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1. Contracts vs Subcontracts
2. Advice on charging costs

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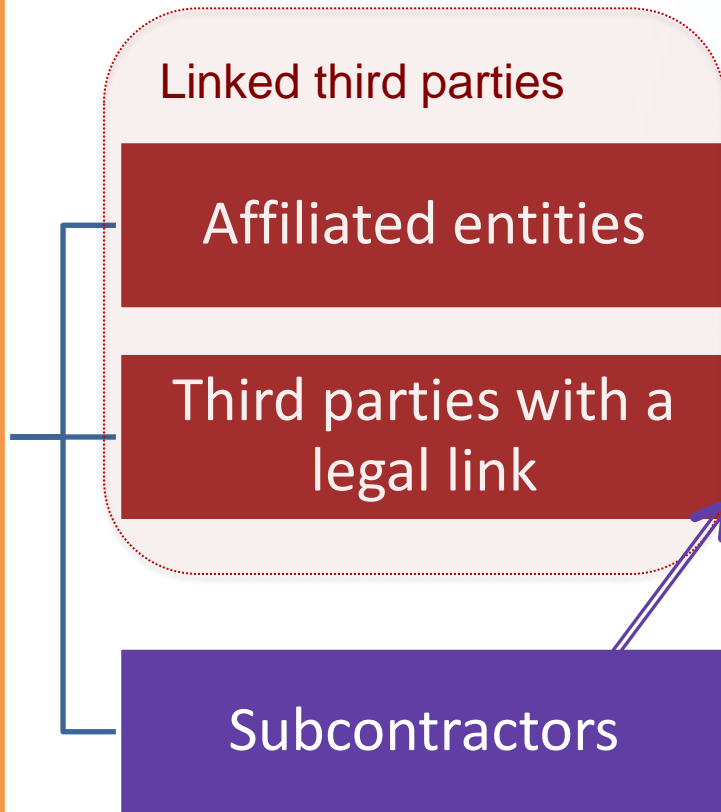


Third parties & other sensitive relations

Link with the Project	Legal scenarios
Carry out the projects (core tasks) (RfP: « <i>shall have the appropriate resources</i> »)	1. Beneficiary
Carry out ancillary tasks	2. A sub-contractor
	3. A linked third party
Give access to some resources (staff, lab)	4. A third party providing in-kind contributions for free
	5. A third party providing in-kind contributions against payment
Sell (lease) equipment, goods, supplies or services	6. A contractor

Subcontractors: implementing limited parts of the project

Beneficiary



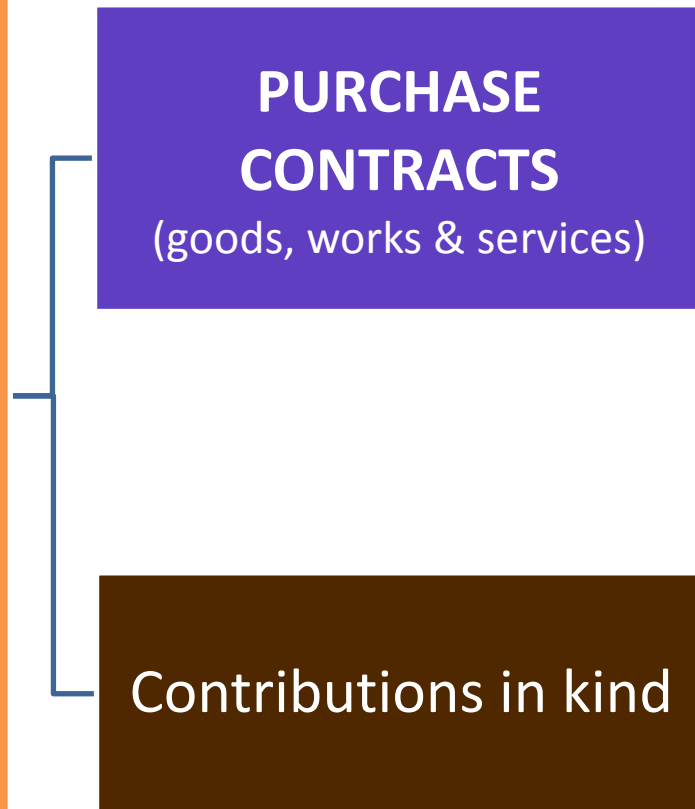
- Ensure **best value for money** and avoid any conflict of interests in all cases (eligibility criterion!)
- Estimated costs and tasks **must be identified** and justified in the Annex I and Annex II (eligibility criterion!)
- Subcontracting between beneficiaries or to affiliates **is not allowed**
- The Coordinator may not subcontract the **management and general administration of the project**.
- Framework contracts **insufficient** as basis
- No indirect costs

