact point** for the granting authority
- **Represents** the consortium (towards the granting authority)
- **Obligations**
 - ❖ monitor that the action is implemented properly
 - ❖ act as **intermediary** for all communications:
 - submit the prefinancing guarantees
 - request and review any documents before passing them to the granting authority
 - submit the deliverables and reports to the granting authority
 - inform the granting authority about the payments made to the other beneficiaries
 - ❖ distribute the payments received from the GA to the other beneficiaries without unjustified delay

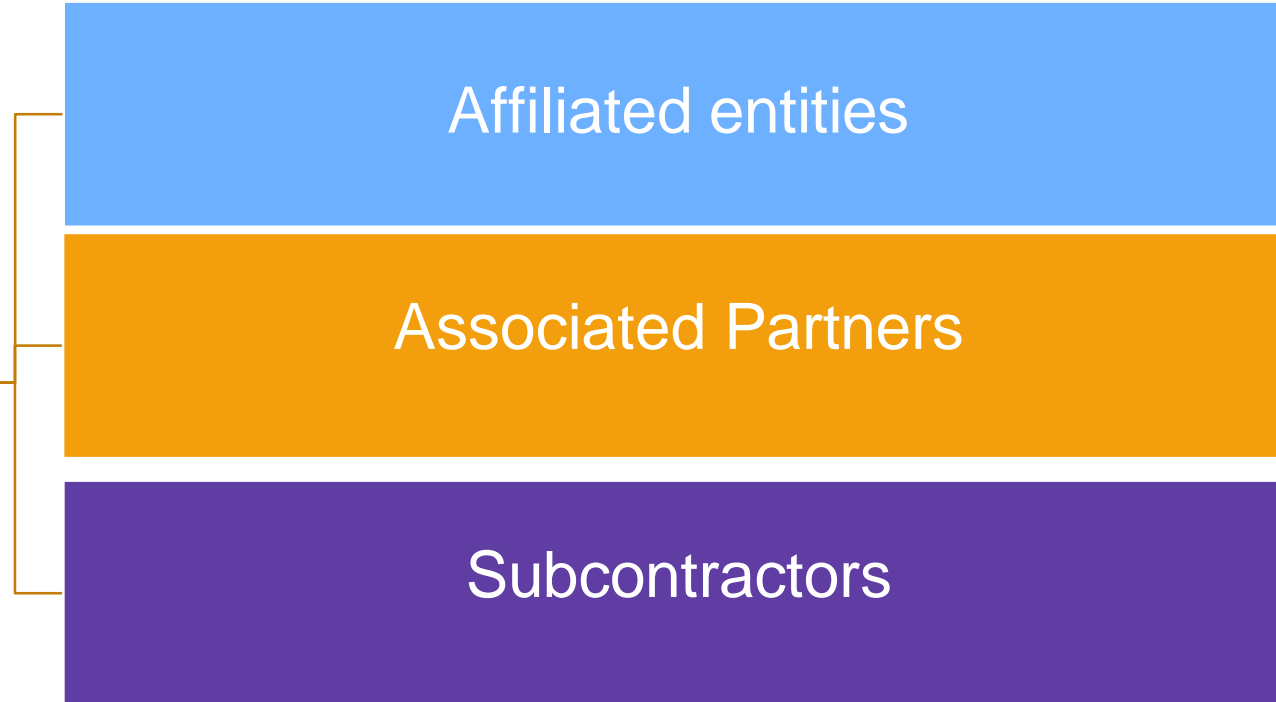
MAY NOT **delegate or subcontract** key tasks
EXCEPT > COO who are public bodies entities with **authorisation to administer**

Third parties carrying out work in the action

Participants in the project



Beneficiary



Affiliated entities




Article 187 (1)(b) of the EU Financial Regulation:

Entities *‘that have a link with the beneficiary, in particular **a legal or capital link**, which is neither limited to the action nor established for the sole purpose of its implementation’.*

Affiliated entities in Horizon Europe = Linked third parties in Horizon 2020:

(alignment of labelling/definition in the corporate context)

- Must be identified in GA in Article 8, their tasks must be mentioned in Annex 1 and their budget in Annex 2
- Same cost eligibility criteria than for beneficiaries

 They are therefore *de facto* treated like beneficiaries (*have their own financial statement, must provide their own CFS, must contribute to the technical report, must submit deliverables, etc*).

