



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 23 June 2009
C(2009) 4705 final

COMMISSION DECISION

on the adoption of interim implementing rules for the provisions of article 31.3 of the Regulation (EC) No 1906/2006 and 30.3 of the Council Regulation (Euratom) No 1908/2006 concerning average personnel costs, and article II.14.1 of the model Grant Agreement adopted on 10 April 2007 and article II.14.1 of the model Grant Agreement for 'frontier' research actions adopted on 16 April 2007 in the context of the implementation of the Seventh Framework Programmes of the European Community (2007-2013) and the European Atomic Energy Community (2007-2011) concerning ex-ante certification of the methodology of calculation of the average personnel costs

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the European Parliament and the Council Regulation (EC) No 1906/2006 of 18 December 2006 laying down the rules for the participation of undertakings, research centres and universities in actions under the Seventh Framework Programme and for the dissemination of research results (2007-2013)¹ and in particular article 31.3 thereof,

Having regard to the Council Regulation (Euratom) No 1908/2006 of 19 December 2006 laying down the rules for the participation of undertakings, research centres and universities in actions under the Seventh Framework Programme of the European Atomic Energy Community and for the dissemination of research results (2007-2011)² and in particular article 30.3 thereof,

Whereas:

- (1) Article 31.3 of the European Parliament and the Council Regulation (EC) No 1906/2006 and article 30.3 of the Council Regulation (Euratom) No 1908/2006 include provisions allowing the use of average personnel costs for declaring to the Commission personnel costs incurred in the implementation of the granted projects, provided that the methodology applied is consistent with the management principles and accounting practices of the participant and that the costs thus calculated do not differ significantly from the actual costs.
- (2) Article II.14.1 of the model Grant Agreement adopted by Commission Decision of 10 April 2007³ and Article II.14.1 of the model Grant Agreement for 'frontier' research actions adopted on 16 April 2007⁴ (herein after the Grant Agreements) stipulate that beneficiaries may opt to declare average personnel costs if based on a certified methodology approved by the Commission and consistent with the management principles and usual accounting practices of the beneficiary.

¹ OJ L 391, 30.12.2006, p.1.

² OJ L 400, 30.12.2006, p.1.

³ C(2007) 1509.

⁴ C(2007) 1625.

- (3) The European Court of Auditors in the Opinion No 2/2004⁵ on the ‘single audit’ model (and a proposal for a Community internal control framework), paragraph 38, made a clear call for simplification by concluding that for the Commission's internal control systems to be effective and efficient, legislation, underlying policy and processes should be clear and unambiguous and sufficient to secure the proper use of funds, but not unnecessarily complex.
- (4) The European Court of Auditors Opinion No 1/2006⁶ on the proposal for a regulation of the European Parliament and of the Council laying down the rules for the participation of undertakings, research centres and universities in actions under the Seventh Framework Programme and for the dissemination of research results (2007 to 2013), recommended the Commission that allowance should be made for simplified calculation methods such as average costs.
- (5) The Commission has made it a strategic objective to achieve a positive Statement of Assurance (hereinafter "DAS") and adopted a “Roadmap to an Integrated Internal Control Framework”⁷. The report from the Commission to the Council, the European Parliament and the European Court of Auditors on the progress of the Commission Action Plan towards an Integrated Internal Control Framework⁸, and the accompanying Commission Staff Working Document⁹ set out the state of play of the implementation of the procedures to analyse cost accounting systems, addressing particularly average costing under the Seventh Framework Programme, in order to prevent systematic errors via the ex-ante certification on the methodology.
- (6) It is considered necessary to adopt acceptability criteria for the approval of the certified average personnel costs methodologies, authorising the beneficiary concerned, in case of compliance, to use such methodology to declare personnel costs in the frame of the Grant Agreements.
- (7) The criteria defined hereby are to be regarded as a pilot approach towards the gradual implementation of the average personnel costs in the frame of the simplification measures of the European research funding programmes. In view of the results of this pilot phase in terms of assurance and error risk, new acceptability criteria aimed to allow the use of average personnel cost to an increased number of stakeholders could be decided in future.
- (8) In accordance to the provisions of the Grant Agreements, costs charged by the beneficiary on the basis of a certified methodology approved by the Commission according to the above mentioned criteria are deemed not to differ significantly from the actual costs.
- (9) The Commission will also analyse the viability of alternative evaluation methods which could allow the use of average personnel costs for beneficiaries whose methodologies do not fulfil the acceptability criteria adopted hereby but whose overall deviations would remain within a maximum of 5%. In particular, evaluation methods

