

1. Acceptability criteria for average personnel cost

The new criteria adopted established in Article II.14.1 of the ECGA as modified by the Commission on 24/1/2011, provide for the acceptance of the vast majority of average personnel cost methods used by beneficiaries as their usual cost accounting practice. Those criteria are as follows:

- a. *The average personnel cost methodology shall be the one declared by the beneficiary as its usual cost accounting practice; as such it shall be consistently applied to all indirect actions of the beneficiary under the Framework Programmes;*
- b. *The methodology shall be based on the actual personnel costs of the beneficiary as registered in its statutory accounts, without estimated or budgeted elements;*
- c. *The methodology shall exclude from the average personnel rates any ineligible cost item and any costs claimed under other costs categories in order to avoid double funding of the same costs;*
- d. *The number of productive hours used to calculate the average hourly rates shall correspond to the usual management practice of the beneficiary provided that it reflects the actual working standards of the beneficiary, in compliance with applicable national legislation, collective labour agreements and contracts and that it is based on auditable data.*

These criteria will apply without prejudice to the other general eligibility criteria set out in FP7 Rules for Participation and the ECGA (i.e. cost should be incurred during the duration of the project, indicated in the overall budget, etc). Personnel costs declared to FP7 projects resulting from the application of calculation methods fulfilling the above mentioned criteria are deemed not to differ significantly from the actual costs.

Beneficiaries are no longer required to submit a Certificate on Average Personnel Costs (CoMAv) for approval as a prior condition for the eligibility of the costs. Nevertheless, the CoMAv remains as an option offering beneficiaries the possibility to obtain prior assurance on the compatibility of the methodology in place with FP7. All beneficiaries applying average personnel costs are entitled to submit a CoMAv. Methodologies submitted for approval will be assessed against the criteria defined above. Procedures for the submission and treatment of the CoMAv remain unchanged and can be consulted at the FP7 Guidance Notes for Beneficiaries and Auditors¹. Where needed, the Commission will modify the Form D and Form E in order to adapt the templates to the new criteria. Further guidance on certification can be found in the above mentioned Guidance Notes for Beneficiaries and Auditors.

Particular aspects of the acceptability criteria

Criterion a: Usual cost accounting practice declared by the beneficiary

¹ ftp://ftp.cordis.europa.eu/pub/fp7/docs/guidelines-audit-certification_en.pdf

The methodology applied should be the usual cost accounting practice of the beneficiary . The terms "*..shall be the one declared by the beneficiary*" means that the Commission will consider that by submitting and signing financial statements (Form C) calculated by means of a given methodology, the beneficiary is declaring that such methodology is its usual costs accounting practice. Where necessary this usual cost accounting practice should be adjusted in order to fulfil all the acceptability criteria. For instance, this would be the case when the usual personnel cost calculation method includes ineligible items which would need to be removed (e.g. indirect taxes).

This criterion does not require the average personnel costs methodology to be equal for all types of employees, departments or cost centres. If, for instance, the usual cost accounting practice includes different calculation methods for permanent personnel and temporary personnel, this is acceptable. However, the overall methodology must be consistently applied in all FP7 participations of the beneficiary and can not be adapted ad-hoc for particular research actions or specific projects.

Criterion b: Based on the statutory accounts

In order to guarantee that the average cost rates used in the methodology are based on actual costs, the calculation method should compute personnel cost rates resulting from the payroll figures registered in the statutory accounts of the entity.

Budgeted or estimated figures are not costs actually incurred and, as such, can not be accepted as eligible components of the personnel costs. Notwithstanding this, when the actual amount of some element of the personnel costs is not known at the time of the preparation of the financial statements (Form C), beneficiaries are entitled to use the last available financial data or the best possible estimation of the actual costs. In those cases, the costs claimed must be adjusted according to the actual costs incurred as registered in the beneficiary's accounts in the subsequent period or, at the latest, at the time of the submission to the Commission of the final report of the project. The resulting adjustment to the costs already charged should be declared in an additional Form C indicating that it is an adjustment to a previous statement (by ticking out the yes option in the specific box).

