

Lecture 7. Managing a project

Consortia in FP6 have great autonomy and flexibility in managing their projects. The accent of monitoring by the Commission is put on the outputs rather than on the details of internal management of the consortia.

This lecture describes the basic management requirements, reporting duties and mechanisms for problem solving:

- ⇒ What makes a well-managed project
- ⇒ Additional financial support from the Structural Funds (Bonus)
- ⇒ Running the project
- ⇒ Audits
- ⇒ Problems
- ⇒ Completion of a contract
- ⇒ References

What makes a well-managed project

Keeping track

Your project should have been extensively planned at the proposal stage. However, it is in the nature of research that things will soon start to go off the planned track. Active monitoring is essential, and early decisions to take corrective action or amend plans must be agreed so that control of the project is not lost. There are various methodologies available to help, as well as commercial software and training courses. The 'Kick-off' meeting is a good time to establish positive working practices among all partners and set the tone for all future conduct. This important phase of the project should itself be well prepared and managed so that good practices are firmly established by consent.

In FP6, and especially for the new instruments Integrated Projects and Networks of Excellence, consortia have an increased level of autonomy and flexibility. This means that they must put in place very robust management structures that are adequate for the size and complexity of the envisaged project. It is good practice to have dedicated management staff with the right professional background as well as a management board with a degree of independence from the day-to-day project management and operation.

Project management is not only about doing the work and getting paid, but also protecting, publishing, and utilising the knowledge generated. Management of intellectual property and exploitation of results, both the anticipated direct results and any unexpected spin-offs, is fundamental to achieving a highly rated project. A project Web site with both public and private areas can be a useful tool both for project management and or stimulating dissemination and use of your knowledge.

Remedial actions

Project contractors must take responsibility for keeping each other in line. It is not the Commission's job to police your project. If one or more partners are not meeting their obligations the project must have the mechanisms to warn them, impose sanctions on them, and eventually to reject them from the partnership.

Additional financial support from the Structural Funds (Bonus)

The Decision of the European Parliament and the Council concerning FP6 stipulates that certain contractors (legal entities established in Objective 1 Regions) participating in FP6 projects may receive an additional financial contribution from the Community via the Structural Funds ("Bonus") to reduce the level of their own financial contribution to the FP6 project. However, interested parties should note that in no case this Bonus should lead to situations of over-accumulation of received funds that would exceed the maximum permitted funding rates for FP6 and cannot lead to a profit.

Therefore if the legal entity is established in an Objective 1 Region, it can start to explore the Bonus possibility already at the stage of the preparation and submission of the proposal. However in all cases potential eligible participants have to possess the full resources either on their own or from third parties to carry out their tasks under the FP6 project, since the Bonus facility is not an obligation to the Structural Funds. Therefore, when calculating the total costs of the project and when filling in the Contract Preparation Forms A3.1, in particular the EC requested contribution and the receipts, the Bonus cannot be taken into account.

In no case can their participation be subject to the granting of this additional Community contribution, since this is a decision of the competent managing authority of the region where the potential contractor is established. It is recommended that this potential participant from a Region Objective 1 check the 'Bonus' eligibility criteria at <http://www.cordis.lu/era/bonus.htm>. In brief, below are the steps to follow.

▪ **First step**

Organisations that are potentially eligible should check whether they are established in an Objective 1 Region (potential beneficiary organisations can only be from a Member State of the European Union); please consult the list of the Objective 1 regions and areas receiving Objective 1 transitional support in the relevant Community legislation:

1. **Commission Decision** of 1 July 1999 drawing up the list of regions covered by Objective 1 of the Structural Funds for the period 2000 to 2006 (notified under document number C(1999) 1770 (1999/502/EC) - available at: http://europa.eu.int/comm/regional_policy/sources/docoffic/pdf/objectif1/obj1_en.pdf, and
2. The **Act** concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded; Annex II: List referred to in Article 20 of the Act of Accession, chapter 15 (Regional policy and coordination of structural instruments), p.658 - available at: http://europa.eu.int/comm/regional_policy/sources/docoffic/pdf/obj1/addendum2003_en.pdf.

▪ **Second step**

The potential eligible organisation should check whether they are eligible for the BONUS or not (a self-check against the eligibility criteria could be carried out with the help of the "questionnaire").