⁵ OJ C 107, 30.04.2004, p.1. "Opinion on the ‘single audit’ model (and a proposal for a Community internal control framework)".

⁶ OJ C 203, 25.08.2006, p.1.

⁷ COM(2005) 252 final, 15.06.2005.

⁸ COM(2007) 86 final; SEC(2007) 311.

⁹ COM(2008) 110 final; SEC(2008) 259, 27.02.2008.

based on enhanced audit verifications will be assessed in terms of overall simplification for the beneficiary, risk coverage and operational feasibility.

HAS DECIDED AS FOLLOWS:

Article 1

The Commission adopts the following acceptability criteria, for the assessment of the certified average personnel costs methodologies submitted in accordance to article II.14.1 and to Annex VII of the Grant Agreements:

- Methodologies in which, for each personnel category, the difference between the average rate and the extreme values (upper and lower rates) is equal or below 5%: the methodology is acceptable.
- Methodologies in which, for any personnel category, the difference between the average rate and the extreme values (upper and lower rates) is above 25%: the methodology is not acceptable.
- Methodologies not fulfilling the first criterion and in which, for each personnel category, the difference between the average rate and the extreme values (upper and lower rates) is equal or below 25%: only methodologies applied by beneficiaries having participated in at least four Sixth Framework Programme projects with an EC contribution¹⁰ in each of them equal or above EUR 375.000 or four Seventh Framework Programme projects with an EC contribution¹¹ in each of them equal or above EUR 375.000 are acceptable.

Article 2

These criteria are applicable provided that all other aspects of the methodology are compliant with the provisions of the Grant Agreements, the Financial Regulation¹² and its Implementing Rules¹³.

Article 3

The approval of the methodology for a given beneficiary will remain valid for the entire duration of the Seventh Framework Programmes unless the methodology is altered by the beneficiary or the Commission services notice during audits on cost declarations weaknesses

¹⁰ In this context, EC contribution is defined as the Community financial contribution allocated to the beneficiary in the estimated breakdown of the budget and Community financial contribution as approved by the Commission in Annex I of each individual FP6 research contract.

¹¹ In this context, EC contribution is defined as the Community financial contribution allocated to the beneficiary in the table of the estimated breakdown of the budget and Community financial contribution as approved by the Commission in Annex I of each individual FP7 research grant agreement.

¹² Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 OJ L 248, of 16.9.2002, p.1 as last amended by Council Regulation (EC, Euratom) N° 1995/2006 of 13 December 2006 OJ L 390, 30.12.2006, p.1, and by Commission Regulation No 478/2007 of 23 April 2007 OJ L 111, of 28.4.2007.

¹³ Commission Regulation 2342/2002 (EC, Euratom) of 23 December 2002, OJ L 357, of 31.12.2002, p.1 as last amended by Commission Regulation 478/2007 (EC, Euratom) of 23 April 2007, OJ L 111, of 28.4.2007, p 13.

in the methodology either as a result of inaccuracy, improper use or any other eventuality which can invalidate the basis on which such approval was granted.

Article 4

Personnel costs charged on the basis of methodologies approved by the Commission will not be subject to financial adjustments and subsequent application of liquidated damages unless an inappropriate use of the methodology is identified by the Commission.

Done at Brussels,

For the Commission
Janez Potočnik
Member of the Commission