



EUROPEAN
COMMISSION

Community research

Annex III – Specific provisions related to Research for the benefit of SMEs:

**« Research for SMEs »
« Research for SME associations »**

**Marc TACHELET (T.6 – Administration and finance)
Barend VERACHTERT (T.4 – SME)**

23.01.2007





EUROPEAN
COMMISSION

Community research

Objectives of the action

- **Helping SMEs (lacking an own research capacity) to outsource research with a view to strengthen their innovative capacity**
- **Supporting SME associations to develop, through outsourcing, technical solutions to problems common to a large number of SMEs**
- **Extend SME networks and enable better exploitation of research results.**

Note: The following activities, contributing to the objectives listed above will not be addressed:

- EUROSTARS (art. 169)
- Support to national schemes for exploratory awards
- C&S actions (ERA-NET, support to NCPs, etc.)





EUROPEAN
COMMISSION

Community research

Types and eligibility of participants (1)

- **SME participant (COM recomm. 6.5.2003 – OJ L 124/36)**
 - Staff headcount <250, and
 - Annual turnover <= €50million, or
Balance sheet total <= €43 million
 - Wider scope of reference for partner enterprises or linked enterprises
- **SME association/grouping**
 - Groupings of SME members operating in a specific industrial sector/segment, chambers of industry/ commerce, etc. and purchasing the results for or with its members
- **RTD performer**
 - Legal entity carrying out the research (subcontractor)
- **Other participants and end-users**
 - To solve specific problems
 - Participate in a secondary role.





Types and eligibility of participants (2)

Change in SME status:

- **SME status is lost only if the ceilings specified are exceeded over two consecutive accounting periods.**
 - Impact on funding rate which drops from 75% to 50% (and flat rate indirect costs dropping from 60% to 20%)
 - May impact on the eligibility of the consortium (occurrence should be exceptional)

- **SME status is acquired only if the data of two consecutive accounting period falls below the ceilings specified.**
 - No increase in funding rate which was initially set at 50% (and no increase in flat rate indirect costs from 20% to 60%)





EUROPEAN
COMMISSION

Community research

Types and eligibility of participants (3)

Who can be coordinator:

- **Administrative and financial coordination can not be outsourced**
- **Coordinator needs to have sufficient financial capacity**
- **It is recommended that an SME or SME-AG is appointed as coordinator (SMEs in the driving seat).**

However,

- **RTD performers can be coordinator if SME(-AG)s lack the experience and know-how for a professional administrative and financial management of the project.**
- **“Other participant” may be entrusted (e.g. specialised in professional project management)**





EUROPEAN
COMMISSION

Community research

Eligibility of consortium

- **Research for SMEs**
 - Min. 3 independent SMEs from 3 different MS/AS, excluding research centres/organisations/consultancy firms.
 - Min. 2 RTD performers independent from other particip.
 - Possibly other participants and end-users but in a secondary role
- **Research for SME associations**
 - Min 3 independent SME-AG or one European SME-AG (the latter comprising min 3 independent legal entities of 3 different MS/AS)
 - Min. 2 RTD performers independent from other particip.
 - Mandatory other participants (and end-users) of which minimal 2 SMEs.

Article III.6: Decisions of the consortium must be agreed by at least the majority of SME participants or SME associations (excluding their members)





Activities and funding rates

Activity	SME SME-AG	RTD performer	
		Higher educ. / non-profit research org.	Other
RTD	75%	(1)	(1)
Demonstration	50%	(1)	(1)
Other (e.g. training and dissemination)	100%	100% (2)	100% (2)
Management	100%	100% (2)	100% (2)

- (1) RTD and demonstration performed by RTD performers is subject of a subcontract with SMEs and is therefore not directly funded by the EC. However, the cost of subcontracting incurred by SMEs is eligible for funding.**
- (2) Other / management costs performed by RTD performers are funded directly.**



EUROPEAN
COMMISSION

Community research

Subcontracting to RTD performers (1)

FP7 general principle:

- subcontracting on an exceptional basis for non-core tasks

Research for the benefit of SMEs:

- Explicit aim to subcontract RTD/Demo (article III.4).

Subcontract should comply with the general eligibility criteria (article II.14.1), including economy, efficiency and effectiveness.

- **subcontract at fair market conditions.**

Subcontractors can be audited.





EUROPEAN
COMMISSION

Community research

Subcontracting to RTD performers (2)

Specific guarantee to RTD performers (article III.5):

- Where SME is in the legal impossibility to pay the RTD performer (e.g. bankruptcy)...
- ... the RTD performer may claim directly from the Commission the costs of RTD/DEMO activities undertaken.