- Granting authority may request them to accept joint and several liability for their EU contribution


Associated Partner (AP)

- ❖ Inherited and derived from the ‘**International partner**’ status in H2020 MGA
- ❖ **Corporate terminology** and status with the following features:
 - ✓ AP does work but cannot declare costs
 - ✓ AP can be **linked** to the whole consortium (IT wise it will be linked to the COO) or to a particular beneficiary
 - ✓ The beneficiaries must ensure that relevant MGA obligations are also extended to AP (e.g. through the consortium agreement):
 - Articles 11 (proper implementation), 12 (conflict of interests), 13 (confidentiality and security), 14 (ethics), 17.2 (visibility), 18 (specific rules for carrying out action), 19 (information) and 20 (record-keeping)*

Subcontracting

- Ensure best value for money (or lowest price) and avoid conflict of interests
- Subcontracting between beneficiaries is not allowed. Subcontracting to affiliates is generally not allowed either
- Estimated costs and tasks must be identified in the budget and in Annex 1
- Simplified approval procedure allowed (i.e. beneficiary flags the subcontracting at reporting stage)
However, beneficiary bears the risk of rejection

E.g.: Testing described in Annex 1 as action task

- !  The beneficiaries are responsible for the proper implementation of the subcontracted action tasks by the subcontractors (*proper quality, timely delivery, etc*).

Other third parties

Participants in
the project

“



Beneficiary

Purchase costs



In-kind contributions
(free of charge)



- May cover:
 - Travel, accommodation and subsistence (Article 6.2.C.1)
 - Equipment (Article 6.2.C.2)
 - Other goods, works or services, if necessary to implement the action (Article 6.2.C.3).

E.g.: CFS, consumables and supplies, promotion, dissemination, protection of results, translations, publications, etc

- must be declared as actual costs
- Ensure best value for money (or lowest price) and avoid any conflict of interests

”



In-kind contributions – both still eligible under HE !



FORMER H2020 CONCEPT 'IN-KIND CONTRIBUTIONS AGAINST PAYMENT'

- **No more special Article** (corporate approach)
- But **they can still be declared** as:
 - **Secoded persons** under **Personnel costs provisions**
 - **Or as renting costs for equipment** (if the in-kind contribution relates to an equipment provided by a third party against payment)
 - **Other types** as purchase of goods, works or services
- Indirect costs calculated on top via the 25% flat-rate



IN-KIND CONTRIBUTIONS FREE OF CHARGE

- **Specific provisions (Art 6(1) & Art 9(2)) HE MGA** (stemming from Horizon Europe specific legal base)
- They must be declared under the relevant cost category (i.e. as if they were costs incurred by the beneficiary).
- Only **direct costs** must be reported
- Indirect costs calculated on top via the 25% flat-rate (with exceptions, like for internal invoicing)

TYPE	Works on 'action tasks'?	What is eligible for the beneficiary/ affiliated entity?	Must be indicated in Annex 1 GA?	Conditions for participation	GA article
Beneficiaries	YES	Costs	YES	Must be eligible	art 7
Affiliated entities	YES	Costs	YES	Must have a capital or legal link with a beneficiary and fulfil the same eligibility conditions	art 8
Associated partners	YES	n/a	YES	No specific conditions (APs do not receive funding).	art 9.1
Third parties contributing to the project	Participate in the action as contributors	n/a <i>(except HE: Costs)</i>	YES		art 9.2
Subcontractors	YES	Invoiced price	NO (only subcontracted tasks must be indicated)	Must be best value for money or lowest price and no conflict of interest	art 9.3
Third parties receiving financial support ²	Participate in the action as recipients.	Amount of support given	YES	According to the conditions in Annex 1 GA	art 9.4

In-kind contribution free of charge



Looking for more information?

Programming period

2021-2027



Horizon Europe (HORIZON)



Clear filter

Reference Documents

Grants

This page includes reference documents of the programmes managed on the EU Funding & Tenders portal starting with legal documents and the Commission work programmes up to model grant agreements and guides for specific actions.

Please select the programme to see the reference documents.

Procurement

Reference Documents related to tendering opportunities are published on [TED eTendering](#) in the calls for tenders.

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