Criterion c: Excluding ineligible costs and double funding

Cost declared to be ineligible by the Commission, in particular those enumerated in Article II.14.3 of Annex II to ECGA, need to be removed from the personnel rates. If the usual accounting practice includes any element considered ineligible, the personnel rates would need to be adjusted by withdrawing such components from the pool of personnel cost. In case of doubts regarding the eligibility of an item, the question can be raised to the Commission via the network of National Contact Points² or the Research Enquiry Service³.

The methodology should also prevent double funding of the same costs. As an example, certain methodologies include in the calculation of the personnel rates cost components which are part of the indirect costs in the beneficiaries' accounts. In such situations, if the beneficiary uses real indirect costs, the methodology should ensure that those items are removed from the pool of costs used to calculate the indirect cost charged to the FP7 projects. In the particular

² http://cordis.europa.eu/fp7/ncp_en.html

³ <http://ec.europa.eu/research/index.cfm?pg=enquiries>

case of beneficiaries applying a flat-rate indirect cost method, the personnel cost cannot include any indirect cost element as these are covered by the flat-rate.

Criterion d: Productive time

As a general rule, the number of productive hours should be that applied as the usual practice of the beneficiary. For instance, beneficiaries could use the actual productive hours of each researcher according to the time-records or instead use a standard number of productive hours (generally annual productive hours). When the beneficiary applies a standard number of productive hours, this should be representative of its working standards. Background information used to determine the standard productive hours should be available and verifiable.

An illustrative example could be a case where a beneficiary deducts 7 working days a year as average illness absence of the employees when calculating the annual productive hours. The records substantiating this figure should be available in case of an audit. Besides, if the records on illness absences show that systematically the number of days is lower than 7, this could be a reason for the Commission to re-evaluate the appropriateness of the standard number of annual productive hours.

Please note that the Commission does not consider billable hours (hours that can be directly charged to customer/grantors) as equivalent to productive time. Billable hours are commonly much lower than productive hours, resulting in an overstatement of the personnel costs.

For more information on the concept of productive hours please refer to the section for Article II.15.1 (a3) of this Guide.

Retro-active application

These new criteria are applicable to costs declared in all FP7 projects. Beneficiaries can therefore directly apply their usual average personnel costs calculation method, if compatible with these criteria, for any cost declaration. However, the beneficiary is not allowed to recalculate costs which were already reported by application of other calculation methods due to the fact that the usual methodology is now acceptable under the criteria described above. For instance, if the beneficiary has charged individual actual costs due to the fact that its average personnel cost methodology was not acceptable by the Commission under the prior criteria, the beneficiary can not re-calculate at present those costs by using averages, even if its methodology is now acceptable.

The Commission will also apply these new criteria in all ongoing and future FP7 audits.

Certificates on the methodology for average personnel costs

The ex-ante⁴ certificates on the methodology are a measure aimed to prevent interpretational errors of the FP7 rules. Apart from the clerical mistakes, most errors found during Commission's audits are the result of incompatibilities between certain costs accounting practices and the financial provisions, or due to an incorrect reading of rules. The Certificates on the methodology allow beneficiaries to submit a description of the calculation methods applied for the FP7 projects and obtain from the Commission the assurance that the methodology, as described in the certificate, is in line with the rules of the framework programme. In order to simplify the administrative requirements for beneficiaries, the Commission has opted not to continue requiring the submission of the CoMAv for beneficiaries applying average personnel costs. However, in view of the evident preventive value of this certificate, it remains as a voluntary option for these beneficiaries.

During the period of application of the interim acceptability criteria adopted in June 2009, a certain number of beneficiaries have implemented adjustments in their usual methodology in order to obtain its approval by the Commission. All methodologies approved under the former criteria fulfil, by definition, the new criteria. Thus, those beneficiaries who have obtained the approval of their average personnel costs methodology prior to this decision (under the former criteria) are entitled either to:

- Continue applying the approved methodology;
- Or to revert to their usual accounting practice, if different from the approved methodology, in so far as this fulfils the new acceptability criteria.

