

KICK-OFF MEETING

Overview of contractual obligations, procedures and practical matters for SSAs

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What is a SSA ?

Programme « Scientific Support to Policies »

- ✘ Support the EU activities
- ✘ Specific purpose
- ✘ Dissemination

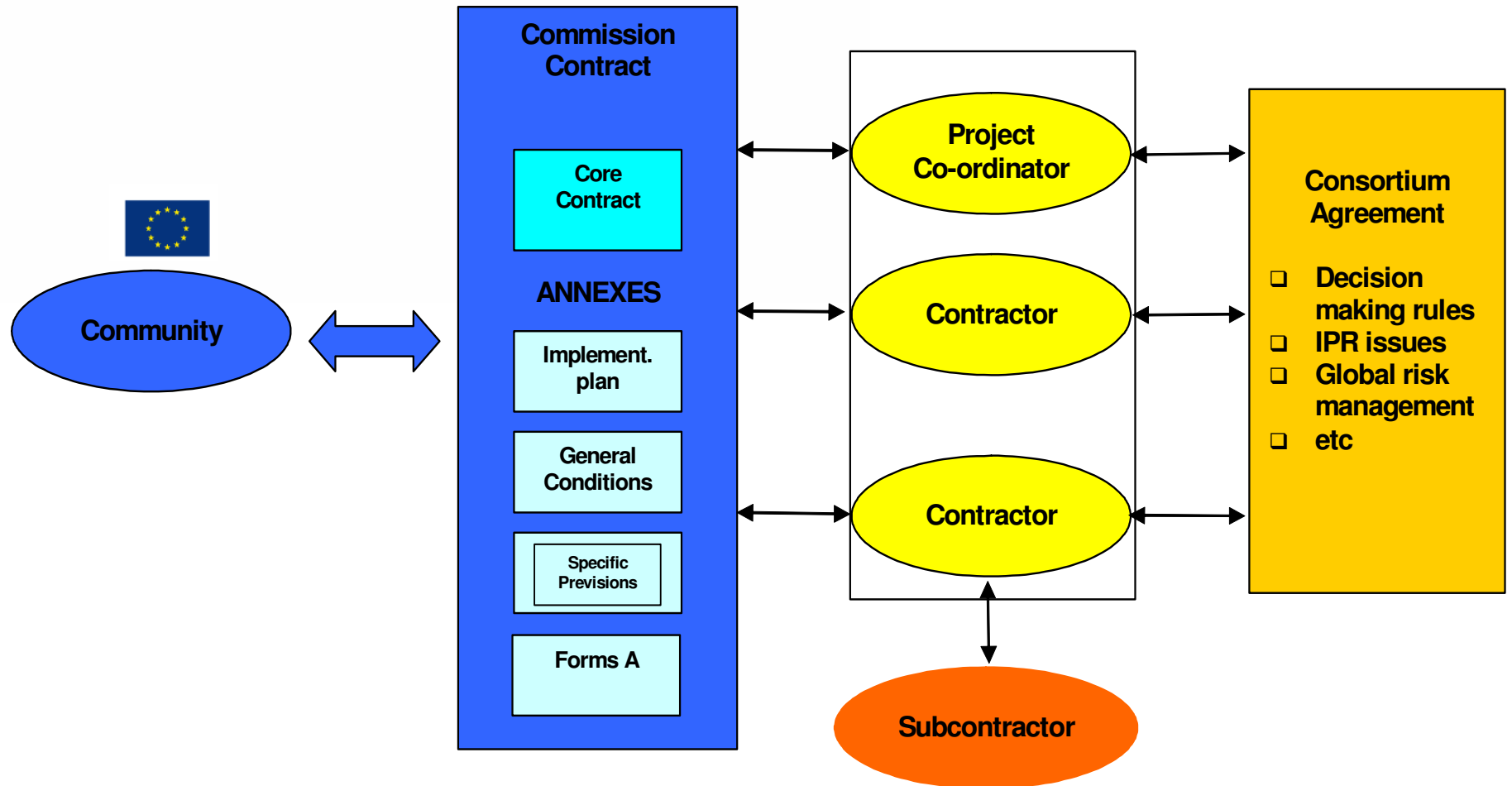
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FUNCTIONAL DIAGRAM



