Model Grant Agreement vs Consortium Agreement and Nature of the Framework Partnership Agreement (teaming)

WORKSHOP ON LEGAL AND FINANCIAL ASPECTS
Seville 3rd March 2016
Gonzalo AREVALO. ISCIII
TOPICS TO BE COVERED

• MGA vs CA
• CA generally
• MGA generally
• MGA – Amendment
• FPAs generally
• FPAs on teaming activities
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Model Grant Agreement vs Consortium Agreement

GA and CA are different documents,
But they are very related and somehow should tend to be mimetic
The beneficiaries must have internal arrangements regarding their operation and coordination to ensure that the action is implemented properly. These internal arrangements must be set out in a written ‘consortium agreement’ between the beneficiaries, which may cover:

- internal organization of the consortium;
- management of access to the electronic exchange system;
- distribution of EU funding;
- additional rules on rights and obligations related to background and results;
- settlement of internal disputes;
- liability, indemnification and confidentiality arrangements between the beneficiaries.

The consortium agreement must not contain any provision contrary to the Agreement.
GA prevails over the CA

In case of discrepancy GA clauses prevails over the CA articles.

Within the GA the prevalence order is:
From the Proposal to the GA

A-1 → Title, Acronym, CoCo, Duration,...

A-2 → PaCo’s, % Funding rate, Info for access forms

A-3 → Annex 2: Estimated Budget

Proposal Part B → Annex 1: Description of the Action
From the GA to CA

**Beneficiaries**

- 2.2 Measures to max Impact
  - 2.2.a Exploitation and Communication

**3.1 Work Plan:**
- WPx Coordination
- WPy Exploitation and Comm

**3.2 Mgmt structure & Procedures:**
- 3.2.1 Organization structure
- 3.2.2 Decision Making
- 3.2.3 Comm & Reporting
- 3.4 Resources to be committed:

**Signatories of the CA**

- Section 9: Results
- Section 10: Access Rights

**Sections:**
- 4. Responsibilities of Parties
- 6. Gov Structure

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Consortium Agreement

- **WHAT**
  - Written contract among beneficiaries to cover internal arrangements regarding action operation and coordination

- **WHY**
  - MGA requires – art. 41.3
  - Exception – otherwise stipulated in the WP

- **WHEN**
  - Should be before the signature of the GA
Consortium Agreement

- **WHAT**
  - Written contract among beneficiaries to cover internal arrangements regarding action operation and coordination.

- **WHY**
  - MGA requires – art. 41.3
  - Exception – otherwise stipulated in the WP

- **WHEN**
  - Should be before the signature of the GA

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Consortium Agreement

- WHAT
  - Written contract among beneficiaries to cover internal arrangements regarding action operation and coordination
- WHY
  - MGA requires – art. 41.3
  - Exception – otherwise stipulated in the WP
- WHEN
  - Should be before the signature of the GA
- HOW
  - Paper version, not via PP
  - Using models is possible
Consortium Agreement

Models

- DESCA
- MCARD
- EUCAR

EUCAR Model Consortium Agreement Horizon 2020

EUCAR Model Consortium Agreement for the Horizon 2020 Framework Programme for Research and Innovation
(Funding Scheme Collaborative Projects)

[Action Title]|([Project Short Title])|

Consortium Agreement

Ref No: __________

MCARD-2020

(developed by DIGITALEUROPE)
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Grant Agreement Main Structure

TERMS AND CONDITIONS

Annex I: Description of the action
Annex II: Estimated budget
Annex III: Accession Forms
Annex IV: Model Financial statements
Annex V: Model Certificate on the financial statements
Annex VI: Model Certificate on the methodology
There is not any longer special clauses to add, but:
- Different MGAs, IE: RIAs & IAs, FPAs, PCP&PCI, SME Instrument (linked to the topic)
- Some specific articles/clauses are activated (action needed during the grant preparation!)
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Amendments to the GA

Article 55 MGA

What?
An amendment to the grant agreement is necessary to **change the GA** (e.g. its **terms and conditions** (only specific data and options), and **Annexes**)  

Consequences
The amended provisions **become an integral part of the GA**  
All other provisions remain unchanged and have full effect
Amendment conditions

• Amendments may **not** result in changes that — if known before awarding the grant — would have had an impact on the decision to award it.