=> A subcontractor carries out a **task** which is a part **of the project** and is **identified as such in the Annex I**

Contractors:

necessary for implementing an task in the project

Beneficiary



- Limited in costs and scope
- Ensure **best value for money** and avoid any conflict of interests (eligibility criterion!)
 - Depreciation and percentage of use
- Framework contracts **insufficient** as basis: only if it complies with **BVFM!**
- Contracts between beneficiaries: not allowed as against RfP – the beneficiary who provides the goods/ services **should charge the costs** of providing, **not the price**
- Contracts with affiliates: only if it complies with **BVFM!**
- Generate 25% indirect costs

=> A contractor **does not carry out a task**, but provides what is necessary for it

Contractors and Subcontractors: how to differentiate?

<p>Article 10 <u>Contracts to purchase goods, works or services</u></p>	<p>Article 13 <u>Subcontracts</u></p>
<p>These contracts <u>do not cover the implementation of action tasks</u>, but they are necessary to implement action tasks by beneficiaries.</p>	<p>Subcontracts <u>cover the implementation of action tasks</u>; they imply the implementation of specific tasks which are part of the action and are described in Annex 1.</p>
<p>The price for these contracts will be declared as 'other direct costs' — column D in Annex 2 — in the financial statement; they will be taken into account for the application of the flat-rate for indirect costs.</p>	<p>The price for the subcontracts will be declared as 'direct costs of subcontracting' — column B in Annex 2 — in the financial statement; they will not be taken into account for the application of the flat-rate for indirect costs.</p>

Some examples

Examples of contracts:

- Contract for purchasing a computer (purchase of goods)
- Contract for an audit certificate on the financial statements (purchase of service)
- Contract for translation of documents (purchase of service)
- Contract for an IPR consultant (purchase of service)
- Contracts for dissemination – costs of open access (purchase of service)
- Contracts for purchasing consumable/ supplies (purchase of goods)
- Contracts for logistic support (organisation of the rooms; catering) - (purchase of service)
- **Setting up a website, if not specifically identified in Annex I as a task in the project**

=> to be reported as “other direct costs”

Examples of subcontracts:

- Testing and analysis of the resistance of a new component under high temperatures, if described in Annex I as actions task
- Building a prototype, if defined as action task
- **Setting up a website, if defined as action task**

General best practice

No repetition of rules, but:

ADVICE ON HOW TO AVOID ERRORS

Keep in mind:

1. Basic rules of eligibility of costs
2. Have discipline (keep your files in order)
3. Be prudent (the budget is there for you, but observe the rules first – do not wait for an audit)
4. Pay attention to the role of third parties
5. In case of doubt, contact us!

Who charges what costs?

Example 1:

Beneficiary A lacks resources and subcontracts action tasks to **Beneficiary B**. The subcontracting costs are declared by **Beneficiary A**.

NOT ALLOWED!

The subcontracting between beneficiaries in the same project is not allowed under any circumstances.

In this example, the tasks should be allocated to Beneficiary B and the costs should be declared by Beneficiary B (at cost basis)

Who charges what costs?

Example 2:

Beneficiary A lacks resources and has another company build a prototype (piece of equipment) for them. Building the prototype is a part of the action tasks. **Beneficiary A** charges the prototype to the project as « **purchase of equipment** ».

Incorrect!

1. If construction is **externalised to an affiliated company**, then the costs should be charged to the project by the affiliate as a « **linked third party** ».
2. If the construction **is externalised to another company with no link**, then the cost is eligible as « **direct costs of subcontracting** ».

(example provided under «Specific cases» section, article 6.2 D2, Annotated Grant Agreement)

Why so?

“Participants shall implement the action and shall take all necessary and reasonable measures to that end. **They shall have the appropriate resources** as and when **needed for carrying out the action**(...)”

(Article 23 of Regulation 1290/2013 – H2020 Rules for Participation)

“Costs must be actually incurred by the beneficiary.”

(Article 6.1 G.A.)

⇒ **Rule** is that beneficiaries should have the capacity to carry out the project themselves and thus charge the corresponding costs

⇒ costs must be actively and genuinely born by the beneficiary (and not by another entity)

⇒ Third parties are the **exception**: document it and justify it accordingly!

⇒ If more beneficiaries participate in achieving a task: **each one charges the costs** corresponding to what they have done!