



SESAR Joint Undertaking H2020 Legal Aspects

Call ref. H2020-SESAR-2016-2

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Brussels, 22 March 2017

Founding Members



EUROPEAN UNION



EUROCONTROL

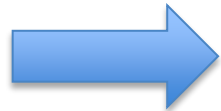


- 1. Who & under which conditions can participate?**
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- 5. Do I need to give access to the results?**
- 6. What are my obligations as a beneficiary in terms of dissemination and exploitation of the results?**
- 7. Where can I get informed?**

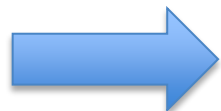
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1. Who & under which conditions can participate?

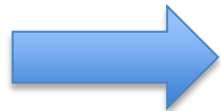
Minimum conditions for RIAs and IAs:



At least three legal entities



Established in a different EU Member State or Associated Country



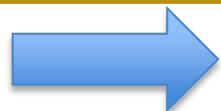
Independent legal entities



! *i.e. legal entities from non-EU countries do not count*

i.e. two entities which are not under the direct or indirect control of the other or under the same direct or indirect control as the other (e.g. affiliated entities)

Minimum conditions for CSAs:



At least one legal entity

Open call for proposals: SJU Members can participate under equal conditions

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2. Can third parties be involved and how?

“Third party”- legal entity which carries out work of the action, supplies goods or provide services for the action, but do not sign the grant agreement

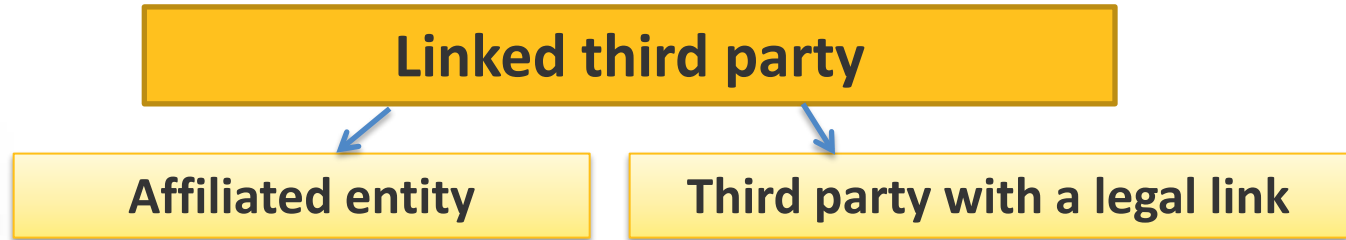


Types:

- Third parties directly carrying out part of the work described in Annex 1 (**linked third parties and subcontractors**)
- Other third parties: providing resources, goods or services to the beneficiaries for them to carry out the work described in Annex 1 (purchasing from third parties under **contracts**; third parties, providing **in-kind contributions**)
- Third parties receiving **financial support** (money) from the beneficiary as part of the action

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2.1. Third parties carrying out work in the action – *linked third parties (“LTP”)*



- *Fully participate in the action, treated for many issues like beneficiaries (funding, eligibility of costs, submission of financial statements, work on the action, reporting etc)*
- *Must fulfil the same conditions for participation and funding as beneficiaries (e.g. be established in an EU MS/AC or third country listed in General Annex A to the Main WP)*
- *SJU may require joint and several liability of a LTP, if:*
 - *the financial viability/capacity of a beneficiary is “weak”*
 - *the beneficiary mainly coordinates the work of its LTP.*

Entities performing a substantial part of the work should in principle be beneficiaries, NOT linked third parties.

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2.2. Third parties carrying out work in the action – *subcontractors*

- *Estimated costs and tasks must be identified in the budget and in Annex 1, i.e. the name of the subcontractors is in principle not necessary*
- *The beneficiary must award subcontracts ensuring best value for money (or lowest price) and avoid conflict of interests*
- *Contractual link with subcontractors for the implementation of specific action tasks*
- *The eligible costs are the prices charged to the beneficiary, usually containing a profit margin for subcontractor*



NOT allowed:

- ☐ Subcontracting between beneficiaries
- ☐ Subcontracting to affiliates (as a general rule)
- ☐ Subcontracting of coordination tasks of the coordinator



If not identified in Annex 1, SJU may still approve (beneficiary bears the risk of rejection)

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2.3. Third parties carrying out work in the action – *financial support to third parties*



Specific for the SJU call – topic “Knowledge Transfer Network” (PhD research)



