

DG INFORMATION SOCIETY AND MEDIA

ICT Policy Support Programme

Competitiveness and Innovation Framework Programme



**Guide to Financial Issues relating to ICT PSP
Grant Agreements**

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This document can be downloaded via

http://ec.europa.eu/information_society/activities/ict_psp/calls/grant_agreement/index_en.htm

Disclaimer

This guide is aimed at assisting beneficiaries. It is provided for information purposes only and its content is not intended to replace consultation of any applicable legal source or the necessary advice of a legal expert, where appropriate. Neither the Commission nor any person acting on its behalf can be held responsible for the use made of this guide.

Foreword

The model grant agreement was adopted by the European Commission on 24 July 2007 to be used in projects funded under the ICT Policy Support Programme (ICT PSP). It consists of a core text and several annexes. The model grant agreement also contains a list of special conditions to be introduced in individual grant agreements where necessary.

The purpose of this guide is to help participants to understand and interpret the financial provisions of the model grant agreement and to provide the reader with practical advice.

The structure of this guide mirrors the financial provisions of the grant agreement, by referring to the same index and structure of that document. Accordingly, it is a tool to clarify the provisions of the grant agreement, and should be read in connection with it. The main articles in the grant agreement with financial implications are explained in this guide, and examples included where appropriate. The intention is not only to explain, but also, by following the same structure, to help the reader to locate where he/she may find the answer to his/her question.

Whenever new rules are drafted, new questions arise. For this reason, this guide has been conceived as an evolving document which, it is intended, will be updated regularly to reflect new questions and feedback from its users (both from outside and inside the Commission) and the knowledge gained through practice. On this point however it is important to remember that the only scope of the guide is to provide interpretation on the legal texts (and in particular the grant agreement), and that it cannot derogate from them. These guidelines do not reflect an official position of the Commission; only the provisions of the signed grant agreement are binding.

Further guides available to any (future) beneficiary of the ICT PSP can be found at the following web address:

http://ec.europa.eu/information_society/activities/ict_psp/calls/grant_agreement/index_en.htm

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1. CORE GRANT AGREEMENT

Article 5 – Maximum Community financial contribution

Article 5.1 – Maximum Community financial contribution

The maximum Community contribution which appears in this article cannot be exceeded. Even if the eligible costs of the project would happen to be higher than planned, no additional funding within the same grant agreement is possible.

Article 5.1 – Reimbursement of actual costs or lump sum

The ICT PSP grant agreement foresees two types of reimbursement.

Pilots Type A and B – reimbursement of actual costs

Pilot projects – whether Type A or Type B – are reimbursed on the basis of the eligible costs actually incurred (see Article II.20), which need to be substantiated (see Article II.23). The Community financial contribution for these projects is limited to 50% of the eligible costs.

Thematic Networks – lump sum financing

Thematic networks are financed on the basis of lump sums and flat-rates (based on scale-of-unit costs)¹. These lump sums or flat-rates (based on scale-of-unit-costs) do not require the submission of detailed justifications, as they are "fixed". The Community financial contribution for thematic networks is calculated as follows:

	<i>Flat-rate (based on scale-of-unit cost) for 'Coordination costs'</i>	<i>Lump sum for 'Implementation costs'</i>	<i>Lump sum for 'attendance of meetings costs'</i>
<i>Coordinator</i>	<ul style="list-style-type: none"> - 3.000€ per year and per beneficiary for the first 10 beneficiaries (including the coordinator); - 2.000€ per year and per beneficiary from the 11th beneficiary on. - No additional funding from the 21st beneficiary on. 		Costs for attendance of networks meetings and network related events are financed by a lump sum of 5.000€ per year per beneficiary
<i>Other</i>		3.000€ per year	

¹ Although the model grant agreement allows the reimbursement of actual eligible costs for Thematic Networks, this option is currently not used.

<i>Beneficiaries</i>		per beneficiary	
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Example:

A Thematic Network with a total of 15 participants (coordinator plus 14 other beneficiaries) and duration of two years would be financed as follows:

	<i>Flat-rate (based on scale-of-unit costs) for 'Coordination costs'</i>	<i>Lump sum for 'Implementation costs'</i>	<i>Lump sum for 'attendance of meetings costs'</i>	<i>Total</i>
<i>Coordinator</i>	[(10 x 3.000€) + (5 x 2.000€)] x 2 years = 80.000€		5.000€ x 2 years = 10.000€	90.000€
<i>Other Beneficiaries</i>		3.000€ x 14 beneficiaries x 2 years = 84.000€	5.000€ x 14 beneficiaries x 2 years = 140.000€	224.000€
<i>Total</i>	80.000€	84.000€	150.000€	314.000€

For periods of less than a full year, the flat-rate (based on scale-of-unit costs) and lump sum financing for the Thematic Network is reduced pro rata. If in the above example the duration of the Thematic Network would be 18 months instead of 2 years, the amounts set out would be multiplied by 1, 5 years instead of 2 years.

Special condition for Thematic Networks

Thematic Networks financed by flat-rates (based on scale-of-unit costs) and lump sums are exempted from the following:

- the submission of certificates on financial statements (Article II.4(7) of the grant agreement),
- the provisions in the grant agreement concerning eligible costs and their justification by accounting and other evidence (Articles II.20 to II.23) and
- the declaration of receipts of the project (Article II.24).

A special condition to this effect will be introduced in each grant agreement for a Thematic Network (see the list of special conditions in Article 8 of the grant agreement).

Please note that Thematic Networks are not exempted *per se* from submitting financial statements. However, the reporting in this case is simplified: only the coordinator is requested to submit a simplified financial statement. More details can be found in the explanations on Article II.4.

Article 5.2 – Indicative breakdown of the budget and the Community financial contribution

As the breakdown of the budget included in Annex I (Description of Work) is an estimate, a transfer of budget between beneficiaries is allowed without an amendment of the grant agreement. However, a condition for this is that the work is carried out as foreseen in Annex I. The coordinator has to notify the Commission of such transfers without unjustified delay, and at the latest in the periodic management report covering the period in which the budget transfers have been agreed.

An amendment to the grant agreement will be necessary in all cases when the budget transfer arises from a significant change in Annex I. Significant change refers to a change that affects the technical work, including e.g. the subcontracting of a task that was initially meant to be carried out by a beneficiary. In case of doubt, it is recommended to consult the responsible project officer.

In the case of Thematic Networks, as the reimbursement is based on lump sums, no transfer of budget between beneficiaries is allowed.

Article 6 – Payment

Article 6.1– Payment to the coordinator

The Community financial contribution to the project is paid to the coordinator on behalf of the beneficiaries. The payment of the Community contribution to the coordinator discharges the Commission from its payment obligations.

Article 6.2– Bank account

It is recommended that the bank account included in the grant agreement (i.e. the bank account of the coordinator) be used exclusively for handling the project funds as the coordinator must (i) at any moment be able to identify the dates and the amounts related to any payment received or made under the grant agreement and (ii) be able to identify the interest on the pre-financing that has been incurred or for proving that there has in fact been no interest. Beyond that, the requirement is also important for audit and control purposes (i.e. to enable a reconciliation of accounting records with the actual use of funds).

In any case, if an existing account/sub-account is used, the accounting methods of the coordinator must make it possible to comply with the above mentioned requirements and during the negotiations a coordinator may be asked to make a declaration to this effect.

If considered necessary by the Commission, a special condition may be introduced in the grant agreement which makes it mandatory that the bank account of the coordinator is specifically dedicated to the project (see the list of special conditions in Article 8 of the grant agreement).

Article 6.3 – Payment schedule

The Community financial contribution is paid in accordance with the payment schedule that has been agreed in the grant agreement.

A distinction is made depending on whether the project duration is less than or equal to 18 months or longer than 18 months. In case the project duration is shorter than or equal to 18 months, only two payments will be made, i.e. a pre-financing and final payment. In the other case – i.e. the project duration is longer than 18 months – in addition to the initial and final payment also interim payments will be made after each reporting period².

Hence:

Project duration is \leq 18 months

- Pre-financing: There is only one pre-financing payment (advance payment) during the life of the project. The amount of pre-financing will be agreed during the negotiations and is typically in the order of 75% of the total Community contribution. In any case it may not exceed 80% of the maximum Community contribution. It will be received by the coordinator at the beginning of the project and in any case within 45 days of the entry into force of the grant agreement (unless a special clause stipulates otherwise). Like any other payment, the coordinator will distribute it to the other beneficiaries in conformity with the grant agreement and the decisions taken by the Consortium. In particular, the coordinator may distribute the pre-financing only to the beneficiaries that have already acceded to the grant agreement by signing and submitting Form A.