The guarantee only amounts to 50%/75%¹ of costs incurred by RTD performer (≠ subcontract fee)

¹ depending whether the RTD performer qualifies as a higher education establishment or non-profit research organisation.





The consortium's budget

	<u>costs</u>	<u>funding %</u>	<u>Contribution</u>
Project of 3yrs - 2RPs	2.600.000		???
SMEs - own RTD	600.000	75%	450.000
SMEs - RTD subcontracted to RTD performers	1.800.000	75%	1.350.000
SMEs - mgt	175.000	100%	175.000
RTD performers - mgt (non profit research org.)	<u>25.000</u>	100%	<u>25.000</u>
	2.600.000		2.000.000
Contribution capped at 110% of costs subcontracted (€1,8m * 110%)			1.980.000

Limit of 110% aims at promoting the outsourcing of RTD/DEMO activities.

It will also be checked when making final payment (with reference to actually incurred costs for subcontracting to RTD performers)





EUROPEAN
COMMISSION

Community research

Members of SME-AG

- Members of the SME-AG are considered as third parties.
- In derogation to FP7 general rules:
 - costs incurred by members, and
 - not paid by the SME-AGcan be charged by the SME-AG as eligible costs.
These are not to be considered as receipts
- Members incurring costs are subject to standard control and audit arrangements.





EUROPEAN
COMMISSION

Community research

THE TRANSACTION



European Commission
DG Research - Unit T4: SMEs
Barend Verachtert





EUROPEAN
COMMISSION

Community research

Funding scheme

Research for the benefit of specific groups (in particular SMEs)*:

Support for research projects where the bulk of the research and technological development is carried out by universities, research centres or other legal entities, for the benefit of specific groups, in particular SMEs or associations of SMEs. Efforts will be undertaken to mobilise additional financing from the EIB and other financial organisations.

* Annex III to Decision No 1982/2006/EC





EUROPEAN
COMMISSION

Community research

Why the transaction ?

- Overall objective of Research for SMEs: providing financial support to SMEs to outsource research and technological development, with the view of acquiring intellectual property rights, preferably ownership, to the project results
- The relationship between SMEs and RTD-performers is a “customer-seller” relationship

- **the real investment or cost incurred by SMEs includes a price they pay for the intellectual property rights and knowledge they wish to acquire**





EUROPEAN
COMMISSION

Community research

The transaction

- Described in Annex I of the FP7 Grant Agreement
- Reflects the terms of the agreement reached within the consortium on :
 - the ownership of foreground
 - the access rights to be provided to any SME participant
 - the remuneration paid by it to a RTD-performer *

* FP7 Grant Agreement - Annex III





EUROPEAN
COMMISSION

Community research

Ownership of foreground by specific groups

In the case of actions for the benefit of specific groups, Article 39(1) and Article 40(1) shall not apply. In such cases, foreground shall be jointly owned by the participants which are members of the specific group benefiting from the action, unless otherwise agreed by those participants.

Where the owners of the foreground are not members of that group, they shall ensure that the group is provided with all the rights to that foreground required for the purposes of using and disseminating it in accordance with the technical annex to the grant agreement.*

* REGULATION (EC) No 1906/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL, Art. 41



Access Rights to Background

Implementation

- ... access rights shall be granted on a royalty-free basis, unless otherwise agreed by all participants before their accession to the grant agreement.
- However, RTD performers shall grant access rights to background on a royalty-free basis.

Use

- RTD-performers shall grant access on a royalty-free basis, or on fair and reasonable conditions.



EUROPEAN
COMMISSION

Community research

Access rights: sublicensing

Unless otherwise agreed by the owner of the foreground or background, access rights shall confer no entitlement to grant sub-licences.

Where the specific group benefiting from the action is represented by a legal entity that participates in the action in their place, that legal entity may grant a sub-licence, in respect of any access right granted to it, to those of its members which are established in a Member State or an associated country.*

- * REGULATION (EC) No 1906/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL Art. 48.2 and Art. 51.2





EUROPEAN
COMMISSION

Community research

Where is the relevant information in the DoW ?

- Dedicated work package
- 2.1.1 Description of project management structure and procedure
- 2.2 Appropriate allocation and justification of the resources to be committed
- 3.2 Appropriateness of measures envisaged for the dissemination and/or exploitation of project results, and management of intellectual property





EUROPEAN
COMMISSION

Community research

Basic questions

Analysis of the transaction

- Who owns the foreground ? What conditions, if any, apply to access to background ?
- What is the price to be paid for ownership ? What is the cost/ benefit ratio ?
- Who is in charge of the exploitation strategy ?
- Who exploits the foreground ?
- Who benefits from exploitation ?





EUROPEAN
COMMISSION

Community research

Basic principles

Description of the transaction

- Transparency
- Completeness
- Commercial interest of the SMEs