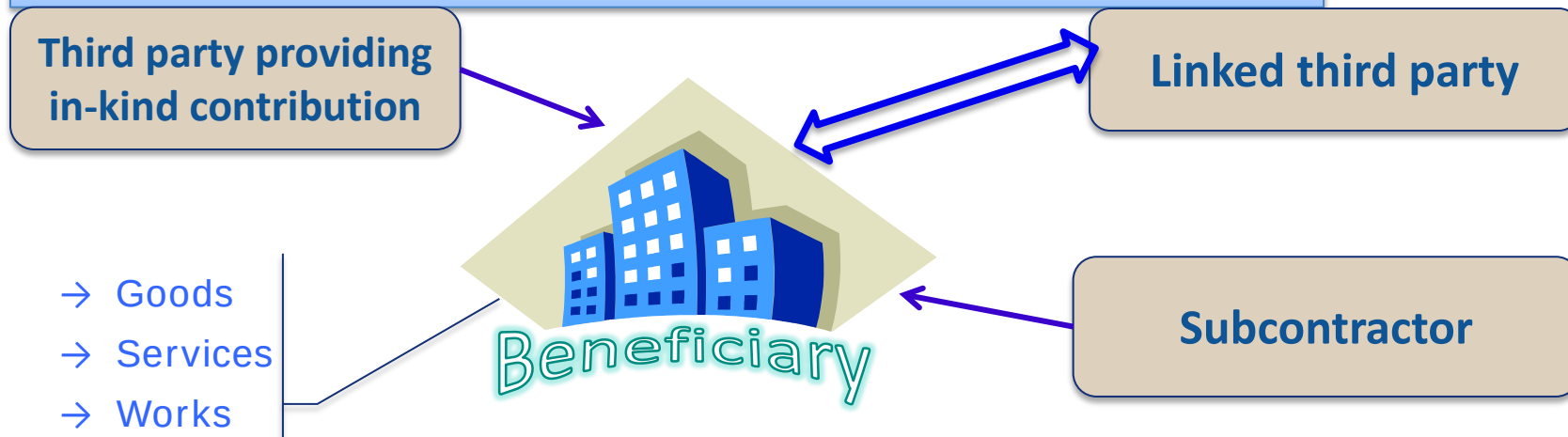
- “Cascading grant” - third parties participate in the action as recipients
- Explicit legal basis – SJU Single Programming Document (Years 2017 – 2019) (“SPD”)
- Support in kind (e.g. transfer of material for free) by the beneficiary to a third party is NOT a financial support (has to be a *financial donation*)
- LTPs may provide financial support to third parties under the same conditions as the beneficiaries
- Beneficiaries must set the *conditions* already in their proposal, later part of Annex 1 of the GA



NOT: option for financial support in the form of prizes

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2.4. 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 SJU, 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...)

3. What are the roles and responsibilities of consortium participants/coordinator?



- Beneficiaries have full responsibility for implementing the action and complying with the obligations under the GA
- Beneficiaries are responsible (towards the SJU) for the tasks performed by its subcontractors and LTPs
- Beneficiaries are jointly and severally liable for the technical implementation of the action

The coordinator (non-exhaustive list):

- acts as central contact point and represents the consortium
- checks quality of the documents submitted by the beneficiaries
- reviews the individual financial statements (no obligation to verify the eligibility of costs)
- distributes payments to the other beneficiaries, without unjustified delay
- monitors action implementation
- submit the deliverables and reports
 - **Internal arrangements between beneficiaries**
 - **Legal requirement: NO opt-out**



**Have you thought
of a consortium
agreement?**

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5. Who is the owner of the results of the action?



RESULTS: any tangible or intangible output of the project, including any attached IPR rights

- **General rule:** *each beneficiary owns the results it generates.*
- **Joint ownership:** *only if results are jointly generated and it is impossible to determine the respective share of the work or to separate them for protection:*
 - ☐ *the joint owners must reach an agreement,*
 - ☐ *unless otherwise agreed, each joint owner may grant non-exclusive licences to third parties, without the right to sub-license, if other joint owners are given prior notice & fair and reasonable compensation.*
- *Beneficiaries **may transfer** ownership of their results (e.g. if they themselves do not intend to use them).*