The pre-financing remains the property of the Communities until the final payment. The purpose of this pre-financing is to make it possible for the beneficiaries to have a positive cash-flow during (most of) the project.

- Final payment: The final payment is made at the end of the project and consists of the difference between the calculated total Community contribution (on the basis of the eligible costs) minus the amount already paid. Receipts of the project will be taken into account. For more explanations on the final payment, please refer to the explanations on Article II.26(1).

Project duration is $>$ 18 months

- Pre-financing: In principle there is only pre-financing payment during the life of the project. The amount of the pre-financing is typically in the order of 160% of the average Community contribution per period. In any case, the amount cannot be more than 60% of the maximum Community contribution, as stated in Article 5 of the grant agreement. It will be received and distributed by the coordinator as described above.
- Interim payments: The amount of the interim payment depends on the costs accepted for the reporting period. However, all pre-financing and interim payments under a project taken together can never be more than 90% of the maximum Community financial contribution (see also the explanations on Article II.26.I in this guide).

² Although the model grant agreement allows making additional pre-financing payments, this option is not used at the moment.

- Final payment: Please refer to the explanations on Article II.26(1) of the grant agreement.

The above principles for the payment schedule apply to all actions in the ICT PSP, including Thematic Networks.

Article 8 – Special conditions

Special conditions are agreed with the Commission at negotiation stage. Some of the special conditions have an impact on the financing and the payment to the project. The financial implications of the special conditions will be dealt with at this stage.

2. ANNEX II – GENERAL CONDITIONS

Part A: Implementation of the project

Article II.2 – Organisation of the consortium and role of the coordinator

Article II.2(1) – Obligations and role of the coordinator

There is only one project coordinator, who is responsible for the tasks defined in Article II.2(1) of the grant agreement and who represents the consortium vis-à-vis the Commission. The coordinator is responsible, *inter alia*, for administering the Community financial contribution. In particular, the coordinator must ensure that all appropriate payments to the beneficiaries are made within 45 days of the day on which the Commission has paid. He must also report to the Commission on the distribution of the Community financial contribution and the date of transfer to the beneficiaries when the Commission requires this information and in any event within 30 days of the final payment (for further explanation see the section on Article II.4(3)).

Can the coordination tasks be performed by other beneficiaries or be subcontracted?

The tasks attributed by the grant agreement to the coordinator in Article II.2(1) cannot be subcontracted nor be carried out by other beneficiaries. However, a special condition may be inserted in the grant agreement which can only be used for Pilot Type A projects and allows subcontracting of administrative tasks related to the technical, financial and administrative coordination.

Can part of the technical coordination be performed by other beneficiaries?

Yes. The coordinator only has to carry out the tasks mentioned in Article II.2(1) by himself. Tasks related to the technical coordination of the project, as far as they are not mentioned in Article II.2(1) can be carried out by another beneficiary. It is possible that this beneficiary in charge of the task of technical coordination, may be internally (i.e. within the consortium) identified as such. However, in the relationship with the Commission the "technical coordinator" is only another beneficiary of the grant agreement. This beneficiary will not be considered as the project coordinator.

Can a financially weak legal entity be coordinator of a project?

The Commission will systematically analyse the financial viability of coordinators which are not public bodies or higher and secondary education establishments or international organisations. If the results of this analysis are negative, this entity will normally not be allowed to be coordinator of the project unless sufficient guarantees will have been provided on the basis of a special condition to be inserted in the grant agreement.

For information on the rules on the legal and financial viability of beneficiaries, check the Guide for legal and financial viability checking for the ICT Policy Support Programme³.

Article II.3 – Specific performance obligations of each beneficiary

Each beneficiary must maintain appropriate documentation to support and justify costs up to at least 5 years after the date of the final payment (see also Article II.23). In particular, this includes keeping original copies of subcontracts as set out in the Article II.3(c).

Article II.4 – Project reports, deliverables and certificates on financial statements

Article II.4(1)(ii) – Financial statements for interim and final payments

Case of reimbursement on the basis of eligible costs actually incurred - Pilots projects

In **Annex 1 and 2** to this Guide, the template for the financial statements to be used for the submission of costs by each beneficiary and the template for the summary financial report to be used by the coordinator are given. These templates provide the format and the layout referred in Article II.4.1 (ii) of the grant agreement – their use is therefore mandatory.

In its financial statement (**Annex 1**), each beneficiary will essentially report the costs incurred in a given reporting period. The direct costs are broken down in three cost categories: personnel costs, subcontracting and other specific direct costs. In addition, the indirect costs are to be provided. Each beneficiary also indicates the receipts received in the given reporting period and in addition the coordinator declares the interests on the pre-financing. In case a certificate on the financial statement is required, the beneficiary concerned reports the name of the auditor as well as the cost of the certificate. The financial statement is to be signed and dated by a properly authorised person. Any adjustment of costs submitted in previous cost reporting periods must also be reported using the same level of detail.

The summary financial report that is provided by the coordinator (**Annex 2**) states for each beneficiary the cost claimed, any adjustments to previous reporting period, the receipts and the requested Community contribution. In addition for the coordinator the interest is indicated. The data in the summary financial report must be consistent with the data provided in the individual financial statements.

³ http://ec.europa.eu/information_society/activities/ict_psp/calls/grant_agreement/index_en.htm

Case of funding on the basis of lump sums or scale-of unit cost – Thematic Networks

As the Community contribution is a fixed lump sum or, in the case of the coordinator, a flat-rate based on scale-of-unit costs, which depends on the duration of the project and (in the case of the coordinator) on the number of beneficiaries, only the coordinator is requested to complete a simplified financial statement in the form of a summary financial report. The template for the summary financial report is given in **Annex 3**. This template provides the format and the layout referred in Article II.4(1)(ii) – its use is therefore mandatory. The summary financial report is to be signed and dated by a properly authorised person. By signing the summary financial report, the coordinator confirms that the beneficiaries for whom financing is requested have actively participated in the project.

Article II.4(3) – Report on the distribution of the Community financial contribution

Annex 4 provides the template for the report by the coordinator on the distribution of the Community financial contribution. Essentially the report contains the amounts and dates on which the Community contribution has been received and the amounts and dates of payments made to the beneficiaries. This report needs to be submitted by the coordinator within 30 days after receipt of the final payment and on request of the Commission also at other stages of the project, for example in case of termination of the participation of one of the beneficiaries. Thus, it is not required to submit a report on the distribution of the Community financial contribution after every reporting period, unless the Commission specifically requests such reports.

Article II.4(7) – Certificates on financial statements

The requirements on certificates on financial statements are described in separate guidelines⁴. Certificates on financial statements are required for claims of interim and final payments where the cumulative amount of payment requested by a beneficiary is equal or superior to EUR 325.000.

If the Community financial contribution consists of lump sums and flat-rates based on scale-of-unit costs (thematic networks), certificates on financial statements are not required. This is foreseen in a special condition to be introduced in grant agreements for thematic networks.

⁴ See http://ec.europa.eu/information_society/activities/ict_psp/calls/grant_agreement/index_en.htm

Article II.5 – Approval of reports and deliverables, time-limit for payments

Article II.5(1) – Time-limits for the Commission to evaluate project reports and deliverables

At the end of each reporting period, the consortium has 60 days to submit the project reports specified in Article II.4. The Commission shall evaluate and approve reports and deliverables and disburse the corresponding payments within 105 days of their receipt unless the time-limit, the payment or the project has been suspended.

For the evaluation of reports and deliverables the Commission may be assisted by external experts (see Article II.29).

Article II.5(2) to Article II.5(4) – Approval of reports and payments.