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THE MAIN ACTORS

Their Duties & Responsibilities

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Commission

- ✘ Monitor the scientific, technological and financial execution of the project
- ✘ Ensure that the contractual provisions are respected by all parties
- ✘ Ensure timely payments of the EC financial contribution
- ✘ Carry out review, analysis and approval of *project* deliverables
- ✘ Maintain the confidentiality of any information

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Consortium

- ✘ Ensure that the project is carried out
- ✘ Make internal arrangements to ensure the efficient implementation of the project
- ✘ Inform the Commission of any event which might affect the project
- ✘ Provide all data requested by the Commission for the administration of this project.

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Contractors

- ✘ Obligation to perform their work described in Annex I
 - ✓ The decision to leave the project will need the agreement of the other parties (the project must not suffer)
 - ✓ A unilateral decision to leave the project may be considered a breach of contract and may lead to sanctions
- ✘ Participate in meetings concerning the supervision, monitoring and evaluation of the *project*
- ✘ Own the knowledge generated
- ✘ Must protect and use the results
- ✘ Inform the *Commission* of any event which might affect the *project*
- ✘ Follow fundamental ethical principles
- ✘ Promote equal opportunities



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Co-ordinator

- ✘ Ensure the signature of the contract by all partners
- ✘ Be the intermediary between the contractors and the Commission
- ✘ Submits all documents on schedule
- ✘ Receive all EC payments
- ✘ Administer and distribute the EC contribution in accordance to the contract and the consortium



Subcontracting

- **Contractors shall ensure that the work to be performed can be carried out by them**

- **Exception:** where it is necessary to subcontract certain elements of the work, it must be clearly identified in Annex I.
- Subcontracts:
 - **Must** follow a public call for tender
 - Subcontractors **cannot** be pre-determined
 - contractor assumes responsibility for the tasks and obligations passed to the contractor

- *Minor services may be subcontracted during the life of the project, but always respecting the above rules.*