• Those are mostly changes that:
  
  ✓ may have had an impact on the **assessment of the applicant** with regard to the **eligibility and selection criteria**
  
  ✓ breach the principle of **equal treatment** of applicants
  
  ✓ involve modifications in the action and/or budget which may have affected the assessment with regard to the **award criteria** established in the call
  
  ✓ do not comply with the **FR, RAP, RforP**, or provisions of the **GA itself**
Amendments (more)

• **When?** Generally before the end of the action

• **Who?** Generally the Coordinator

• **How?** Through the Part. Portal
Typical Cases that need an Amendment

- **Removal of a beneficiary** whose participation is terminated
- **Adding** a new beneficiary
- **Change of beneficiary** due to a partial takeover
- **Removal or addition** of a linked **third party**
- **Coordinator changes**: Coord, bank data, Auth to administer, ..
- **(Substantial) Change** in Action Implementation: Annex 1, Title, Starting, Duration, progress reports, ...
- **(Substantial) Budget Changes**: Form of Costs, Significant budget shifts

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Typical Cases that do not need an Amendment

• Budget transfers amongst beneficiaries and cost categories (1) (2)
• Name or address of Coord/beneficiary
• Changes due to an UTRO (except Coordinator)
• Some bank details (name, address, Acc holders)

(1) Without changing the nature of the action
(2) If they do not imply change of costs model (ie actual costs to unit costs)
Typical Cases that do not need an Amendment

- Budget transfers amongst beneficiaries and cost categories (1)(a)
- Name or address of Coordinator/Beneficiary
- Changes due to UTRO (except Coordinator)
- Some bank details (name, address, account holders)

(1) Without changing the nature of the action
(2) If they do not imply a change of costs model (i.e., actual costs to unit costs)
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What is FPA and SGA?

Framework Partnership Agreement (FPA) is an alternative instrument used by EC for long-term cooperation with partners that ‘might be’ grant beneficiaries, subject to posterior Specific Grant Awards (SGA)

Main characteristics:
• Mutual Interest and common goals on union policy
• Actions defined and agreed jointly based in common objectives
• Ongoing and formalized arrangements to implement potential actions (SGA)
# FPA and SGA Implementation

| 1st level- Framework Partnership Agreement (FPA) | • Establishing the partnership on the basis of an action plan and jointly agreed general objectives  
• Setting out rules governing the award of grants to partners for implementing actions  
  **NO OBLIGATION TO AWARD GRANTS**  
• **NO FINANCIAL COMMITMENT** |
|-----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2nd level- Specific Grant Agreement (SGA)     | leads to a Union grant for an action and sets out purely specific provisions governing the subject of the grant –  
  **need of budget appropriations in the Work Programme** |
### Selection of partners

<table>
<thead>
<tr>
<th>FRAMEWORK PARTNERSHIP AGREEMENT</th>
<th>SPECIFIC GRANT AGREEMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Announced in the Work Programme with no budget appropriation but only a general indication</strong></td>
<td><strong>Announced in the Work Programme with the budget commitment and on the basis of the action plan jointly agreed in FPA</strong></td>
</tr>
<tr>
<td>Calls for proposals</td>
<td>1- Call for proposals</td>
</tr>
<tr>
<td><strong>EXECPTION ALLOWED (art.190 RAP)</strong></td>
<td>1a open to all applicants</td>
</tr>
<tr>
<td>But must be duly justified</td>
<td>1b restricted to some applicant</td>
</tr>
<tr>
<td></td>
<td>2- Invitation to submit a proposal (only in specific cases)</td>
</tr>
<tr>
<td></td>
<td>3- Submission of the proposals within a certain date</td>
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# FPA and SGA MGA Contents

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<thead>
<tr>
<th>FPA MGA</th>
<th>SGA MGA</th>
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<tr>
<td>Partnership Description (arts 1-6)</td>
<td>TERMS AND CONDITIONS</td>
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<td>General conditions applicable to all SGAs (arts 7-57)</td>
<td>Annex I: Description of the action</td>
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<td>FPA and SGA Common Provisions (arts 58-64)</td>
<td>Annex II: Estimated budget</td>
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**REMARKS:**
- FPA < 4 years, although extendable among H2020
- SGA always with the FPA running
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FPAs, SGAs and Teaming activities

Within the Widespread programme FPAs and SGAs are used for ‘Teaming activities’

- FPA
- FPA:SGA-CSA
- SGA-CSA

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Teaming Requirements

Teaming, will involve two (2) parties:

- Coordinator (based in a low performing country)
- An excellent research and/or Innovation centre based in EU or associated country (or a consortia)

Teaming phases:

Stage I: Business Plan Stage II: Expenses to start-up the centre

- SGA 1 (to all) 12 Months
- SGA 2 (to selected proposals) 5-7 Years
CONCLUSIONS

• Grant Agreement prevails over CA
• CA starts when we draft a proposal (even before)
• FPA prevails over SGA
• Proposal, GA and CA should be very closed documents
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