After the reception of the reports and deliverables the Commission may:

- Approve the reports and deliverables in whole or in part or make the approval subject to certain conditions. In case of full approval, the Commission will normally proceed with an interim payment of eligible costs in full. In case of partial approval of reports and deliverables or approval subject to conditions, the Commission may make partial payments (see Article II.5(4)). If the Commission makes a partial payment, the payment will cover a part of the eligible costs proportionate to the deliverables/reports that have been approved.
- Reject the reports and deliverables and if appropriate start the procedure for suspension or termination. The procedure for suspension or termination could be considered appropriate in case the majority⁵ of the deliverables/reports are rejected. In case a significant number of deliverables/reports are rejected, the Commission will normally suspend the payment 'in whole' in accordance with Article II.5(2) (d) as the work carried out does not comply with the provisions of the grant agreement. In case few deliverables/reports are rejected the Commission may decide to proceed with a partial payment – the payment will cover a part of the eligible costs proportionate to the deliverables/reports that have been approved.
- Suspend the time-limit for the submission or re-submission of reports and deliverables that are either due or need clarification/additional information. The Commission will always suspend the time-limit in case the majority of the deliverables/reports have not been submitted or need clarification/additional information.
- Suspend the payment in whole or in part. In the cases mentioned in Article II.5(3) (d) of the grant agreement (for example if a beneficiary has to reimburse to its national state an amount unduly received as state aid or there is a suspicion of irregularity by one or more beneficiaries in this or another grant agreement), the suspension of payment will be the normal consequence.

⁵ This will take into account the number and importance of deliverables/reports.

Article II.5(5) and Article II.5(6) – Late payment and interest payment

Beneficiaries are entitled to late interest payments in case the Commission does not pay within the payment delays. The modalities for the late interest payment are described in the above articles. Please note that in case the amount of the late interest is lower than or equal to EUR 200 the coordinator will have to submit a request to the Commission within two months of receipt of the late payment, otherwise the interest will not be paid.

If the Commission suspends the time-limit, the payment or the project as such, this cannot be considered as late payment.

Article II.5(7) and Article II.5(8) – Final payment

The final payment will be transferred after the approval of the final reports and consists of the difference between the calculated Community contributions (on the basis of the accepted costs) minus the amounts already paid.

At the end of the project, if the consortium has failed to submit a report, a certificate on financial statements or other project deliverable in the time-limits foreseen in the grant agreement, the Commission may set the consortium a further deadline of one month in writing for submitting the outstanding documents/information. Following expiry of this deadline, the Commission is entitled to make the final payment on the basis of the reports, financial statements, etc. duly submitted up to this point in time and may refuse taking into account any such documents which are submitted later.

The total payment is limited to the maximum Community contribution. If the total amount already paid would be higher than the Community financial contribution accepted, the Commission will recover the difference. At final payment stage any receipts will be taken into account and beneficiaries will have to confirm that the Community contribution did not lead to a profit.

Article II.6 – Subcontracts

The general rule is that beneficiaries shall implement the indirect action and shall have the necessary resources to that end. However, it is accepted that, when the grant agreement provides for it, and as an exception, certain parts of the work may be subcontracted.

A subcontractor is a third party, i.e. a legal entity which is not a beneficiary of the grant agreement, and is not a signatory to it. It appears in the project because one of the beneficiaries appeals to its services to carry out part of the work, usually for specialised jobs that it can not carry out itself or because it is more efficient to use the services of a specialised organisation.

The subcontractor is defined by certain characteristics:

- The agreement is based on "business conditions"; this means that the subcontractor charges a price, which usually includes a profit for the subcontractor.
- The subcontractor works without the direct supervision of the beneficiary and is not hierarchically subordinate to the beneficiary (unlike an employee). The working

place of the subcontractor, its accounting rules and internal organisation are also different.

- The subcontractor's motivation is pecuniary, not the work itself. It is a third party whose interest in the project is only the profit that the commercial transaction will bring. A subcontractor is paid in full for its contribution made to a project by the beneficiary with whom it has a subcontract. As a consequence subcontractors do not have any IPR rights on the foreground of the project.
- The responsibility vis-à-vis the EC for the work subcontracted lies fully with the beneficiary. The work that a subcontractor carries out under the project belongs to the beneficiary in the grant agreement. A subcontractor has no rights or obligations vis-à-vis the Commission or the other beneficiaries, as it is a third party. However, the beneficiary must ensure that the subcontractor can be audited by the Commission or the Court of Auditors.

Accordingly, subcontracting between beneficiaries in the same grant agreement is not to be accepted. All participants by definition contribute to and are interested in the project, and where one participant needs the services of another in order to perform its part of the work, it is the second participant who should declare and charge the costs for that work. In the consortium agreement, provisions may be defined to cover the costs not reimbursed by the EC.

Subcontracting may concern only certain parts of the project, as the implementation of the project lies with the participants. Therefore, the subcontracted parts should in principle not be "core" parts of the project work. In cases where it is proposed to subcontract substantial/core parts of the work, this question should be carefully discussed with and approved by the Commission. Usually in such cases, the intended subcontractor could instead become a beneficiary, or the consortium should find another beneficiary able to perform that part of the work.

What is a "core" part of the work?

Usually subcontracts do not concern the main work itself, but tasks or activities auxiliary to the main object of the project. Subcontracts may involve large amounts of money, even though not being related to the core parts of the project. Their purpose might be just to facilitate/make possible the work.

As mentioned above, the beneficiary remains responsible for all its rights and obligations under the grant agreement, including the tasks carried out by a subcontractor. The beneficiary must ensure that the contract concluded with the subcontractor contains certain obligations on the subcontractor, which are listed in the grant agreement. In particular, the beneficiary must ensure that the intellectual property that may be generated by a subcontractor reverts to the beneficiary so that it can meet its obligations towards the other beneficiaries in the grant agreement.

Details to be included in Annex I and selection of subcontractors

The need for a subcontract must be detailed and justified in Annex I, following the principles mentioned above and taking into account the specific characteristics of the project. The work (the tasks) to be performed by a subcontractor needs to be identified. The identity of the subcontractors does not need to be indicated in Annex I. However, if

the identity of the subcontractor is indicated, the beneficiaries are nevertheless bound to demonstrate that the selection of the subcontractor complied with the principles described below.

The description of the tasks to be subcontracted has to include a financial estimation of the costs. It is also important to have regard to the procedure to be used for the selection of the subcontractor, which should be proportionate to the size of the subcontract.

How to subcontract?

Beneficiaries have to ensure that a transparent procedure is used in the selection of a subcontractor.

Any subcontract, the costs of which are to be claimed as an eligible cost, must be awarded to the bid offering best value for money (best price-quality ratio), under conditions of transparency and equal treatment.

The procedure to be applied for the award of subcontracts depends on the status of the beneficiary, i.e. if the beneficiary is a public or a private entity:

- Public entities must follow the procurement principles established by their national law and authorities. For subcontracts exceeding certain amounts, the directive on public procurement of services applies and the publication of a call for tenders is mandatory. However, they should in any case comply with the terms of the grant agreement.
- Private legal entities should follow the rules that they usually apply for the selection of procurement contracts, respecting in any case the terms of the grant agreement. The publication of a call for tenders is normally not necessary for private legal entities, but they must at least require submission of several quotes (usually a minimum of three), unless it has an established framework contract for the provision of those services. There should be a proportional relationship between the size in work and cost of the tasks to be subcontracted on the one hand and the degree of publicity and formality of the selection process on the other.

The procedure must ensure conditions of transparency and equal treatment. At the request of the Commission and especially in the event of an audit, beneficiaries must be able to demonstrate that they have respected the conditions of transparency and equal treatment.

They have to be able to prove that:

- the criteria and conditions of submission and selection are clear and identical for any legal entity offering a bid;
- there is no conflict of interest in the selection of the offers;
- the selection must be based on the best value for money given the quality of the service proposed (best price-quality ratio). It is not necessary to select the lowest price, though price is an essential aspect.

- the criteria defining "quality" must be clear and coherent according to the purpose of the task to subcontract, in order to provide a good analysis of the ratio price/quality.

Framework Contracts

Many companies have framework contracts with a third party to carry out routine or repetitive tasks. They have been established before the beginning of the project, and are the usual practice of the beneficiaries for a given type of task. These framework contracts can be used to carry out tasks necessary for implementing the EC project provided they have been established on the basis of the principles of best value for money and transparency mentioned above.

Certificates for financial statements

The provisions applying to subcontractors apply also to external auditors. When the beneficiary uses its usual external auditor it is considered that it has been chosen by transparent means according to the provisions of the Grant Agreement (Article II.6).

The cost of a certificate is an eligible cost under subcontracting costs. VAT charged by the auditor is not an eligible cost, unless the beneficiary can show that he is unable to recover it).