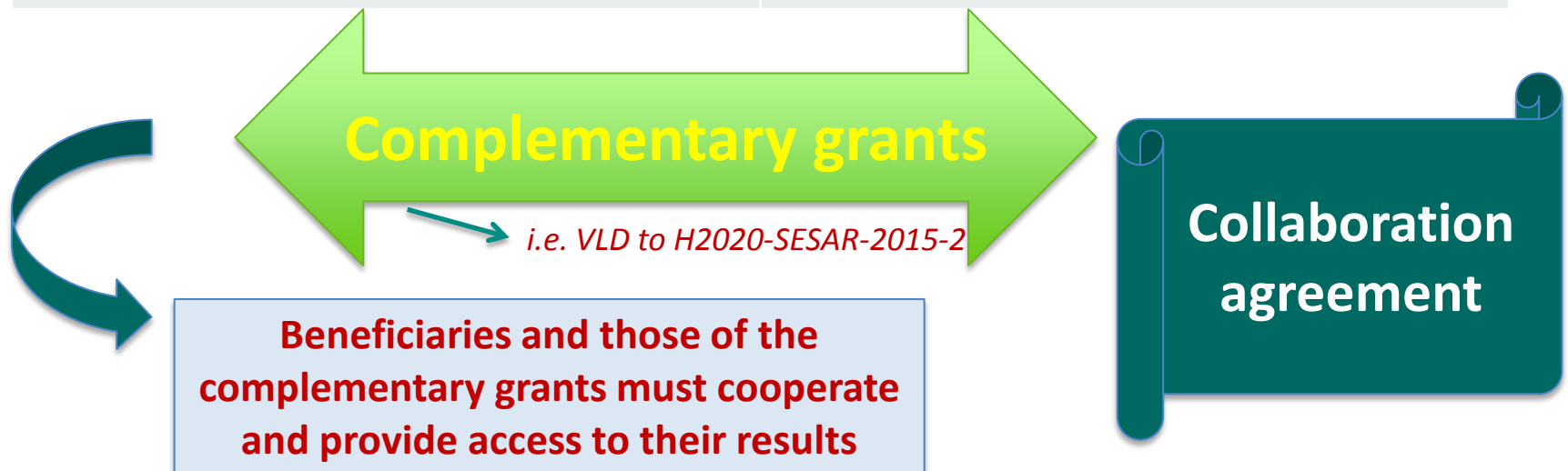


Under the grant agreement, the SJU has the right to object to transfers of ownership or exclusive licences to third parties outside the Union/Associated countries

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6. Do I need to give access to the results?

Within the action	Participant must grant access to its results
If needed by another participant to implement project	Royalty-free
If needed by another participant to exploit own results	Fair and reasonable conditions (to be agreed and may be royalty-free)



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6. Do I need to give access to the results? (continued)

Access rights (general principles):



- **must be exercised in writing**
- **do not include right to sub-license unless otherwise agreed**
- **GA termination does not affect obligation to grant access**

Access rights for the SJU/Union:

- **royalty-free access for policy related purposes to results generated with Union funding (strictly limited to non-commercial and non-competitive use)**

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7. What are my obligations as a beneficiary in terms of dissemination and exploitation (D&E) of the results?

Exploitation

use of results (i) in further research (including the project), (ii) in developing, creating or improving products, services or processes, or (iii) in starting up business activities

Dissemination

public dissemination of results by any means
scientific publications

Better D&E → more impact → improved value of R&I

H2020 gives increased importance to D&E

Success of
SESAR
Programme
depends on
your D&E!

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7. What are my obligations as a beneficiary in terms of dissemination and exploitation of the results? *(continued)*



D&E PLAN in the proposal is an obligation

- Including plan for Dissemination and Exploitation is an admissibility condition for Horizon 2020 proposals

- Each proposal should present a dissemination and exploitation plan which:

- *Is proportionate to the scale of the project*
- *Contains D&E measures to be implemented both during and after the end of the project, which help to achieve the expected impact of the project*



D&E PLAN is assessed under "IMPACT" criterion

- The quality of the D&E measures presented in the proposal will be reflected as part of the comments and score for "Impact" criterion

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8. Where can I get informed?

IPR Helpdesk:

<https://www.iprhelpdesk.eu/>

Horizon 2020 Online Manual:

http://ec.europa.eu/research/participants/docs/h2020-funding-guide/index_en.htm

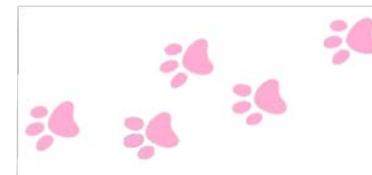
Horizon 2020 Annotated Grant Agreement:

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

Research Enquiry Service:

<http://ec.europa.eu/research/enquiries>

SESAR JU Call Helpdesk: info-call@sesarju.eu, **CEN** and **CENELEC (standardisation):** research@cencenelec.eu ...



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Thank you very much
for your attention!



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