▪ **Third step**

If the proposal is selected by the Commission for funding under FP6, eligible contractors shall contact the competent Structural Funds Managing Authority in their region even if negotiations have not begun or have not been concluded yet.

To find out which Managing Authority to contact visit the following website:
http://europa.eu.int/comm/regional_policy/manage/authority/authority_en.cfm.

▪ **Fourth step**

If the Bonus is granted by the competent Managing Authority, it shall be declared as a 'receipt' for the project in the appropriate "Financial Statement Form" (Form C), since the provisions of the FP6 model contract consider this complementary funding as a receipt.

Running the project

Reporting and deliverables

To enable the Commission to monitor the progress of the contract and ensure that it complies with the general conditions for financial support, the participants are obliged to submit periodic reports and a final report.

Each project is divided into reporting periods. All reports and deliverables shall be submitted within 45 days following the end of the respective periods.

For Integrated Projects and Networks of Excellence there are fixed reporting periods of 12 months. For other instruments, reporting periods are subject to negotiation and will be fixed in the contract.

The consortium shall submit the following reports to the Commission for each reporting period :

- ⇒ Periodic activity report
- ⇒ Periodic management report
- ⇒ Report on the distribution of the Community contribution between contractors
- ⇒ Supplementary reports required by any Annex to the contract
- ⇒ Audit certificates for each contractor, if required by the contract

The consortium shall submit the following reports to the Commission after the end of the project:

- ⇒ Final activity report
- ⇒ Final management report
- ⇒ Report on the distribution of the Community financial contribution between contractors
- ⇒ Supplementary reports required by any Annex of the contract

Evaluation and approval of reports

Reflecting the novel nature of FP6, the Commission will put emphasis on a strategic monitoring of outputs rather than a detailed monitoring of inputs. For this, the Commission envisages a reinforced monitoring scheme, involving high-level independent experts evaluating periodic and final reports.

If no modifications to any reports are required, they will be deemed to be approved within 90 days of receipt. Approval of any report does not imply exemption from any audit or review.

In those cases where, following the evaluation of the reports, the Commission considers that the consortium is not performing satisfactorily, it may:

- ⇒ Reject the reports submitted and request that the consortium complete the work foreseen within a deadline to be established by the Commission. Reports and deliverables shall be re-submitted once completed
- ⇒ Approve the reports and deliverables but subject the project to re-negotiation. In this case, the Commission may suspend the project
- ⇒ Terminate the contract

Payment modalities

The contract specifies a maximum EC contribution to the project. The consortium will have a considerable degree of freedom to manage its own financial affairs.

Payments are made to the co-ordinator on behalf of the consortium. The co-ordinator is responsible for receiving and ensuring the distribution of the Community financial contribution. The allocation of the payments to the partners has to be decided by the consortium (consortium agreement).

By a system of periodic advance payments (pre-financing) a permanent positive cash flow is guaranteed, giving great financial certainty to the consortium.

Periods for estimation of advance payments cover a reporting period plus the first six months of the following reporting period (*i.e.* 12+6=18 months for Integrated Projects and Networks of Excellence). The first pre-financing for the first period is transmitted to the co-ordinator within 45 days of:

- ⇒ Either the date of entry into force of the contract;
- ⇒ Or the date of the accession of the last contractor required to constitute the minimum number of participant as established by the Rules for Participation and the call for proposal related to the project;
- ⇒ Or the last date of accession to the contract of all contractors.

Advance payment is normally 80% of the total estimated amount of the Community financial contribution of the first period. It can be lower in cases where financial guarantees of contractors are not sufficient.

Further payments are based on the approval of periodic reports.

Audits

In addition to the regular scientific-technical and financial monitoring of projects, the European Commission performs audits of contractors. The Commission can at any time during the contract and up to five years after the end of the project, arrange for audits to be carried out, by its departments and by external reviewers.

The audits can cover scientific, financial, technological and other aspects relating to the proper execution of the project and the contract. Audits are carried out on a confidential basis and amounts due to the Commission, may be the subject of a recovery.

The contractors will provide the Commission with all the detailed data that may be requested by the Commission. Contractors will ensure that at all reasonable times access will be given to both the Commission and to any outside body(ies) to their respective offices and that necessary information will be made available. The European Court of Auditors has the same rights as the Commission. On-the-spot checks and inspections may be carried out.