Beneficiaries opting to revert to their usual accounting practice are entitled to submit for approval a new Certificate on the methodology. It is recommended that beneficiaries in this situation inform the Commission on their choice via the functional mailbox:

RTD-FP7-Average-Personnel-Rate-Certification@ec.europa.eu

Commission audits

In case of an audit, the Commission auditors will verify that the average personnel costs calculation method fulfils the acceptability criteria. If a Certificate on the Methodology (CoM) covering average personnel costs or a Certificate on Average Personnel Costs (CoMAv) has been approved for the beneficiary, this will be duly taken into account by the auditor. If the average personnel costs methodology is compliant with the acceptability criteria, the audit will verify the correct implementation of the methodology, the respect of other general eligibility criteria and the accurate calculation of the costs (i.e. free of clerical mistakes).

In case that the methodology fails to respect one or several criteria, the auditor will correct, when possible, the average rates applied by the beneficiary and propose the corresponding financial adjustments on such basis. This can occur, for instance, if the auditor notices

⁴ In this context, ex-ante means prior to the declaration of the costs

ineligible costs included in the calculation of the personnel rates and the precise amount can be identified and removed in order to re-calculate the rates. The Commission auditor will not calculate the individual actual costs of the researchers participating in the EU projects except in exceptional cases. These exceptional cases could be, among others:

- When the average personnel cost methodology is not the usual cost accounting practice of the beneficiary for FP7 projects.
- When the methodology is not based on the actual payroll costs registered in the statutory accounts of the entity.
- For cases of ineligible items, double charging of costs or use of estimated or budgeted elements: when the beneficiary does not grant access to the necessary information and supporting documents allowing to re-calculate the average personnel rates.

Finally, costs reported prior to the adoption of this decision will be audited following the calculation method applied by the beneficiary at the time of the cost declaration. In particular:

- For cost statements where the beneficiary had declared individual personnel costs, the auditor will verify the calculations on such basis even if the beneficiary applies at present average personnel costs.
- For costs statements submitted by application of average personnel costs, the auditor will apply the current acceptability criteria.

2. Flat-rate financing for SME⁵ owners and natural persons: The case of physical persons and SME owners who do not receive a salary

New situation: Following a Commission decision of 21/01/2011, Article II.14.1 of Annex II of the ECGA has been modified in order to allow SME owners who do not receive a salary and other natural persons who do not receive a salary, to charge as personnel costs a flat rate based on the allowances used in the People Specific Programme ("Marie Curie" flat-rates).

Target group: SME owners and other natural persons who do not receive a salary, including those who are remunerated/compensated by whichever other means such as dividends, service contracts between the company and the owner, etc.

"*A contrario*", employees of the SME and other natural persons who do receive a salary registered as such in its accounts **can not** use this flat rate.

⁵ SME: Small and Medium Enterprises

It might, however, be possible to use this flat-rate for the cases where the SME owner can show evidence that his/her salary corresponded exclusively to the management of the SME, not to his/her research work.

Procedure: During the negotiation of the ECGA the beneficiaries concerned will present an estimation of their expected personnel costs for the project on the basis of the formula described below. The amount of this flat-rate will appear in the table included in Annex I to the Grant Agreement, as indicated in article 5.2.

The Commission may verify, at the time of the negotiation of the grant and/or during the implementation or audit of the project, that the beneficiary fulfils the conditions to charge this flat-rate, as well as the correct application of the formula.

When submitting personnel costs in the Form C, beneficiaries will calculate those by applying the hourly rate resulting from the formula to the actual hours worked in the project. The total number of hours claimed for the EU projects in a year cannot be higher than the standard number of productive hours per SME owner/physical person (i.e.:1575). The resulting figure should appear in the form C under the cost category: *"lump-sum/flat-rate/scale of unit declared"*.

Retroactive application: This form of flat-rate financing shall apply to all grant agreements signed under the Seventh Framework Programmes, including those already signed.

Calculation of the flat rate: The formula indicated in the new Article II.14.1 of the ECGA will apply:

a) *"SME owners who do not receive a salary and other natural persons who do not receive a salary shall charge as personnel costs a flat rate based on the ones used in the People Specific Programme for researchers with full social security coverage, adopted by Council Decision No 2006/973/EC^{6a}, and specified in the annual Work Programme of the year of the publication of the call to which the proposal has been submitted^{6b}".*

The value of the personal work of those SME owners and natural persons shall be based on a flat rate to be determined by multiplying the hours worked in the project by the hourly rate to be calculated as follows:

{Annual living allowance corresponding to the appropriate research category published in the 'People' Work Programme of the year of the publication of the call to which the proposal has been submitted / standard number of annual productive hours} multiplied by {country correction coefficient published in the 'People' Work programme of the year of the publication of the call /100}

FP7 'People' Work Programmes can be obtained at the following address:

http://cordis.europa.eu/fp7/find-doc_en.html

^{6a} OJ L 400, 30.12.2006, p.272.