Ancillary tasks

Minor tasks correspond to minor services, which are not project tasks identified as such in the Annex I but are needed for implementation of the project. They do not have to be specifically identified in Annex I, as by definition their importance is minor (the amounts involved are also normally small). However, the selection procedure mentioned above applies also to these subcontracts. Such ancillary tasks could for example be the catering for a meeting or the printing of material, leaflets, etc.

Subcontracting of tasks of the coordinator

The specific tasks of the coordinator listed in Article II.2(1) cannot be subcontracted. Some administrative tasks related to the coordination of the project may however be subcontracted in case of Pilot Type A projects and provided a special condition is introduced in the grant agreement. Please refer to the explanations on Article II.2(1) for more information.

Article II.8 – Suspension of the project

During the period of suspension no costs can be charged to the project. This implies that any costs incurred e.g. in the re-negotiation of the project are not eligible and will not be reimbursed. Note that the grant agreement only allows the suspension of the project as a whole and it is not allowed that part of the work continues whilst the project is suspended.

Article II.11 – Financial and other consequences of termination

The project as a whole or the participation of one or more beneficiaries may be terminated under the conditions in Article II.10 of the grant agreement.

Upon notification of termination or, if the termination is requested by the consortium or one of the beneficiaries, the submission of this request, the consortium or the beneficiaries concerned must cancel or reduce their commitments.

Within 60 days after the termination or withdrawal takes effect, the project/the beneficiaries concerned have to submit the reports and financial statements and deliverables relating to the work performed until the termination. If these documents are not submitted on time, the Commission is entitled to disregard any documents submitted later on and may reject any later cost claims or recover reimbursement of pre-financing paid.

The costs that can be reimbursed in case of a termination depend on the grounds on which the termination was based:

- The Community contribution will be limited to those eligible costs incurred and accepted up to the effective date of termination and to any legitimate commitments undertaken prior to that date which cannot be cancelled if
 - the Commission terminates for major technical or economic reasons which substantially affect the project or if the use potential of the results of the project considerably diminishes (Article II.10(1), points a) and b));
 - the coordinator requests termination on the grounds mentioned above on behalf of all beneficiaries (Article II.10(2), point a));or
 - the Commission terminates where a legal, financial, organisational or technical change or change of control is likely to substantially affect the project or the interests of the Community, or calls into question the decision to accept participation of a beneficiary in the agreement or to grant the Community financial contribution (Article II.10(3), point d).
- If the Commission terminates the agreement because one or more of the entities identified in Article 1, paragraph 2 have not acceded to the agreement within the deadline set (45 days after entry into force of the agreement, Articles II.10(3), point (a), and Article 2(1)), no costs of the consortium can be accepted as eligible. Pre-financing as well as any interest on pre-financing needs to be paid back in full to the Commission.
- In all other cases of termination, the Commission is entitled to ask for repayment of all or parts of the Community financial contribution, depending on the work carried out so far and the usefulness of this work for the Community.

Concerning reimbursement of amounts to the Commission and recovery of any amounts by the Commission, see the explanations on Article II.30.

Part C: Financial provisions

Article II.20 – Eligible costs – general principles

Please note that this provision does not apply to Thematic Networks, as they are financed by lump sums and flat-rates based on scale-of-unit costs (see also explanations on Article 5(1)).

Article II.20(1) – Eligible costs

To be considered eligible, costs must fulfil the following conditions:

- *be indicated in the indicative breakdown of the budget and the Community financial contribution between beneficiaries in Annex I;*

When the maximum Community financial contribution is determined, the eligible costs will appear in the estimated budget. It is allowed, without a supplementary agreement, to perform certain transfers of costs between eligible cost items in the estimated budget within the overall amount of eligible costs, under the conditions mentioned in Article 5(2) of the grant agreement.

- *be necessary for the implementation of the project;*

The costs must be essential for the performance of the project and would not be incurred if the project did not take place. The beneficiaries must be able to justify the resources used to attain the objectives set. The Community financial contribution must not be diverted to finance other projects.

- *be actually incurred by the beneficiary;*

Costs must be incurred by the beneficiary. This means that costs incurred by third parties in relation to resources they make available free of charge to a beneficiary cannot be declared as eligible costs by that beneficiary.

Costs must be actually incurred i.e. they must be real and not estimated, budgeted or imputed.

Where actual costs are not available at the time of the establishment on the financial statements, the closest possible estimate can be declared as actual if this is in conformity with the accounting principles of the beneficiary. This must be mentioned in the financial statement. Any necessary adjustments to these claims must be reported in the financial statement for the subsequent reporting period.

For the last period the costs should be submitted based on the information available at the moment of preparing the financial statement.

Supporting documentation proving the payment of the costs by the beneficiaries must be kept for all costs and for up to five years after the date of the final payment.

- *be identifiable and verifiable, be recorded in the beneficiary's accounts and determined in accordance with the applicable accounting standards of the country where the beneficiary is established and with the usual cost accounting practices of*

the beneficiary. The beneficiary's internal accounting and auditing procedures must permit the direct reconciliation of the costs and receipts declared in respect of the project with the corresponding financial statements and supporting documents;

Costs must be determined according to the applicable accounting standards of the country in which the beneficiary is established and "the usual cost accounting practices of the beneficiary".

This means that beneficiaries may not create specific accounting principles for ICT PSP projects. Also, if in their usual accounting principles a particular cost is always considered as an indirect cost they have to consider it also as an indirect cost in an ICT PSP indirect action.

Costs which cannot be justified are, as a matter of principle, not eligible. The grant agreement states that the beneficiary's internal accounting and auditing procedures must permit the direct reconciliation of the costs and receipts declared with the corresponding financial statements and supporting documents.

The purpose of this provision is to give some assurance about the source of the costs and receipts declared, which must come directly from the beneficiary's accounts and be backed up by appropriate supporting documents. However, for beneficiaries that opted to charge indirect costs using a flat rate (30% of the personnel costs for pilot projects), by definition these indirect costs do not need to be backed up by accounting documents (see Article II.22(2) of the grant agreement).

- *comply with the requirements of the applicable tax and social legislation;*
- *be reasonable and justified and comply with the requirements of sound financial management, in particular regarding economy and efficiency,*

The requirements of sound financial management, in particular regarding economy and efficiency refer to the standard of "good housekeeping" in spending public money. Economy can be understood as minimising the costs of resources used for an activity (input), having regard to the appropriate quality and can be linked to efficiency, which is the relationship between the outputs, in terms of resources used to produce them.

- *be incurred during the duration of the project.*

Only costs generated during the lifetime of the project can be eligible; as a result the period during which the project starts determines the period of eligibility of the corresponding costs (Article 3(2) of the grant agreement – duration of the project).

The grant agreement foresees an exception for costs incurred in relation to final reports as well as certificates on the financial statements that may required at the end of the project, and in relation to technical reviews of the project carried out after the end of the project, if applicable. These costs may be incurred during the period of up to 60 days after the end of the duration of the project.

It may be that some costs have not been paid when the request for the final payment is sent, in particular because the beneficiary is waiting for the final payment of the grant in order to be able to pay this expenditure. This situation is acceptable if it is certain that a debt exists (invoice or equivalent) for services or goods actually supplied during the

lifetime of the project and the final cost is known. The Commission is entitled to check whether payment was actually made by asking for supporting documents to be produced when the payment has been made or during an ex post audit carried out later.

Article II.20(2) – Ineligible costs

Certain costs are specifically excluded from the eligible costs. The list of these costs given in the grant agreement must be regarded as a minimum reference list and must be fully complied with.

According to the grant agreement, non-eligible costs are in particular the following:

- costs of capital employed,
- provisions for possible future losses or charges,
- interest owed,
- exchange losses,
- provisions for doubtful debts,
- resources made available to a beneficiary free of charge,
- value of contributions in kind,
- unnecessary or ill-considered expenses,

This means in particular excessive expenditure, i.e. paying significantly more for products, services or personnel than the prevailing market rates, resulting in an avoidable financial loss to the project, or failing to exercise care in the selection of products, services or personnel, resulting in an avoidable financial loss to the project.

- marketing, sales and distribution costs for products and services,
- indirect taxes and duties, including VAT (unless the beneficiary can show that it is unable to recover it),

In general, the beneficiary is entitled to charge to the project only the net value of the invoice, provided that all eligibility criteria are met. Identifiable VAT is not eligible except if the beneficiary can demonstrate that it cannot recover the VAT according to the applicable laws.

