



FCH 2 JU Financial Workshop Brussels, 30 March 2017

Other Direct Costs. Subcontracts. Third parties

Georgiana BUZNOSU, FCH 2 JU Legal Officer



<http://www.fch.europa.eu/>

Background:

In FP 7, one of the most common errors is:

Third parties and subcontracting costs not properly reported.

- Wrong qualification of third party
- Wrong qualification of budget category

Third Parties - a Classification (ART. 8 MGA/ AGA)

Type	Defintion	Budget Category
Purchase of goods / services = <u>CONTRACTOR</u>	This category covers all cases in which the participants need additional help or equipment, but carry out the promised project work themselves.	Other direct costs
<u>SUBCONTRACTOR</u>	The beneficiaries may award subcontracts covering the implementation of certain action tasks described in Annex 1.	Subcontracts
<u>LINKED THIRD PARTY</u>	Affiliated entities and third parties with a legal link to the beneficiaries may implement the actions tasks attributed to them in the Annex I.	Form C of third party : each type of costs in its corresponding category
<u>IN KIND CONTRIBUTOR</u>	If necessary to implement the action, the beneficiaries may use in-kind contributions (e.g.: personnel, use of equipment) provided by third parties against payment / for free.	Form C of beneficiary: : each type of costs in its corresponding category

Project Reporting and Payment

- Periodic Report

- Periodic technical report



- **Periodic financial report**

- Final Report

- Final technical report - summary for publication

- Final financial report - CFSs

Article 20 of the
MGA

The periodic financial report consists of:

- Individual financial statements;



- **Explanation of the use of resources and the information on subcontracting and in-kind contributions;**

- A periodic summary financial statement

Periodic Report Template:

http://ec.europa.eu/research/participants/data/ref/h2020/gm/reporting/h2020-tmpl-periodic-rep_en.pdf