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THE PROJECT LIFECYCLE

Deliverables, costs and reviews

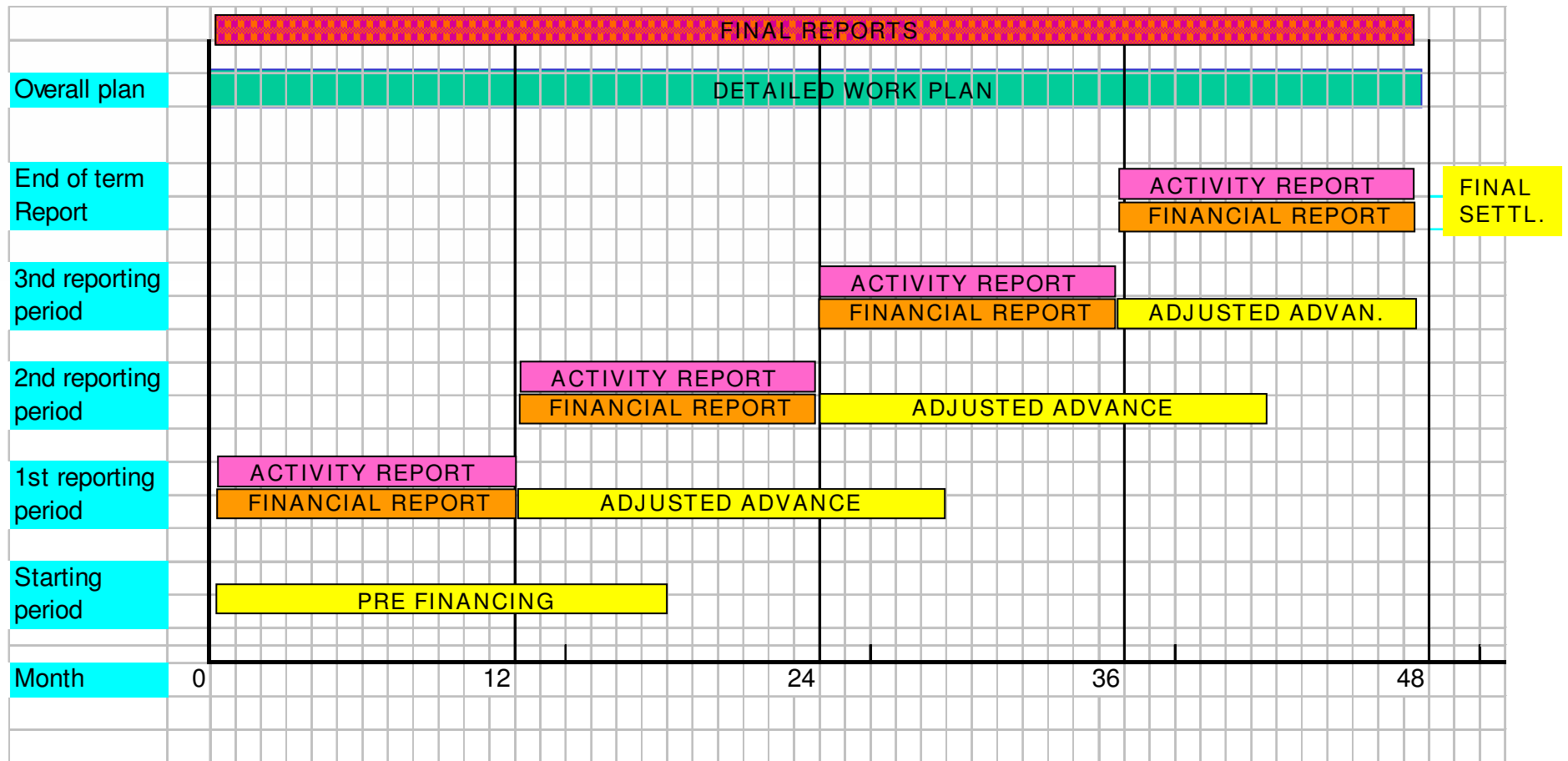
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Project Lifecycle



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Reports (periodic)

➔ **To be submitted within 45 days**

- × **Activity report** containing an overview of the activities carried out over the period
- × **Financial report** on that period including:
 - ✓ Justification of the resources deployed by each *contractor*,
 - ✓ The Form C Financial statement by each *contractor*
 - ✓ A summary financial report consolidating
 - ✓ A report on the distribution between *contractors*
- × **Audit certificates** (when required)
- × **Supplementary reports** as required by any Annex to the *contract*.



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Reports (final)

➔ **To be submitted within 45 days**

- × **Final activity report** covering all the work, objectives, results and conclusions,
- × **Final plan for using and disseminating the knowledge**
- × **Final financial report** covering the full duration of the *project*
- × **Supplementary final reports** as required by any Annex of the *contract*



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Deadlines

- × **All Reports: 45 days after the end of the reporting period**
- × **Deliverables: As stated in the description of work (Annex 1)**
- × **Payments: 45 days after the approval of the reports**



Financing: costs

New principles:

- 1 - Cost categories are replaced by conformity to contractors' own accounting rules and legal environment
- 2 - Focus resources on the reality and the necessity of the cost, rather than on formality (cost categories)

Therefore, costs must be :

- ⇒ **Actual, economic and necessary** for the project
 - ⇒ **Incurred during the duration** of the project (exception: costs of the final reports)
 - ⇒ **Recorded in the accounts** (or in the accounts of third parties, which must be informed)
- 3 - New: list of ineligible costs



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Financing: audit certificates

- Each contractor shall provide an audit certificate prepared and certified by an external auditor (for public bodies - competent public officer)
- to transform an advance into a final payment
- Based on the reporting periodicity of the contract
 - For SSA: according to the contract – see art. 7.