Indirect taxes will be allowed when not identifiable. This may be for example the case with foreign invoices where the price indicated is gross without identifying the tax. In any case, the beneficiary should be able to justify this in the event of audit.

The particular case of Airport taxes

In general, airport taxes are not real taxes in the sense of tax law but a fee for a service delivered by a public or semi public body in charge of a (public) service, such as airports (independent of the fact that that some airports might have a private legal form). In this case these airport taxes imposed by these authorities may be considered a fee and

therefore eligible because they are neither a duty nor an indirect tax. Usually the invoice makes reference to "service charge", "charge" etc. If the invoice, however, only mentions "airport taxes", the beneficiary should use other means to prove that the so called "airport tax" is not a tax.

- entertainment or hospitality expenses, except reasonable expenses accepted by the Commission as being absolutely necessary for carrying out the project,
- any cost incurred or reimbursed in respect of, in particular, another Community, international or national project.

Article II.20(3) – Costs can be charged only in one categories of costs

The reimbursement of beneficiaries is based on their eligible direct and indirect costs (see explanations on Articles II.21 and II.22). Costs may only be charged in one category of costs. No cost can be taken into account twice, both as a direct and an indirect cost, or in two different cost categories for direct costs (see explanations below in Article II.21).

Article II.21 – Direct costs

Please note that this provision does not apply to Thematic Networks, as they are financed by lump sums and flat-rates based on scale-of-unit costs (see also explanations on Article 5(1)).

The grant agreement foresees three categories of direct costs:

- personnel,
- subcontracting and
- other specific direct costs.

Article II.21(2) – Personnel costs

The cost of personnel assigned to the project is eligible if personnel are:

- directly hired by the beneficiary in accordance with its national legislation;
- working under the sole technical supervision and responsibility of the beneficiary; and
- remunerated in accordance with the normal practices of the beneficiary, provided these are regarded as acceptable by the Commission.

Any beneficiary may include in its personnel costs "permanent employees", who have permanent working contracts with the beneficiary or "temporary employees", who have temporary working contracts with the beneficiary.

Personnel costs should reflect the total remuneration: salaries plus social security charges (holiday pay, pension contribution, health insurance, etc.) and other statutory costs included in the remuneration.

Only the costs of the actual hours worked by the persons directly carrying out work under the project may be charged. Only the hours worked in the project can be charged. Working time to be charged must be recorded throughout the duration of the project by any reasonable means (e.g. timesheets). Employees have to record their time on a daily, weekly, or monthly basis using a paper or a computer-based system. The time-records have to be certified by the person in charge of the work (project manager) as notified to the Commission or by the authorised financial officer of the beneficiary (Article II.23 of the grant agreement).

Where it is the usual practice of the beneficiary to consider certain types of personnel costs (such as administrative or support personnel) as indirect costs, the costs of this personnel can not be charged as direct eligible costs, but only as indirect costs.

In exceptional cases where a beneficiary can demonstrate that average costs correspond to its usual accounting practices, a special clause may be inserted allowing that specific beneficiary to claim personnel costs in accordance with its normal practice.

Timesheets

Timesheets can be used to record working hours. If held, timesheets must meet the basic requirements indicated below:

- full name of beneficiary as indicated in the grant agreement;
- full name of the employee directly contributing to the project;
- title of the project as indicated in the grant agreement;
- project account number should be indicated;
- time period concerned (for instance on daily, weekly, monthly basis) according to the beneficiary's normal practice;
- amount of hours claimed on the project. All hours claimed must be able to be verified in a reliable manner;
- full name and a signature of a supervisor (person in charge of the project).

The complete time recording system should enable reconciliation of total hours in cases when personnel work on several projects during the same period. It is important to remember that an effective time-recording system (a system which certifies the reality of the hours worked) is a prerequisite for the eligibility of the costs. A contract, as a document signed before the work is actually performed, would not be sufficient.

Also, there must be some system allowing the beneficiary to indicate the tasks to which the hours have been attributed. It is worth mentioning that the above elements are the basic ones, thus there are no obstacles to run the timesheets in a more detailed way.

A simple estimation of hours worked is not sufficient.

Productive hours

Productive hours must be calculated according to the beneficiary's normal practices. Productive hours per year should exclude annual leave, public holidays, training and sick leave. A figure of 210 working days per year could be considered representative in most cases.

For example:

Total days in a year	365
Week-ends	-104
Annual holidays	- 21
Illness/Others	-15
Workable days in a year	210

The above will vary depending on the personnel category, industry sector, unions, contracts and national legislation which should all be taken into account.

Productive hours have to be clearly justified and should match the underlying time records. If hours actually spent in productive tasks (as supported by time records) exceed the standard productive hours, the first shall be used for the calculation of the personnel costs, unless overtime is paid.

Particular cases:

- "Teleworking" may be accepted if there is a system that allows the identification of the productive hours worked for the project.
- Overtime may be accepted if there is a system that allows the identification of the productive hours worked for the project and is in conformity with the usual practices of the beneficiary.
- Sick leave cannot be included in the working time. However parental leave of personnel assigned to the action: the amount of this allowance may be an eligible cost, in proportion to the time dedicated to the project, provided that parental leave is mandatory under national law (e.g. statutory maternity pay).
- Costs for the advertising to recruit a new person are not eligible, but if it is necessary for the project to replace the person the costs of the new person will be eligible under the normal requirements.
- Benefits in kind (company car, vouchers, etc.) maybe accepted only if they are justified and in conformity with the usual practices of the beneficiary. Like all costs, they should fulfil the eligibility conditions.
- Redundancy costs are not eligible.
- PhD costs are eligible if they fulfil the eligibility conditions.

- For public bodies, the costs of public officials paid directly from central government or local government budgets may also be considered as eligible costs if they relate to the costs of activities which the relevant public authority would not carry out if it did not participate in the project in question, and if the other conditions for eligibility of costs are fulfilled (Articles II.20 and II.21).

Consultants

Consultants are natural (physical) persons, working for one or more beneficiaries in an ICT PSP project. They may be either self-employed or they may be working for a third party. There are three possible ways of classifying the costs of consultants (in any event costs will ONLY be eligible if they fulfil the conditions listed in Article II.21 of the grant agreement):

- They can be considered as personnel costs; regardless of whether the intra-muros consultants are self-employed or employed by a third party, if the following cumulative criteria are fulfilled:
 - The beneficiary has a contract to engage a physical person to work for it and some of that work involves tasks to be carried out under the EC project,
 - The physical person must work under the instructions of the beneficiary (i.e. the work is decided, designed and supervised by the beneficiary),
 - The physical person must work in the premises of the beneficiary (except in the case of tele-working agreed between both parties),
 - The result of the work belongs to the beneficiary,
 - The costs of employing the consultant are not significantly different from the personnel costs of employees of the same category working under labour law contract for the beneficiary.
 - Travel and subsistence costs related to such consultants' participation in project meetings or other travel relating to the project would have to be paid directly by the beneficiary in order to be eligible.
- Costs related to consultants can be considered as subcontracting costs if the beneficiary has to enter into a subcontract to hire these consultants to perform part of the work to be carried out under the project and the conditions set out in the ICT PSP grant agreement, in particular if the provisions of Article II.6 relating to subcontracting are fulfilled. In these cases, the beneficiary's control over the work to be performed by the subcontractor is determined by the nature of the subcontract. The subcontractor does not usually work on the premises of the beneficiary and the terms of the work are not so closely carried out under the direct instruction of the beneficiary.
- The last possibility is that the consultant participates in the project as a beneficiary (either as a physical person, if this is allowed by the call for proposals, or possibly as an SME, if it meets the definition).

- The particular case of physical persons: their legal status could be assimilated to that of an SME, if they comply with the requirements set by Commission Recommendation 2003/361/EC in the version of 6 May 2003. Their costs are eligible if they fulfil the conditions of Article II.20 to II.23 of the grant agreement. In this sense, it is important to remember that rates, costs, etc must correspond to the usual practices of the beneficiary, and that evidence of the income and of the hours worked for the project must be recorded.

Article II.21 (2) – Subcontracting

The costs of subcontracting are a direct eligible cost. The definition of subcontracting is given in Article II.6 of the grant agreement.

