

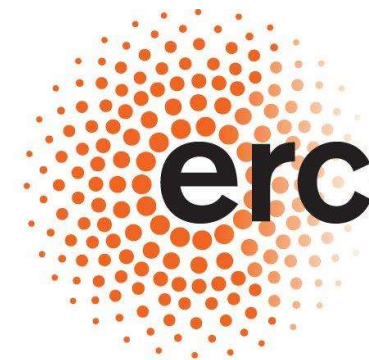
The European Research Council

Contracts

Subcontracting

Third Parties providing in-kind contribution

Linked Third Parties



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You can involve external support...



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**purchase goods, works
and services**

subcontractors

in-kind contribution

linked third parties

For a conference, we need a catering company

The PI needs to work with a company to perform testing and analysis of new components (task described in DoA)

One professor would be provided by another University

My Institution has a legal relationship with a laboratory specialised in clinical studies

These external supports are third parties (Art.8)



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In principle the beneficiaries must have the resources to implement the action but – if necessary – participation of third parties is allowed.

The third party **does not sign** the Grant Agreement.

The beneficiary remains responsible towards the Agency.

Overview third parties (AGA, p.130)



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This table gives an **overview** of the different kinds of **third parties**:

TYPE	CHARACTERISTICS						
	Works on action tasks?	Provides resources or services for action?	What is eligible?	Must be indicated in Annex 1?	Indirect costs?	Selecting the third party	GA articles
Linked third party	YES	NO	Costs	YES	YES	Must be affiliated or have a legal link and be eligible for funding	Article 14
International partners	YES	NO	N/A	YES	N/A	Must not be eligible for funding	Article 14a
Subcontractor	YES	NO	Price	YES	NO	Must be best value for money, avoid conflict of interest	Article 13
Third party providing in-kind contribution	NO	YES	Costs	YES	YES	May not be used to circumvent the rules	Articles 11 and 12
Contractor (selling, equipment, good or service)	NO	YES	Price	NO	YES	Must be best value for money, avoid conflict of interest	Article 10

Check also
AGA, Art. 8,
comparative
tables

Purchase of goods and services (Art. 10)



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Ordinary contracts (no action task)

No need to be fully detailed in DoA

Annex 2 – budget ('other direct costs' – with overheads)

Best value for money & no conflict of interest (charge a price)

Evidence: Procurement procedures, contract, invoices, proof of the service delivery

Subcontract (Art. 13)



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Implement (limited part of) action task

Subcontracted task must be described in DoA and costs in Annex 2 – budget (no overheads)

Simplified approval procedure

Best value for money & no conflict of interest (charge a price)

Evidence: Procurement procedures, subcontract agreement, invoices, proof of the work carried out

Subcontract (Art. 13)



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Unforeseen subcontracting:

- **Acceptable:** A beneficiary loses some personnel specialised in a particular field, and as a result decides to subcontract some tasks it had originally foreseen to carry out itself (limited – no change in the research).
- **Not acceptable without an amendment:** A beneficiary leaves the project and the HI subcontracts all the tasks of this beneficiary OR new tasks to be subcontracted.

Advice: always discuss with the PO

Third Party in-kind contribution (Art. 11 & 12)



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No task implemented – Resources provided

Third Party, resources and estimation of the costs described in DoA - Against payment (Art. 11) or Free of charge (Art. 12)

Art. 6 MGA applies to all the costs incurred by the Third Party. Only costs are reimbursed (no profit)
– Rules on overheads (see next slide)

Simplified approval procedure

PI cannot be provided by a Third Party located outside EU/AC

Third Party (TP) in-kind contribution (Art. 11 & 12)



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in-kind contribution

linked third parties

In-kind contribution on the HI premises:

Example: staff seconded to the HI, who will work at the HI under its supervision.

Budget: costs to be encoded under “personnel costs” – HI is entitled to the overheads.

In-kind contribution outside the HI premises:

Example: Laboratory located at the TP where the PI's team will perform some experiments (access fees).

Budget at granting: costs to be encoded under the line “Costs of in-kind contributions not used on premises”

Financial Statement at payment: cost to be claimed under “other direct costs” + “Costs of in-kind contributions not used on premises” (so that the overheads are deducted for the HI) - TP may add a flat rate of 25% on its own costs.

Third Party (TP) in-kind contribution (examples)



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in-kind contribution

linked third parties

In-kind contribution against payment: access to a supercomputer/telescope located at the third party's premises, senior researcher seconded to the Host Institution and the HI reimburses the third party's costs. There is a cost for the HI and it can be charged to the project.

In-kind contribution free of charge: professor working at the HI's premises whose salary is paid by the Government (TP) and the HI does not reimburse the salary to the TP. The HI can however claim the salary cost in its financial statement if conditions are met.

Third Party (TP) in-kind contribution free of charge



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in-kind contribution

linked third parties

In-kind contribution free of charge: Pay attention to receipt

If the in-kind contribution has been specifically allocated to the project: it has to be declared as receipt at the end of the action (as in this case, it is not considered as “own resources” of the HI to be used at its own discretion).

Ex. expert specifically seconded by the TP to the HI to work on the ERC action (with no reimbursement to the TP).

See definitions and details on receipt in AGA, p. 204 (Art. 5.3.3).