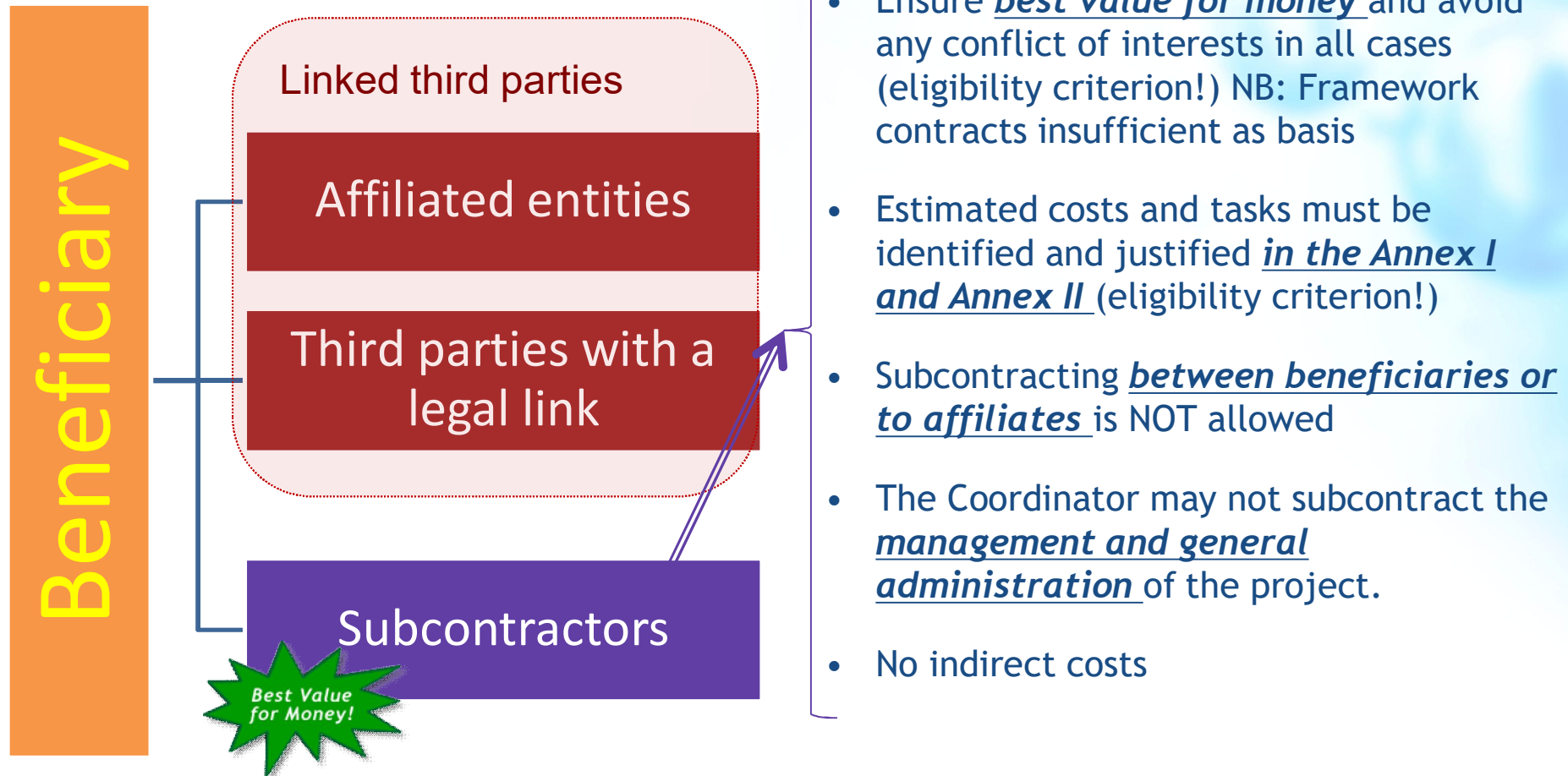
Budget categories

A. Direct personnel costs		B. Direct costs of subcontracting	<i>[C. Direct costs of fn. support]</i>	D. Other direct costs	E. Indirect costs ²
A.1 Employees (or equivalent)	A.4 SME owners without salary			D.1 Travel	
A.2 Natural persons under direct contract	A.5 Beneficiaries that are natural persons without salary			D.2 Equipment	
A.3 Seconded persons				D.3 Other goods and services	
<i>[A.6 Personnel for providing access to research infrastructure]</i>				<i>[D.4 Costs of large research infrastructure]</i>	
Actual	Unit ⁷	Unit ⁸	Actual	Actual	Flat-rate ⁹

- In kind contributor:
Corresponding budget category of the beneficiary

- Linked third Party:
Individual financial statement, submitted by the beneficiary

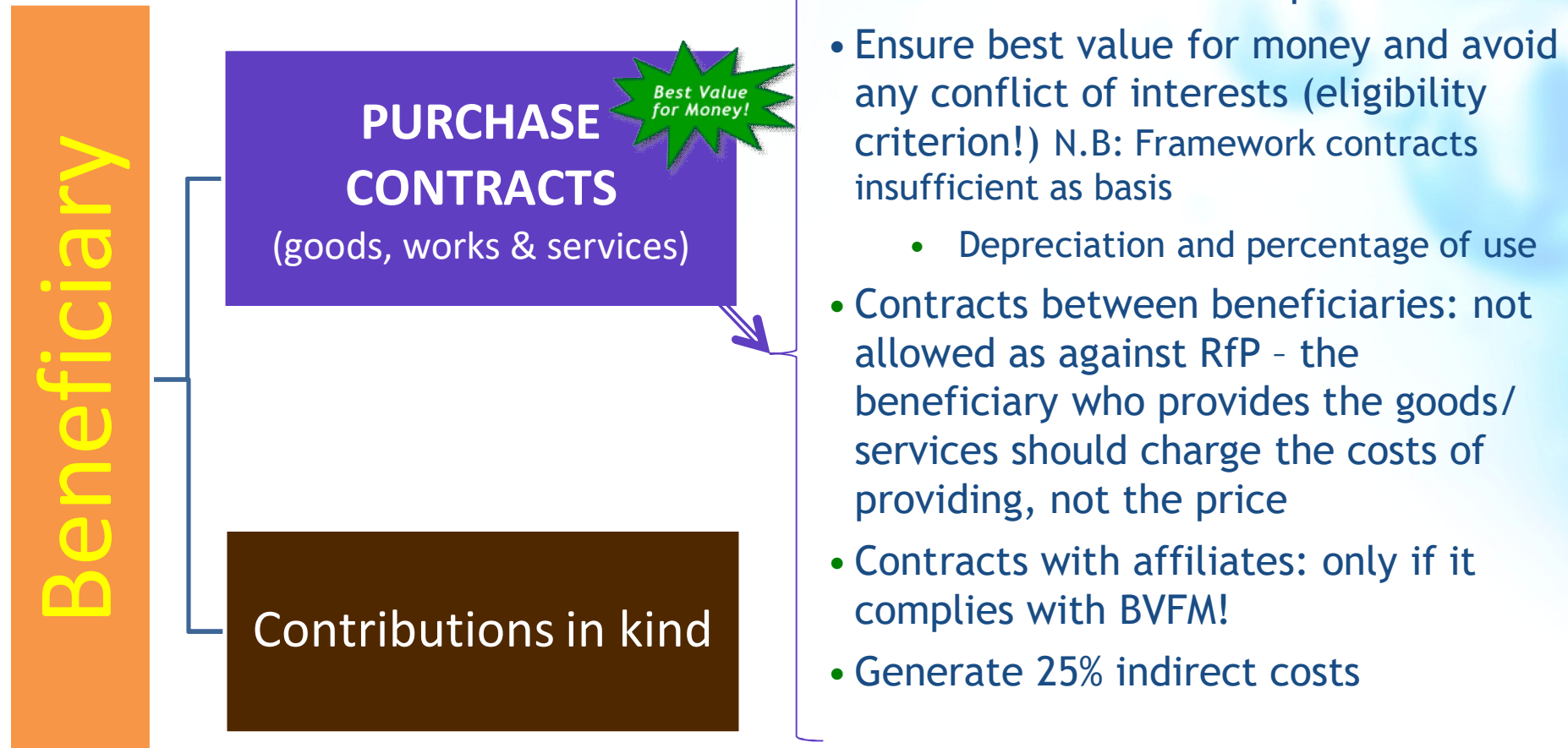
Subcontractors: implementing limited parts of the project