Article II.21 (3) – Other direct costs

Travel and related subsistence costs

As a general rule, actual travel and related subsistence costs relating to the project may be considered as direct eligible costs, provided they comply with the beneficiary's usual practices and are adequately recorded, like any other cost.

Example:

Beneficiary A declares the flight costs of a project meeting for a member of its staff travelling in business class:

- If the usual practice of the beneficiary is to pay for business class tickets for staff of the same category, then the cost of the business class ticket will be eligible under the grant agreement.
- If the usual practice of the beneficiary is to pay for economy class tickets for staff of the same category, then the cost of the business class ticket will not be eligible under the grant agreement.
- If such costs are reimbursed on the basis of a lump sum/or per diem payment, it is the lump sum/or per diem and not the actual costs that are considered to be eligible costs.
- Where it is the usual practice of the beneficiary to consider these costs as indirect costs, they cannot be charged as direct eligible costs, but only as indirect costs.

The purchase cost of durable equipment

- Only equipment purchased for the purposes of carrying out the action can be charged as direct costs. To be considered as eligible the cost must be depreciated in accordance with the tax and accounting rules that are applicable to the beneficiary and generally accepted for items of the same kind. Within this framework, each beneficiary must apply its usual depreciation system for durable equipment. Depreciation is charged in each relevant periodic report. Depreciated costs of equipment can never exceed the purchase price of the equipment.

- Depreciation costs for equipment used for the project but bought before the start of the project are eligible under the conditions mentioned in Article II.21(3) of the grant agreement.
- Only the portion of the equipment used on the project may be charged. The amount of use (percentage used and time) must be auditable.
- Cost for equipment can include all those costs necessary for the asset to be in working condition for its intended use (site preparation, delivery and handling, installation, etc.)
- Subcontracting vs. durable equipment/consumables: sometimes the purchase of equipment or consumables is associated with the provision of a service. Depending on the nature of the services provided, they may be considered subcontracts or part of the equipment purchase. If the service is part of the "package" of equipment purchase then it will be considered to be part of the equipment purchase. It may also depend on the consideration of these costs in the accounts of the beneficiary.
- Financial leasing with the option to buy durable equipment shall be charged in accordance with the beneficiaries' own accounting practices. However, in order to comply with the principle of sound financial management, the cost claimed for durable equipment which is leased with an option to buy cannot exceed the costs that would have been incurred if the equipment had been purchased and depreciated under normal practices.
- Operational leasing (renting): in this case, there is no possibility to buy the equipment. There is no depreciation involved (as the item is still the property of the leasing firm) but the costs are eligible if this follows the beneficiary's normal practices and does not exceed the costs of purchase of the equipment
- In both cases, if the beneficiary does not only use the equipment for the purposes of the project, only a proportionate part of the "working time" (that is used on the project) may be charged.
- Where it is the usual practice of the beneficiary to consider durable equipment costs (of some of them) as indirect costs, those costs can not be charged as direct costs, but as indirect costs.

Consumables and supplies

The costs of consumables and supplies may constitute eligible costs provided they are identifiable and assigned to the project:

- Any consumables necessary for the implementation of the project may be considered as direct eligible costs.
- Where it is the usual practice of the beneficiary to consider consumable costs (or some of them) as indirect costs, those costs cannot be charged as direct costs, but as indirect costs.
- Consumables are only eligible costs under the project if bought after the start date of the project.

Article II.22 – Indirect costs

Please note that this provision does not apply to Thematic Networks, as they are financed by lump sums and flat-rates based on scale-of-unit costs (see also explanations on Article 5(1)).

Indirect costs are all those eligible costs which cannot be identified by the beneficiary as being directly attributed to the project, but which can be identified and justified by its accounting system as being incurred in direct relationship with the eligible direct costs attributed to the project.

Indirect costs, also called overheads, are all the structural and support costs of an administrative, technical and logistical nature which are cross-cutting for the operation of the beneficiary body's various activities and cannot therefore be attributed in full to the project. The nature of an indirect cost is such that it is not possible, or at least not feasible, to measure directly how much of the cost is attributable to a single cost objective.

Indirect costs must be in accordance with normal cost accounting practices of the beneficiary and should be extracted from or reconciled with the official accounts.

When the accounting system of the beneficiary includes overhead costs which are not eligible under the grant agreement, these costs must be removed when submitting financial reports.

Indirect costs shall represent a fair proportion of the overall overheads of the beneficiary. They may be identified according to one of the following methods:

- They may be based on the actual indirect costs for those beneficiaries that have an analytical accounting system to identify their indirect costs as indicated above.
- Any beneficiary may opt to charge overheads calculated on a flat-rate basis of 30% of the personnel costs. A beneficiary shall request a lower percentage when this is required, for instance, by its internal rules. In that case, a special condition will be introduced in the grant agreement which specifies the percentage of the (lower) percentage for this beneficiary.

Article II.23 – Justification of costs

Please note that this provision does not apply to Thematic Networks, as they are financed by lump sums and flat-rates based on scale-of-unit costs (see also explanations on Article 5(1)).

Beneficiaries have to justify the eligible costs in order to be reimbursed. For this purpose, they have to maintain on a regular basis and in accordance with the normal accounting conventions of the country of establishment, the accounts for the project and appropriate documentation related to the grant agreement and in particular the costs and time reported in the financial statements.

Beneficiaries have to maintain these accounts and keep the relevant documentation for at least 5 years after the date of the final payment and have to make these available notably in case of a financial audit (see explanations on Article II.28). Beneficiaries have to keep

the originals of the documents related to the grant agreement, or in exceptional cases where the national legislation accepts this possibility, duly authenticated copies, including electronic copies.

Working time charged to the grant agreement must be recorded throughout the project or not later than 60 days after the end of its duration. Moreover, the records must be certified by the person in charge of the work (as identified to the Commission), or by the duly authorised financial officer of the beneficiary (see also above).

Article II.24 – Receipts of the project

Please note that this provision does not apply to Thematic Networks, as they are financed by lump sums and flat-rates based on scale-of-unit costs.

The Community financial contribution may not have the purpose or effect of producing a profit for the beneficiaries. For this reason, at the level of the beneficiary the total requested EC funding plus receipts cannot exceed the total eligible costs.

If

'Calculated' Community contribution + receipts \leq total eligible costs

then there is no reduction of Community contribution and the actual Community contribution is equal to the calculated Community contribution. Otherwise the actual Community contribution will be reduced to ensure that the sum of the actual Community contribution and receipts is equal to the total eligible costs. In this the calculated Community contribution is obtained by applying the reimbursement rate to the total eligible costs.

Three kinds of receipts must be taken into consideration:

- Financial transfers or their equivalent to the beneficiary from third parties;
- Contributions in kind from third parties
- Income generated by the project.

In the first two cases (financial transfers or contributions in kind), there are two cumulative conditions to be fulfilled in order to consider these endowments as receipts of the project, as foreseen in Article II.24 of the grant agreement:

- If the contribution made by a third party is allocated to the beneficiary specifically for use on the project, the resources must be declared as receipts of the project in the beneficiary's Financial Statement. However, if the use of these contributions is at the discretion of the beneficiary they are not to be considered as receipts.
- If there is no full reimbursement by the beneficiary to the third party, the part of the costs that has not been reimbursed has to be considered as a receipt and must be declared by the beneficiary as such. The part which has been reimbursed is not a receipt, but a cost to the beneficiary, and should be declared as such.

Note that contributions by a third party to a beneficiary are taken into account as described above for the purpose of determining the receipts of the project; such contributions may not, however, constitute eligible costs of a beneficiary (see explanations on Article II.20(1) for more details).

Any income generated by the project itself, including the sale of assets bought for the project (limited to the initial cost of purchase) is considered as a receipt of the project. Other examples of receipts are the admissions fees to a conference carried out by the consortium as part of the project or sale of the proceedings of such a conference.

By derogation to the above-mentioned principle, income generated in using the foreground resulting from the project is not considered as a receipt. The use of the foreground resulting from the project is a main objective of any project supported by a Community financial contribution, and therefore considering it a receipt could penalise it.

Contributions from one beneficiary to another within the same project are not considered as receipts. A receipt is a contribution from a third party to the project. Therefore, if one beneficiary funds another beneficiary in the same grant agreement to help it carry out work, this will not be considered a receipt, as it is received from a beneficiary, and not from a third party.