^{6b} For calls published in 2006 the flat rates to be applied are those of the People Work Programme 2007

For years 2007-2008-2009 these annual living allowances are published in Annex 3 to the relevant work programme, under the column A (not B) of the table called: **(yearly) reference rates for monthly living allowances**. For the years 2010 and after the same applies, with the particularity that there is a single column (no longer A or B) to be used as reference.

The different amount to be applied depends on the appropriate researcher category, which shall be defined by considering the years of professional experience of the SME owner/natural person. The reference date for the calculation of the numbers of years of experience to be taken into account is the relevant deadline for submission of proposals.

The country correction coefficients are published in the table called "correction coefficients" which appears afterwards in the same document.

In any case the number of hours actually worked for the project should be duly justified by supporting time-records in the same way as for any other type of beneficiary. Further information can be found in the dedicated section in this Guide.

The Commission will implement in the Participant Portal an on-line tool assisting beneficiaries to calculate the applicable rate for each individual case.

b) The standard number of productive hours is equal to 1 575. The total number of hours claimed for European Union projects in a year cannot be higher than this standard number of productive hours per SME owner/natural person.

This means that, independently from the real number of productive hours of the person concerned, the only figure to be used for this concept (productive hours) is set at 1 575 hours. **This applies only for the calculation of this formula for this special case** of SME owners/natural persons not receiving a salary. In the other cases (declaration of personnel costs on the basis of actual/average costs) the usual rules for productive hours detailed before in this Guide apply.

Furthermore, and also **for this special case** of SME owners/natural persons not receiving a salary, the maximum number of hours claimed by the same SME owner/natural person when adding all the hours worked for EU projects in the same year can not be superior to 1 575.

c) The value of the personal work shall be considered as a direct eligible cost of the project"

This statement means that the flat-rate covers only the direct personnel costs. Therefore, the indirect costs flat rates may be applied on top to cover the indirect costs.

Reimbursement: The FP7 upper funding limits according to the type of beneficiary, funding scheme and activity detailed in Article II.16 of the ECGA apply in order to determine the European Union financial contribution.

Example: SME owner without salary from Austria, fulfilling the conditions set in Article II.15.2 of the ECGA to apply the 60% flat indirect cost rate for funding schemes with research activities, with:

- 4 year of experience at the time of the deadline for the submission of the proposals,

- Beneficiary in one Cooperative Project (A) and one CSA project (B) selected in calls published in 2009.
- In 2011 this SME owner has worked 800 hours for project A and 800 for project B.
- He has also incurred EUR 3,000 in other direct costs for research activities (e.g. travel /accommodation costs) for project A, and equally EUR 4,000 for project B.

In 2010, at the time of the negotiation of the Grant, the beneficiary will calculate the estimated value of the personal work for the project using the formula detailed above. He (through the coordinator) will indicate this amount in the table foreseen for lump-sums/flat rates to be included in the Annex I to the GA.

At the end of the first reporting period (e.g. January 2011 - December 2011) he will apply the formula to the number of actual hours worked for EU projects that year. For this, he/she will take as reference the relevant figure published in the "People" Work Programme in 2009 for a researcher with 4 years of experience: **54,300 EUR/year**

Project A (Collaborative Project): 800 hours:

$54.300 / 1575 = 34,476$ multiplied by 102,2 (correction coefficient for Austria) and divided by 100 = 35,234 EUR/hour

Personnel work for Project A in 2011 of this SME owner without salary:

750 hours worked in RTD activities multiplied by EUR 35,234 = EUR **26.425,5**
 50 hours worked in Management activities multiplied by EUR 35,234 = EUR **1.761,7**

Total direct costs in RTD activities for Project A= EUR 26.425,5 + 3000 = EUR 29.425,5