Problems

Force majeure

It is possible that an unforeseeable event occurs beyond the control of the Community or the contractors affecting the contract and the project. Such an event constitutes a force majeure. In a case of force majeure occurring to the contractors or the Commission, notification will be given to either the Commission or the contractors.

If a contractor has been prevented from fulfilling its obligation to execute the project due to force majeure, it will not be considered in breach of this obligation. In such a case, remuneration for accepted eligible costs incurred may be made only for tasks which have actually been executed up to the date of the instance.

The project can be suspended or terminated due to force majeure.

Suspension and prolongation of the project

In the case of a delay in the implementation of the project the consortium informs the Commission. The consortium can propose to suspend part or all of the project if force majeure or exceptional circumstances render its execution excessively difficult or uneconomic.

If the Commission considers that the consortium is not carrying out its work satisfactorily, it may suspend part or all of the work under the project, so as to re-negotiate the contract. The work or the project can begin again when both parties agree.

Both the Commission may terminate the contract and the consortium may request that the contract be terminated if it is established that it will be excessively difficult to continue with all or part of the project and/or that for technical, financial, economic or scientific reasons the delay or non-execution will be such that the project is no longer viable.

Cases of collective responsibility

Collective responsibility is a mechanism by which a contractor may be held liable, technically and/or financially, fully or partially, for the action of another contractor. It is applied as a last resort in case that a breach of the contract by one or more contractors cannot be made good by other means.

▪ Technical Collective Responsibility

Depending on the nature of the breach, the consortium will be invited to find the appropriate solution. The technical implementation of the project will be the collective responsibility of the contractors. If no solution is found, the defaulting contractor is excluded and the consortium is requested to continue the project.

▪ Financial collective responsibility

Should the contract be terminated or the participation of a contractor be terminated, and any contractor does not reimburse amounts due to the Commission after fixing the accounts, the consortium will collectively be responsible for reimbursement.

The amount to be recovered shall be allocated between the remaining contractors in accordance with their pro rata share in the overall project. For each contractor, it will not exceed the total payment it is entitled to receive.

The above does not apply where the defaulting contractor is a public body, an international organisation or a contractor whose participation to the indirect action is guaranteed by a Member State or an Associated State.

International Organisations, public bodies or entities guaranteed by a Member State or an Associated State are solely responsible for their own debts and the financial collective responsibility is not applied.

Sanctions

Sanctions are foreseen in cases of irregularities committed by a contractor (infringement of a provision of Community or national law or any breach of a contractual obligation).

In such cases the Commission can:

- ⇒ Exclude the contractor from the contract

- ⇒ Exclude the contractor from other FP6 contracts and from contracts under other Community policies
- ⇒ Declare the contractor ineligible to participate in future FP6 activities, and in programmes under other Community policies
- ⇒ The Community, with the aim of protecting its financial interests, is entitled to claim liquidated damages from a contractor who is found to have overstated expenditure and who has consequently received an unjustified financial contribution from the Community

As established by the Financial Regulation, any contractor in breach of its obligations shall be liable to financial penalties of between 2% and 10% of the value of the Community financial contribution received. The rate may be increased in the event of a repeated breach.

Completion of a contract

Use and dissemination

The submission of final reports is not the end of the obligations of a consortium. There is an obligation to use and disseminate the results of the project.

Participants in projects, as well as the Community will use the knowledge which they own and which has arisen from direct or indirect actions or they will assure the use of this knowledge, by third parties, in accordance with the interests of the participants concerned. The participants shall set out the terms for use of the knowledge in a detailed and verifiable manner, in accordance with the rules for participation and the contract.

If dissemination of the knowledge does not adversely affect its protection or its use, the participants shall ensure that it is disseminated within a period laid down by the Community. In the event that the participants fail to fulfil relevant obligations the Commission itself will undertake to disseminate the knowledge. Particular account shall be taken of the following:

- ⇒ The need to safeguard intellectual property rights
- ⇒ The advantages to be derived from the swift dissemination of knowledge, in order to avoid duplication of research efforts and in order to create synergies between indirect actions
- ⇒ The principle of confidentiality
- ⇒ The legitimate interests of the participants

Rules on Intellectual Property Rights (IPR)

▪ Ownership of knowledge

As a rule, ownership resides with the contractor generating knowledge (with the exception of the specific SME actions).