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 a task in the project



A contractor does not carry out a task, but provides the goods or services necessary for carrying it out

Contractors and Subcontractors: how to differentiate?

<p>Article 10 <u>Contracts</u> to purchase goods, works or services</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 <u>'other direct costs'</u> – 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 <u>'direct costs of subcontracting'</u> – 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)
- Contracts for purchasing consumable/ supplies (purchase of goods)
- Contract for an IPR consultant (purchase of service)
- Contracts for dissemination - costs of open access (purchase of service)
- Contracts for catering for meetings - (purchase of service)
- **Setting up a website, if not specifically identified in Annex I as a task in the project**

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**

Linked Third Parties

Beneficiary

Linked third parties

Affiliated entities

Third parties with a
legal link

Affiliated entity

- Under the direct or indirect control of the beneficiary
- Under the same direct or indirect control as the beneficiary
- Directly or indirectly controlling the beneficiary

'control' = >50 % shares or majority voting rights or decision-making powers

Linked Third Parties

Beneficiary

Linked third parties

Affiliated entities

Third parties with a legal link

- Must be identified in the GA + Part B
- Same cost eligibility criteria as beneficiaries
- FCH 2 JU may request them to accept joint and several liability for their EU contribution

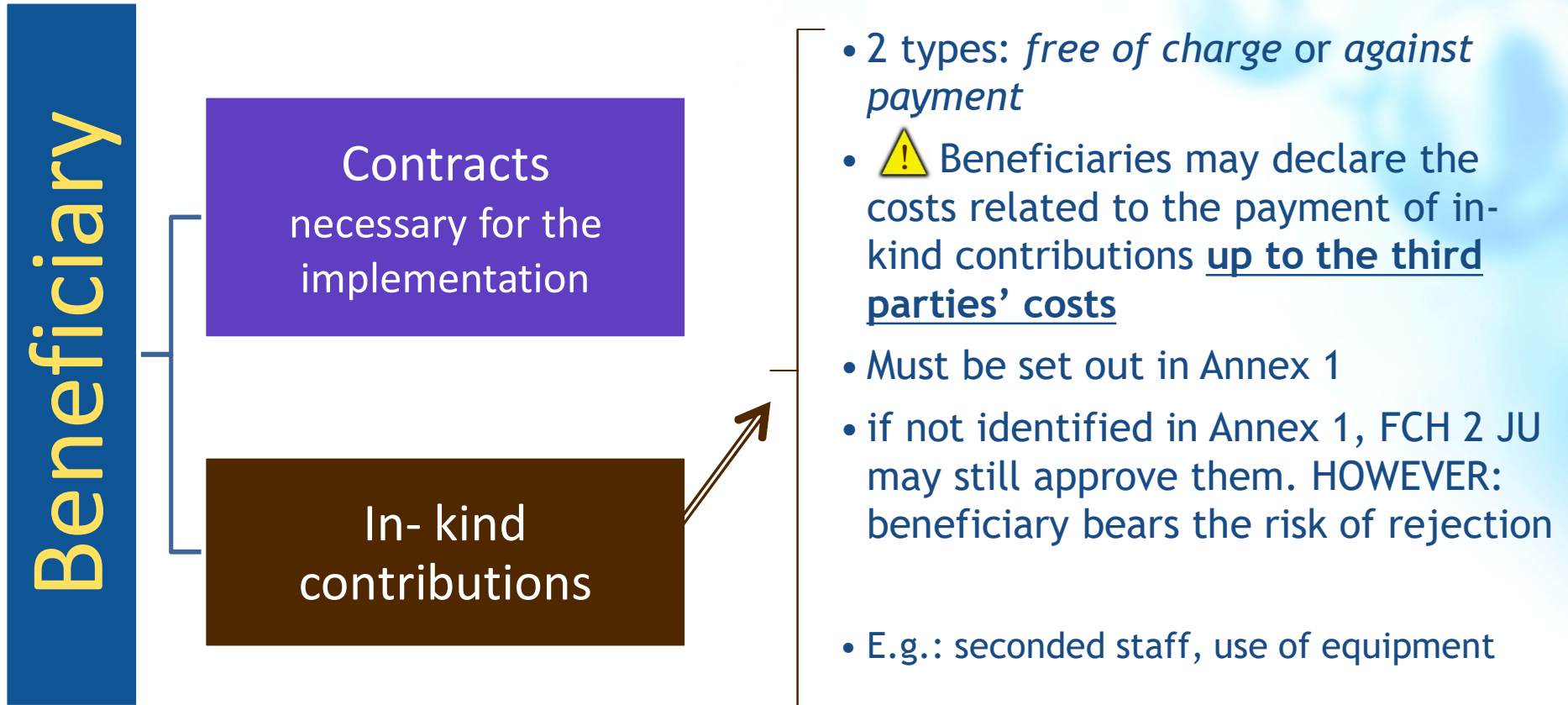
Affiliated entity

Legal link

A legally established relationship **not** specifically created for the Grant Agreement.

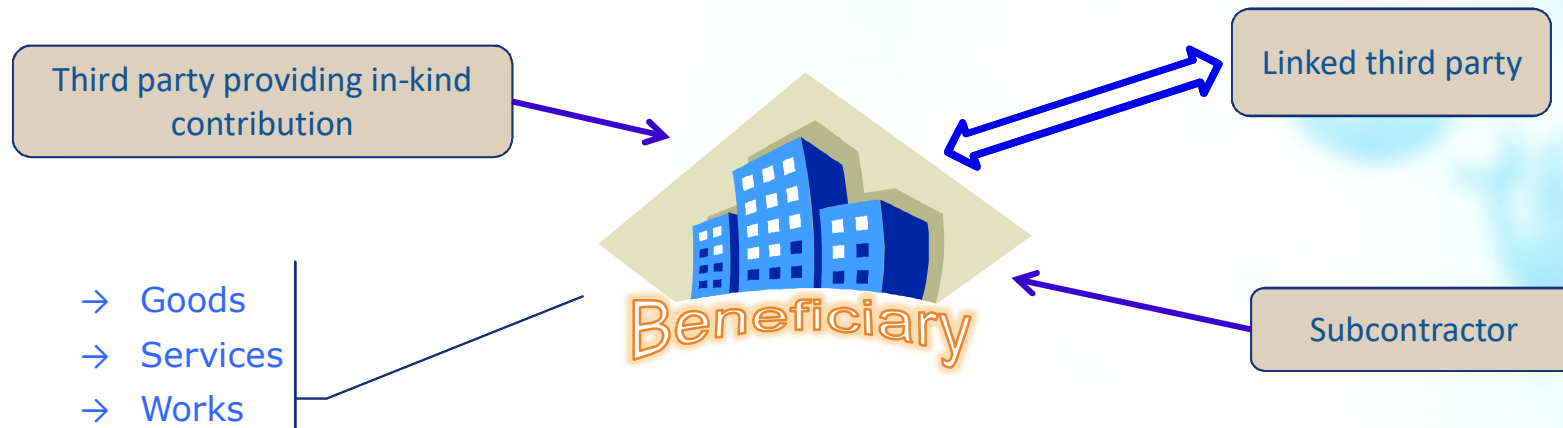