Beneficiaries are required to include the receipts received in the financial statements corresponding to the reporting period. They will be taken into account when calculating the final payment (i.e. after the end of the project) and then the potential reduction of the Community contribution may take place.

Article II.25 – Community financial contribution

The principles for calculation of the Community contribution are as follows:

- The Community contribution shall be calculated by reference to the accepted costs of each beneficiary.
- The Community contribution shall be determined by applying the reimbursement rate (set out in Article 5(1) of the grant agreement) to the accepted eligible costs.
- The Community contribution cannot give rise to any profit for any beneficiary. Hence for each beneficiary, the Community contribution cannot exceed the eligible costs minus the receipts for the project – see above.
- The total amount of payments by the Community to all beneficiaries shall not exceed in any circumstances the maximum amount of the Community contribution referred to in Article 5, even if the consortium decides to increase the work on the project or to add new beneficiaries with the approval of the Commission.

As indicated in Article II.25(5) the Commission may reduce the Community contribution in case the project is not implemented or implemented poorly.

Article II.26 – Payment modalities

Article II.26(1) – Pre-financing

For more details concerning pre-financing, refer to Article 6.

Article II.26(1) – Interim payment

After approval of the deliverables and periodic reports, interim payments will follow (see also above explanations on Article II.5) and will be calculated on the basis of the accepted eligible costs and by applying the reimbursement rate as set out in Article 5(1) of the grant agreement. The amounts paid for interim payments will correspond to the accepted Community contribution. However, the total amount of interim payments and the pre-financing will be limited to 90% of the maximum Community contribution (see Article 6). This may imply that in some cases payment for the interim periods may be reduced in order to respect this limit.

Article II.26.1 – Final payment

The final payment will be transferred after the approval of the deliverables and final reports and consists of the difference between the calculated total Community contribution (on the basis of the eligible costs) minus the amounts already paid – and taking into account receipts (see above).

In any case the total payment is limited to the maximum Community contribution as defined in Article 5 of the grant agreement. If the total amount already paid would prove to be higher than the Community contribution accepted, the Commission will recover the difference.

Example:

- *Project duration: 3 years*
- *Maximum Community contribution: EUR 3,000,000*
- *Ceiling for pre-financing and interim payments (90% of maximum Community contribution): EUR 2,700,000*
- *Cumulative payments*
 - *Period 0: Pre-financing EUR 1,600,000*
 - *Payment: EUR 1,600,000 Cumulative payment: EUR 1,600,000*
 - *Period 1: Accepted Funding EUR 1,000,000*
 - *Payment: EUR 1,000,000 Cumulative payment: EUR 2,600,000*
 - *Period 2: Accepted Funding EUR 800,000*
 - *Payment: EUR 100,000 Cumulative payment: EUR 2,700,000
(ceiling reached)*
 - *Period 3: Accepted Funding EUR 1,200,000*
 - *Payment: EUR 300,000 Cumulative payment: EUR 3,000,000
(maximum reached)*

Article II.26(4) – Conversion rate

Costs shall be reported in EUR. Beneficiaries with accounts in currencies other than EUR shall report in EUR on the basis of the exchange rate that would have applied on the basis of the rate applicable on the first day of the month following the end of the reporting period. The rate applicable on the first day of the month following the reporting period can be obtained in the relevant OJ of the European Union. For the days where no daily exchange rates have been published, (for instance Saturday, Sunday and New Year's Day) you should take the rate on the next day of publication. The use of other sources for exchange rates (other than the ECB) is admissible only where no other solution is possible (i.e. when ECB does not include the daily exchange rates for a particular currency).

Beneficiaries with accounts in EUR shall convert costs incurred in other currencies according to their usual accounting practice.

Article II.27 – Interest yielded by the pre-financing provided by the Commission

It is important to remember that the interest generated by the pre-financing will be reduced from the actual payment and is considered to be part of the Community contribution to the project (see Article II.27) –i.e. interest generated on the amount of pre-financing will be 'offset' against the subsequent payment.

Example:

- *Maximum Community contribution to the project: EUR 3,000,000*
- *Pre-financing: EUR 1,600,000*
- *Funding accepted for the 1st reporting period: EUR 1,000,000*
- *Interest generated (by the pre-financing of EUR 1,600,000) = EUR 20,000*
- *Interim payment following the 1st reporting period: EUR 1,000,000 – EUR 20,000 = EUR 980,000*

Part D: Controls, recoveries and penalties

Article II.28 – Financial audit

Purpose of the audit

The Commission may, at any time during the implementation of the project, and up to five years after the date of the final payment, arrange for financial audits to be carried out.

The audits may cover:

- financial aspects,
- systemic aspects and
- other aspects such as accounting and management principles

Beneficiaries' rights and obligations

In order to permit a complete, true and fair verification that the project and the grant are (or have been) properly managed and performed, beneficiaries are required to:

- keep the accounts for the project and appropriate documentation related to the grant agreement (and in particular related to the costs and time reported in the financial statements) for at least 5 years after the date of the final payment (see also explanations on Article II.23);
- make available directly to the Commission all the detailed information and data that the Commission or any representative authorised by it may request,
- ensure that the Commission's services, and/or any external body(ies) authorised by it, have on the spot access at any reasonable time, notably to the beneficiary's offices where the project is being carried out, the beneficiary's personnel connected with the project, the documentation maintained in relation to the project needed for carrying out the audit (see Article II.23), including information on salaries, accounting data, computer records and equipment. They shall ensure that the information is readily available on the spot at the moment of the audit and, if so requested, that data be handed over in an appropriate form.

Who can carry out an audit?

Audits may be carried out by:

- The Commission's own departments – including OLAF – or any of its duly authorised representatives (including external auditors appointed by the Commission).
- The European Court of Auditors (by its own departments or by any of its duly authorised representatives).

Reports

A provisional report is drawn up on the basis of the findings made during the financial audit and sent to the beneficiary audited. The beneficiary may make observations within one month of receiving the report. The Commission may decide not to take into account observations or documents sent after this deadline has expired. The Commission will then send the final report to the beneficiary.

On the basis of the conclusions of the audit, the Commission may take all appropriate measures it considers necessary. In particular, the Commission may issue a recovery orders and apply sanctions.

Article II.30 – Reimbursement to the Commission and recovery orders

General principles

The grant agreement foresees that where an amount paid by the Commission to the coordinator (in its capacity as the recipient of all payments) is to be recovered, the beneficiary concerned undertakes to repay the Commission the sum in question, on whatever terms and by whatever date it may specify (first paragraph of Article II.30 of the grant agreement).

This situation may occur for example where the pre-financing received is higher than the total Community financial contribution accepted for the respective beneficiary at the end of a project, or the Commission finds as a result of a financial audit (Article II.28) that a beneficiary overstated expenditure. Reimbursement of all or a part of the Community contribution can also be one of the consequences of the termination of the grant agreement or of the participation of a beneficiary (see the explanations on Article II.11 concerning financial consequences of termination).

As mentioned above, reimbursement to the Commission is the obligation of the respective beneficiary concerned (for example, the beneficiary having overstated expenditure). In principle, the beneficiaries in the consortium are not responsible for the reimbursement of any amounts due to the Commission by another beneficiary. However, in certain situations (depending on the results of the financial viability check of beneficiaries carried out by the Commission before signature of the grant agreement), a special condition may be introduced in the grant agreement which foresees a joint financial responsibility of the beneficiaries. In that case, if a beneficiary fails to reimburse an amount due to the Commission, the other beneficiaries in the consortium may be liable to repay this amount to the Commission (within the limits indicated in the special condition). More details on the special condition on joint financial responsibility can be found in the "Guide for Legal and Financial Viability Checking" for the ICT PSP⁶.

Procedure for reimbursement and recovery

If the Commission considers that a beneficiary is to reimburse a specific amount under the grant agreement and intends to recover this amount, the Commission's authorising

⁶ Refer http://ec.europa.eu/information_society/activities/ict_psp/calls/grant_agreement/index_en.htm to

officer will, as a first step, inform the beneficiary by registered letter of the Commission's intention to recover that amount. In that letter, the beneficiary is invited to present his observations on the intended recovery within a given time-limit.

After having assessed the beneficiary's observations (if any), the Commission's authorising officer may, if appropriate, proceed with the recovery of the amount unduly paid by

- establishing an (internal) recovery order to the Commission accounting officer
- followed by a debit note sent to the beneficiary.