Total indirect costs in RTD activities for Project A = EUR 29.425,5 X 60% = EUR 17.655

Total costs in RTD activities: EUR 47.080,5

EU funding = EUR 47.080,5 X 75% (funding rate for RTD activities for SMEs) = EUR 35.310,38

Total direct costs in Management activities for Project A = EUR 1.761,7

Total indirect costs in Management activities= EUR 1.761,7 X 60% = EUR1.057

Total costs in Management activities= EUR 2.818,7

EU funding = EUR 2.818,7 X 100% (funding rate for Management activities) = EUR 2.818,7

TOTAL EU funding in Project A for 2011 = EUR 38.129,1

Project B: Cooperation and Support Action (CSA): 800 hours worked in 2011

First of all, if this SME owner has already charged 800 working hours to Project A, it can only charge now in the same year 775 hours to project B to secure consistency with the standard number of productive hours equating to 1575.

The formula applied is the same as for project A, as the Work Programme to use is also that of 2009:

EUR 54.300 / 1575 = EUR 34.476 multiplied by 102.2 (correction coefficient for Austria) and divided by 100 = **35,234 EUR/hour**

However the calculation of costs and EU funding is different as the funding scheme here is a CSA, which has got no RTD activities:

Total direct costs for 725 hours worked in "other activities" = 725 X EUR 35,234 = EUR 25.544,65

Total direct costs for 25 hours worked in "management activities" = 25 X EUR 35,234 = EUR 880,85

Total direct costs = EUR 26.425,5 + 4.000 = **EUR 30.425,5**

EU funding for direct costs (as direct costs of both "other" and "management" activities are reimbursed at 100%) = EUR **30.425,5**

EU funding (reimbursement) for indirect costs in a CSA project = max 7% of Direct costs (excluding subcontracting and costs of resources made available by third parties and not used in the premises of the beneficiary) = 7% of EUR **30.425,5** = **EUR 2.129,79**

TOTAL EU funding in project B for 2011= 30.425,5 + 2.129,79 = EUR 32.555,29

Audit: as this is a flat rate, in case of audit the elements to be verified will be limited to those which are part of the formula (use of the appropriate living allowance, experience of the SME owner/natural person, country coefficient, etc) as well as the justification of the hours charged to the project and the respect of the 1575 hours-limit per year.

In case an audit finds out that an SME owner/natural person has unduly charged personnel costs on the basis of actual costs without receiving a salary, those costs will be rejected and the flat-rate system will automatically apply instead. For overstated amounts, Article II.24 of the ECGA applies, and the beneficiary shall be liable to pay liquidated damages on any amount charged over the value provided by the flat-rate system calculation

This flat-rate system will apply to all on-going and future audits in FP7. The Commission will review the testing methods to be applied during audits and will where necessary update the Guidance Notes made available for beneficiaries and auditors.

Submission of Certificates:

The submission of a Certificate on Average personnel costs is no longer possible for the cases of SME owners and natural persons without a salary. Certificates submitted up to the date of the decision, or at the latest one month after such date will be treated and evaluated under the rules in force prior to the decision. Certificates submitted later than one month of the date of adoption will be considered not receivable.

All SME owners and natural persons having received the approval of their methodology are entitled either to:

- Continue applying the approved methodology

- Apply the flat rate system

However, if the beneficiary chooses to apply the flat-rate system they will have to apply it for all cost statements in ongoing and future participations in FP7 projects. It is recommended that beneficiaries in this situation inform the Commission on their choice via the functional mailbox:

RTD-FP7-Average-Personnel-Rate-Certification@ec.europa.eu

Where necessary, the CFS (Form D) will be adapted as regards the value of the personnel work in the project being funded through flat-rate financing. The Commission will review the testing methods to be applied during audits and will update the Guidance Notes made available for beneficiaries and auditors.

As regards ongoing projects, personnel costs submitted prior to the modification of Article II.14.1 of the ECGA by SME owners and natural persons without a salary not having a certificate approved by the Commission will be considered eligible up to the limit of the applicable flat rate. For future cost statement, these beneficiaries will apply the corresponding flat rate and declare, where necessary, adjustments to the costs previously reported (i.e. in the case that the costs charged in previous periods are different than those resulting from the application of the flat rate).