It may be in the framework of a legal structure (e.g. the relationship between an association and its members) or through an agreement or contract (not limited to the action).

In-Kind Contributors



In-kind contributions are non-financial resources of third parties put at the beneficiaries' disposal

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 FCH2 JU, Commission, 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, etc.)

Case Study

- Situation: you need maintenance services for equipment used in the project which are not available in your company.

Step 1:

Is this a contract or a subcontract?

Step 2 :

How do I ensure best value for money and avoid conflict of interest?

Case Study - Answers

- Step 1: contract or subcontract
 - difference is substance of the work
 - Is it a task or adjacent?
 - Check the DOW - Part B! what is defined as a project activity /task?
- Step 2: you must demonstrate 'best value for money' for both
 - (subcontracting and purchases of goods/services)
 - The best value for money principle does NOT in all cases require competitive selection procedures.
 - Some level of tendering to demonstrate 'best value' : e.g. tender, three offers, market survey, etc.
 - Naming the supplier in the grant does not mean that you do not have to demonstrate best value
 - We will normally accept your standard practices, when properly used

Case Study - One more question...

- Step 3: What happens if the answer is subcontract but the proposed subcontractor is an affiliate?

ANSWER:

Cost of subcontract is not eligible!

WHY?

Because according to the GA: no subcontracting to affiliates or to other beneficiaries!

HOW CAN I CHARGE THIS COST IN THE PROJECT?

An affiliate can be a linked third party to the project, charging its own costs. It must be identified as such in the GA and Annex 1.



THANK YOU FOR YOUR ATTENTION!