Where several participants have jointly carried out work generating the knowledge and where their respective share of the work cannot be ascertained, they shall have joint ownership of such knowledge.

Transfer of ownership: In case of transfer of ownership and as long as the participant is required to grant access rights, it shall give prior notice to the Commission and the other participants in the same indirect action of the envisaged assignment and the assignee. The Commission or other participants in the indirect action may object within 30 days of notification to such a transfer of ownership.

▪ Protection of knowledge

Where knowledge is capable of commercial or industrial application and subject to legitimate interests, it is a requirement for its owner to provide for its adequate and effective protection.

Where there is no protection, the Commission may protect knowledge. In particular where the Commission considers it necessary to protect knowledge in a particular country, and where such protection has not been applied for or has been waived, the Commission may, with the agreement of the participant concerned, adopt protective measures.

▪ **Publication**

A participant may publish or allow the publication, on whatever medium, of data concerning knowledge it owns or knowledge obtained during work in connection with cooperative or collective research projects, provided that this does not affect the protection of that knowledge. The Commission and the other participants in the same indirect action shall be given prior written notice of any planned publication. They may object to the publication within a period of 30 days from receipt of the data envisaged to be published, if they consider that the protection of their knowledge would be adversely affected by this publication.

▪ **Access rights**

Access rights shall be granted on written request. Access rights for use of another's results will be granted only when necessary (not by right). Obligatory access rights between contractors are limited to what they really need (either for carrying out the project or for using their own knowledge) but broader access rights may be freely negotiated.

Access rights to third parties : Participants may conclude agreements with the purpose, in particular, of granting additional or more favourable access rights, including access to third parties in particular to enterprises associated with participants. The Commission may object to any grant of access rights to third parties, in particular to those not established in a Member State or an Associated State, if such a grant is not in accordance with the interests of developing the competitiveness of the European economy, or is inconsistent with ethical principles.

Access rights shall confer no entitlement to grant sub-licences unless it is explicitly agreed.

A participant may explicitly exclude specific pre-existing know-how from the obligation to grant access rights to the others (with the written agreement of all participants and before the participant concerned signs the contract or before a new participant joins the project).

Access rights for use of knowledge: Participants in the same project shall enjoy access rights to knowledge and to the pre-existing know-how, if that knowledge or pre-existing know-how is needed to use their own knowledge. Access rights to knowledge shall be granted on a royalty-free basis, unless otherwise agreed before signing the contract. Access rights to pre-existing know-how shall be granted under fair and non-discriminatory conditions to be agreed.

References

- **CORDIS ERA Bonus Scheme:** <http://www.cordis.lu/era/bonus.htm>
- **Commission Decision of 1 July 1999:** http://europa.eu.int/comm/regional_policy/sources/docoffic/pdf/objectif1/obj1_en.pdf
- **Official Journal of the European Union:** http://europa.eu.int/comm/regional_policy/sources/docoffic/pdf/obj1/addendum2003_en.pdf
- **Bonus questionnaire to potential beneficiaries:** ftp://ftp.cordis.lu/pub/era/docs/bonus_questionnaire.pdf
- **Managing Authorities:** http://europa.eu.int/comm/regional_policy/manage/authority/authority_en.cfm
- **Guidance notes on project reporting:** <http://www.cordis.lu/fp6/find-doc.htm#reporting>
- **Guidelines on Innovation in FP6:** <http://www.cordis.lu/fp6/find-doc.htm#innoguide>
- **FP6 competitive calls:** <http://www.cordis.lu/fp6/find-doc.htm#competitive>
- **FP6 model contract:** <http://www.cordis.lu/fp6/find-doc.htm#modelcontracts>
- **FP6 model contracts and annexes:** http://europa.eu.int/comm/research/fp6/working-groups/model-contract/index_en.html

- FP6 model contract Annex II: http://dbs.cordis.lu/fep-cgi/srchidadb?ACTION=D&SESSION=&DOC=1&TBL=EN_DOCS&RCN
- Financial guidelines for FP6 contracts: http://dbs.cordis.lu/fep-cgi/srchidadb?ACTION=D&SESSION=&DOC=1&TBL=EN_DOCS&RCN
- Intellectual Property Rights (IPR) website and helpdesk: <http://www.ipr-helpdesk.org/>