Linked Third Party (Art. 14)



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in-kind contribution

linked third parties

Affiliated entity or legal link not limited to the EU project – **implement action task**

Linked Third Party, tasks and estimation of the costs described in DoA – Named in Art. 14 GA

Declare their costs in their own financial statement – submit their own CFS

Sign their own DoH and send via the Portal

No simplified approval procedure

PI cannot be employed by a Linked Third Party located outside EU/AC (*)

Linked Third Party (Art. 14)



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linked third parties

- **Affiliated entities:** entities under the control of the beneficiary or same control as the beneficiary or entity controlling the beneficiary (capital link).
Ex. parent companies, subsidiaries, etc.
- **Entities with a legal link** to the beneficiary:
 - a) established relationship not specific to ERC project (broad relationship that goes beyond the action duration)
 - b) and with a legal basis either a legal structure (ex. foundation and its members) or a collaboration agreement (ex. research laboratories such as JRU)

Let's work on fictive cases



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- The PI would like to disseminate the action results on a website. In the Description of Action this activity was not foreseen
- The company "HappyWeb" may create the website (estimated cost € 5.000)
- Could the cost be claimed and if yes, under which cost category?



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Let's work on fictive cases

Purchase of goods and services

- In principle, the creation of website is not an action task : it is a “support” task – cost to be reported as contract (“Other goods and services”, Art. 10)
- During grant agreement preparation (GAP) : short description in Annex 1 (DoA) and estimated costs in Annex 2
- During implementation: the costs for the creation of the website will be eligible even if not described in the DoA (eligibility criteria must be met as usual). If necessary, transfers between budget categories are possible
- Justify contracts costs in the financial reports (if above 15% of personnel costs)

Let's work on fictive cases



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- During the ERC project the PI Prof. Mariza realises that a study analysis described in the DoA can be done in-house by a Post-Doc, rather than via the subcontract foreseen in the project.
- Is the change acceptable? If yes, how would you report this to the ERC?

Let's work on fictive cases

Subcontracts



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- Transfer of budget from Subcontracting to direct costs (in this case, “personnel costs”) would be allowed provided that it is line with the project goals and respects the eligibility criteria
- In principle, no amendment is needed as long as there is no change in the scientific part of the DoA
- Explanation of the deviation to be provided in the Financial Report

Let's work on fictive cases



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- The PI Prof. Mariza realises that the project would require to detect clouds through specific measurements, an essential action in the project.
- This activity has to be performed by an external company. There is budget available but this was not foreseen in the DoA.
- Is the change acceptable? If yes, how do you report it to the ERC?

Let's work on fictive cases

Subcontracts



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- The specific measurements to detect clouds seems to be an action task, limited in scope
- If outsourced, the costs must be declared as subcontracting
- During GAP, subcontracted tasks in Annex 1 and estimated costs in Annex 2
- During implementation, amendment to include subcontracts or exceptionally 'simplified approval procedure'
- In this example, an amendment will be requested as not only there is an addition of a subcontract, but there is a new action task as well

Let's work on fictive cases



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- The PI, Prof. Gold, works at the University of Knowledge. He would like to collaborate with Dr James Brown from the Hospital Future in the implementation of Task 2 (surveys of patients).
- The PI would like to include the salary cost of Dr Brown in the project.
- The University of Knowledge and the Hospital Future have a long-term collaboration agreement to carry out clinical studies and surveys at the hospital. The implementation of Task 2 will take place at the Hospital Future.
- What are the possibilities?

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Linked third parties



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- The Task 2 (surveys of patients) is an action task implemented by another entity (Hospital Future). The task will be performed by the staff of the Hospital (Dr Brown) under the direct and full control of the third party
- Hospital Future has a long-standing collaboration with the HI that may qualify as legal link to the HI
- Based on the 2 points above, Hospital of Future can be included in the grant as a “linked third party”
- During GAP, all linked third parties in Art. 14 MGA, tasks in Annex 1 and estimated costs in Annex 2
- During implementation, ask for amendment to include linked third parties in Art. 14 - No ‘simplified approval procedure’

Let's work on fictive cases



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- The Principal Investigator Mr. Stephen knows scholars in other universities with whom he collaborates.
- For his ERC project, he needs one of them, Ms Jones, to work with him. Ms Jones would be seconded to the PI's lab and the PI has reached an agreement with Ms Jones' university to reimburse her salary costs.
- He is asking you to arrange all the legal/financial matters with the ERC. What would be the best set-up?

Let's work on fictive cases

Third Party in-kind contributions



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- Ms Jones will work with the PI at the HI premises under the supervision of the PI/HI. In such case, Ms Jones may be considered as in-kind contribution provided by a third party (the university employing Ms Jones)
- The in-kind contribution is against payment as the beneficiary reimburses the salary costs of Ms Jones. The in-kind contribution is at the HI premises, therefore the HI will declare the costs as personnel costs (that will generate the indirect costs)
- During GAP, name of the third parties in Annex 1 and estimated costs in Annex 2
- During implementation, amendment to include third parties providing in-kind contribution or exceptionally 'simplified approval procedure'

Links to know more...



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Link to the Annotated Model Grant Agreement:

http://ec.europa.eu/research/participants/data/ref/h2020/grants_manual/amga/h2020-amga_en.pdf

Link to the Indicative Audit Programme

https://ec.europa.eu/research/participants/data/ref/h2020/other/gm/audit/h2020-iap_en.pdf



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Thank you

Vania ASDERIS/Giuseppe BAMBARA
Catherine MEROLLA