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Financing: receipts

Principle: EU contract can not provide profits

Three kinds of receipts must be taken into consideration in order to avoid any possibility of profit:

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



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- × **Start Date: 1/1/2005**
- × **End Date: 31/12/2006**

- × **Reporting Period:**
 - ✓ **Period 1: before 16/2/2006**
 - **Annual / Mid Term Assessment Report and annual Cost Statements**
 - ✓ **Period 2: before 16/2/2007**
 - **Annual report, annual Cost Statements and Audit Certificate (2 years)**
 - ✓ **Final / Publishable Reports: before 16/2/2007**

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INTELLECTUAL PROPERTY RIGHTS

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Knowledge. Ownership and Protection

- ✘ The rules regarding knowledge have been **simplified** and made **flexible**
 - ✓ rules are identical for all participants
 - ✓ Participants are free to agree details
- ✘ General Principle: knowledge belongs to the partners that generated it
 - ✓ One partner \Rightarrow no problem
 - ✓ Several partners \Rightarrow can decide how to share
- ✘ Knowledge of commercial value shall be protected



Access rights

	Access rights to pre-existing know-how	Access rights to knowledge resulting from the project
For carrying out the project	Yes, if a participant needs them for carrying out his own work under the project	
	Royalty-free unless otherwise agreed before signing the contract	Royalty-free
For use purposes (exploitation + further research)	Yes, if a participant needs them for using his own knowledge	
	On non-discriminatory and reasonable conditions to be agreed	Royalty-free unless otherwise agreed before signing the contract
	Possibility for participants to agree on exclusion of specific pre-existing know-how	



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WHEN THINGS GET DIFFICULT

Consortium Evolution
Suspensions / Terminations

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Consortium's Evolution

Replacement of a participant

-> no need for a competitive call

Expansion of the consortium

-> not allowed

General principles:

- ✓ transparency of the procedures: appropriate publicity, clearly enunciated selection criteria
- ✓ equal treatment
- ✓ equal access granted to all potential participants

➔ **The Commission may object to the new participant(s)**

Contract Suspension / Termination

- ✘ The Commission can:
 - ✓ Suspend the contract (New)
 - ✓ Terminating the participation of a contractor
 - ✓ Terminate the contract
- ✘ The Consortium can (ask for):
 - ✓ Suspend the contract (New)
 - ✓ Terminate the participation of a contractor
 - ✓ Terminate the contract
- ✘ A contractor can (with the agreement of the Consortium and the Commission) :
 - ✓ Terminate his participation as a contractor

➡ **The contract defines clear rules for all these events**



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Amendments

- ✘ Two types:
 - ✓ Implicit (New)
 - ✓ Explicit
- ✘ Requested only by the coordinator
- ✘ Proof of the agreement by the consortium must be kept by the coordinator
- ➔ **ALL Amendment requests shall be done in writing**



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WHEN THINGS GET BADLY WRONG

Liability

Audits

Sanctions

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Liability

New: Collective responsibility of the contractors

Mechanism by which a contractor may be held liable, technically and/or financially, fully or partially, for the action of another contractor.

Why?

- ✓ Reinforce the protection of the financial interests of the Community
- ✓ Consequence of FP6 principle of “**autonomy of the consortium**”: if the money is granted to the consortium, which decides on its allocation, **then the consortium as a whole is to be held liable**



Sanctions

Autonomy implies accountability

New: in case of irregularity in a contract...

- ✓ 1 - Exclusion from the contract
- ✓ 2 - New: exclusion from OTHER FP6 contracts, and from other Community policies
- ✓ 3 - New: ineligible to participate in FP6 activities, and from other Community policies
- ✓ New: possibility of suspending the project
- ✓ New: liquidated damages in case of financial overstatement
- ✓ Without prejudice to civil and criminal sanctions



Audits

× **Technical audits**

- ✓ To verify that the *project* is being or has been carried out in accordance with the conditions indicated by the participants

× **Financial audits**

- ✓ Any aspect of the financial implementation of the project
- ✓ At least one financial audit will be carried out

× **Technological audits**

- ✓ Dealing with the use and dissemination of results

× **Ethical audits**

- ✓ Verify that fundamental ethical principles are respected



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Reference Documents

- × The Contract
- × Provisions for implementing CA
- × FP6 Financial guidelines
- × Guidelines for reporting

All documents available on the Web

<http://www.cordis.lu/fp6/find-doc.htm>