IMI Financial and IPR matters

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Legal Manager
Participation and Funding Rules
Who can participate?

- Any entity carrying out work relevant to the IMI in a Member State or Associated Country
- Anyone else with the agreement of the IMI JU

**BUT**

Not all participating entities are eligible for funding

- Stage 1: at least two independent legal entities eligible for funding
- Stage 2: + at least 2 EFPIA companies
Who is eligible for IMI funding?

- Academic institutions
- Non-profit research organizations
- Small & medium-size enterprises
- Non-profit patient organizations
- Non-profit public bodies and intergovernmental organizations including specialized agencies carrying out activities in a Member State or a country associated to FP7
Activities and Funding Rate

• Research activities
  • up to 75% of total eligible costs

• Other activities -> management, training, communication, ...
  • up to 100% of total eligible costs

No impact for beneficiaries changing their status
Direct costs

• **Direct eligible costs** -> personnel, consumables, equipment,…
  
  • Personnel costs: either actual or average personnel costs if aligned with usual accounting practices and applied in other EU programmes
  
  • SME Owners who do not receive a formal salary may use a flat rate similar to the one used in the EU’s FP7 People programme
Indirect costs

- Indirect eligible costs — ‘overheads’
  - Flat-rate of 20% of direct eligible costs
  - Actual indirect costs
Eligible vs. Ineligible costs

- Actual
- Incurred by the participant during the project
- Determined according to usual accounting and management principles and practices
- Recorded in the accounts of the participant
- Incurred for work carried out in a Member State or associated country
- Incurred for the sole purpose of achieving the project objectives related to an activity accordingly described

- Identifiable indirect taxes including value added tax
- Duties
- Interest owed
- Provisions for possible future losses or charges
- Exchange losses, cost related to return on capital
- Costs declared or incurred, or reimbursed in respect of another Union project
- Debt and debt service charges, excessive or reckless expenditure
EFPIA in-kind contribution

- Actual direct and indirect costs or average FTE
- Based on the usual management principles and accounting practices
- Contribution from EFPIA affiliated entities as part of EFPIA in-kind

For research costs incurred in Europe unless expressly foreseen (see AMR programme)
Simplified accounting/reporting

- Yearly periodic financial reports: not need to be certified by independent auditors, if either:
  - cost calculations is based on a certified accounting methodologies within FP7
  - the total amount of the participant’s report is <€375.000
- Yearly periodic reports: due either on July or December, depending on the project’s starting date
Intellectual Property Policy
Guiding principles

Aligned with IMI objectives -> PPP, specific research needs and challenges:

• To achieve a broad participation
• To promote knowledge creation, disclosure and exploitation
• To achieve fair allocation of rights and reward innovation
• To provide flexibility for participants to establish the most appropriate agreements serving the project objectives -> Project Agreement
Project Agreement

• Contractual arrangement between all participants to set out their rights and obligations, especially governance, liability and IPR

• Shall comply with the IMI model Grant Agreement

• Mandatory before the signature of the grant agreement with the Executive Office

• To be adapted to the specific needs of each IMI project!
Background vs. Foreground

// Sideground //

(generated during the Project but outside the Project Objectives and not needed for implementation or Research Use)

possible access rights
Ownership: basic principles

- Background remains the exclusive property of each participant
- Foreground are owned by the generator(s)
- Possibility to freely license, assign or otherwise dispose of its ownership rights provided access rights to other partners are respected
- Possible transfer of ownership
- Possible joint ownership
Common practices (not mandatory):
- lies with the owner(s) in adequate and effective manner -> relevant (national) legal provisions, project’s peculiarities, legitimate interests
- if valuable Foreground left unprotected -> to be discussed within the consortium

Mandatory mention to IMI support & EFPIA in-kind contribution in patent applications / publications (NEW!)

Promotion of open access publications (NEW!)
Access Rights: basic principles

- Granted on written request, unless otherwise agreed
- Non-exclusive basis approach
- No sub-licences, unless otherwise agreed
- Not affected by the termination of participation
- Guiding framework depending on the purpose:
  - Research Use -> further developments
  - Exploitation -> commercialisation
## Access Rights: conditions

<table>
<thead>
<tr>
<th>Access rights granted by a Participant to/on</th>
<th><strong>Background</strong> (necessary and identified)</th>
<th><strong>Foreground</strong></th>
<th><strong>Sideground</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Participants for completion of the Project</td>
<td>Royalty-free</td>
<td>Royalty-free</td>
<td>N.A.</td>
</tr>
<tr>
<td>Participants and affiliates for Research Use</td>
<td>Royalty-free OR Fair &amp; reasonable terms for Background needed for using Foreground as determined in Project Agreement</td>
<td>Royalty-free OR Fair &amp; reasonable terms as determined in Project Agreement</td>
<td>N.A.</td>
</tr>
<tr>
<td>Third Parties for Research Use after the Project</td>
<td>Fair &amp; reasonable terms for Background needed for using Foreground as determined in Project Agreement</td>
<td>Fair &amp; reasonable terms as determined in Project Agreement</td>
<td>N.A.</td>
</tr>
<tr>
<td>Participants and affiliates or Third Parties for Direct Exploitation</td>
<td>To be negotiated</td>
<td>To be negotiated</td>
<td>N.A.</td>
</tr>
</tbody>
</table>
More information
Useful documents

• **Rules for Participation** (part of the Call Documents)
• **IMI model Grant Agreement** (lastly revised on 30 April 2012)
• **IMI Financial Guidelines** (January 2012)
• **IMI Reporting Templates and Guidelines** (February 2012)
• **IP Guidance Note** (November 2010)

[www.imi.europa.eu/content/documents](http://www.imi.europa.eu/content/documents)