A recovery order is the Commission's internal operation by means of which the Commission authorising officer instructs the Commission accounting officer to recover a debt due.

Once the recovery order has been issued, the Commission authorising officer establishes a debit note and sends it to the debtor (the beneficiary) with a copy to the Commission accounting officer. The debit note informs the beneficiary in particular that

- the Communities have established the amount receivable;
- payment of the debt to the Communities is due on a certain date ("the due date");
- if payment is not made by the due date, interest will be added to the debt.

The interest rate for late payment is the one applied by the European central Bank for its main refinancing operations in euros plus three and a half points (see Article II.30(3) and Article II.5(5) of the grant agreement).

If payment is not done by the due date indicated in the debit note, the Commission may effect the recovery by offsetting the debt against any amount owed to the beneficiary after informing it accordingly, or by calling in a guarantee lodged by the beneficiary, if applicable (see Article II.30(3) of the grant agreement). In exceptional circumstances, the Commission may also recover an amount by offsetting before the due date, if it is necessary to safeguard the financial interests of the Communities (see Article II.30(3) of the grant agreement).

If, after all those steps have been taken, the amount due has not been recovered in full, the Community enforces the recovery. To this end, the Commission is entitled to adopt an enforceable decision within the meaning of Article 256 EC Treaty (see Article II.30(4) of the grant agreement). Under this procedure, the recovery order can be enforced by the Member State in accordance with its rules of civil procedure, which enables the Commission to have the debtor's (beneficiaries) assets seized in order to recover the amount due. Otherwise, the Commission may also obtain enforcement through legal action in the Community courts.

Reimbursement in instalments

Where the beneficiary has legitimate grounds for not being able to provide the full reimbursement by the due date, it is sometimes possible to make arrangements for payments in instalments. Such arrangements can be made only at the written request of the beneficiary, with due indication of the reasons for the request, and provided the following two conditions are fulfilled:

- the beneficiary pays late payment interest from the due date until the debt is entirely paid and
- it lodges a financial guarantee covering both the principal sum and the interest, which is accepted by the Commission.

Any partial payment is first entered against charges and interest on late payment and then against the principal sum.

Article II.31 - Penalties

Any beneficiary that has been found to have seriously failed to meet its obligations under the GA is liable to financial penalties of:

- between 2% and 10% of the value of the EC contribution received by that beneficiary;
- between 4% and 20% of the value of the EC contribution received by that beneficiary in the event of a repeated offence in the five years following the first infringement.

Example:

- *It is determined that a beneficiary has seriously failed to meet its obligations under the grant agreement.*
- *According to the report(s) to the Commission on the distribution of the Community financial contribution between beneficiaries, this beneficiary has received a Community financial contribution of EUR 700,000.*
- *According to the audit's findings, it is the first serious failure of this beneficiary in actions supported by the Commission in the last five years.*
- *This beneficiary may be subject to financial penalties of between EUR 14,000 and EUR 70,000= (2%-10%) of EUR 700,000.*
- *This is in addition to the recovery of any amount overpaid (unjustified financial contribution).*

The provision also applies to beneficiaries who have been guilty of making false declarations. In both cases, the beneficiary will also be excluded from all grants financed by the Community for a maximum period of two years from the date the infringement is established.

In the case of lump sum and/or flat-rate financing, the Commission may recover up to the full amount of any undue payments, where the generating event has not occurred (e.g. a beneficiary in a Thematic Network did not contribute to the work of the network).

In case of a false declaration made by a beneficiary with regards to the lump sum or flat-rate financing, the Commission may also impose financial penalties up to 50% of the total amount of the lump sum and/or flat-rate financing.

Finally, application of the sanctions described above does not prohibit the Commission from imposing any other administrative or financial sanction provided in the Community's Financial Regulation or other civil remedies open to the Community or other beneficiaries, nor criminal proceedings initiated by the authorities of the Member States.

Annex 1 - Financial Statement - Pilot Type A and Pilot Type B

Model of Financial Statement (to be filled in by each beneficiary)

Project Nb	
Project Acronym	
Period from :	dd/mm/yy
to :	dd/mm/yy

Beneficiary Legal Name			
Beneficiary Short Name		Beneficiary Nb	
If flat-rate for indirect costs, specify %		%	

1- Declaration of eligible costs (in €)

	This period	Adjustments	TOTAL
Personnel costs			
Subcontracting			
Other specific direct costs			
Indirect costs			
Total			
Maximum Community contribution			
Requested Community contribution			

2- Declaration of receipts

Did you receive any financial transfers or contributions in kind, free of charge from third parties or did the project generate any income which could be considered a receipt according to Art.II.24 of the grant agreement ?

Yes/No

If yes, please mention the amount (in €)

3- Declaration of interest yielded by the pre-financing (to be completed only by the coordinator)

Did the pre-financing you received generate any interest according to Art. II.27 ?

Yes/No

If yes, please mention the amount (in €)

4- Certificate on the financial statements

Is there a certificate on the financial statements provided by an independent auditor attached to this financial statement according to Art.II.4.7 ?

Yes/No

Name of the auditor		Cost of the certificate (in €)	
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5- Beneficiary's declaration on its honour

We declare on our honour that:

- the costs declared above are directly related to the resources used to attain the objectives of the project and fall within the definition of eligible costs specified in Articles II.20, II.21 and II.22 of the grant agreement, and, if relevant, Article 8 (special conditions) of the grant agreement ;

- the receipts declared above are the only income generated by the project which could be considered as receipts according to Art. II.24 of the grant agreement ;

- the interest declared above is the only interest yielded by the pre-financing which falls within the definition of Art. II.27 of the grant agreement ;

- there is full supporting documentation to justify the information hereby declared. It will be made available at the request of the Commission and in the event of an audit by the Commission and/or by the Court of Auditors and/or their authorised representatives.

Beneficiary's Stamp (if applicable)	Name of the Person(s) authorised to sign this Financial Statement
	Date & Signature

Annex 2 - Summary Financial Report - Pilot Type A and Pilot Type B (to be filled by coordinator)

Project Acronym			Project Nb			Page		1/1
Reporting period from:		dd/mm/yy	to:		dd/mm/yy			
Beneficiary Nb	Beneficiary Short Name	Eligible costs this period	Adjustments of eligible costs to previous periods	Total costs	Requested Community contribution	Receipts	Interest	
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
15								
16								
TOTAL								

Coordinator's Stamp (if applicable)	Name of the Person(s) authorised to sign this Financial Statement
	Date & Signature

Annex 3 - Summary Financial Report - Thematic Network (to be filled by coordinator)

Project Acronym			Project Nb			Page 1/1
Reporting period from:		dd/mm/yy	to:		dd/mm/yy	
Beneficiary Nb	Beneficiary Short Name	Requested Community contribution COORDINATION (flat-rate based on scale-of-unit cost)	Requested Community Contribution IMPLEMENTATION (lump sum)	Requested Community Contribution MEETING ATTENDANCE (lump sum)	TOTAL Requested Community contribution	Interest
Coordinator						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
TOTAL						

We declare on our honour that:

- the above organisations have actively participated to the project in the period to which this financial statement relates.

Coordinator's Stamp (if applicable)	Name of the Person(s) authorised to sign this Financial
	Date & Signature

Annex 4 - Report on the distribution of the Community financial contribution (to be filled by coordinator)

Project Nb		Project title (or Acronym)	
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Part I Community's prefinancing or payment made to the coordinator

Prefinancing payment		Reporting Period 1		Reporting Period 2		Reporting Period 3		Final payment		Total Amount
Date	Amount	Date	Amount	Date	Amount	Date	Amount	Date	Amount	
										0,00

Part II Distribution of the Community's prefinancing or payment between beneficiaries

Beneficiary Nb	Beneficiary Short Name	Prefinancing payment		Reporting Period 1		Reporting Period 2		Reporting Period 3		Final payment		Total Amount
		Date(s)	Amount(s)	Date(s)	Amount(s)	Date(s)	Amount(s)	Date(s)	Amount(s)	Date(s)	Amount(s)	
1												
2												
3												
4												
5												
6												
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14												
15												

I certify that the information set out in this(these) form(s) is accurate and correct and agreed by all beneficiaries (signed by the coordinator).

Coordinator's Stamp (if applicable)	Name of the Person(s) authorised to sign this Financial Statement
	Date & Signature