



**Decision n° 5 of the Head of Administration and Finance**

**Subject: Eligibility and classification of costs for staff provided by a temporary work agency**

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Head of Administration and Finance

Date  
**25.05.2018**

Reference:

- H2020 Model Grant Agreement (MGA)
  - art. 6.2 - Specific conditions for costs to be eligible
  - art. 10 – Purchase of Goods, Works and Services
  - art. 13 – Implementation of action tasks by subcontractors
- H2020 Annotated Grant Agreement (AGA)

The aim of this note is to make clarifications to the CS2 beneficiaries on the costs related to staff provided by a temporary work agency in H2020 projects in order to ensure their eligibility under the right category of costs.

In the CS2 programme, it has been a regular practice of the CS2 beneficiaries to use recourse provided by a temporary work agency in order to implement the action without any delays and to cope with significant workload, which could not have been covered by their own staff resources.

In accordance with the provisions of art. 6.2.A. of the H2020 AGA :

- *Cost of persons who work for the beneficiary, but NOT with an employment contract or equivalent appointing act (e.g. staff provided by a temporary work agency, seconded staff, self-employed persons with a direct contract with the beneficiary) cannot be declared as personnel costs;*

- ***Staff provided by a temporary work agency*** — *A contract with a temporary work agency qualifies typically as a purchase of services under Article 10 of the MGA (unless the temporary work agency considered as a legal entity carries out directly some tasks of the action clearly defined in the contract concluded with the beneficiary— in which specific case it would be considered as subcontracting in the meaning of Article 13 of the MGA);*

In other words, contracts with temporary work agencies, where the agency outsources the staff without taking full responsibility of the execution of the specific technical part of the action, shall not be considered as part of this action. In this specific scenario, pursuant to the provisions of Article 10 of MGA, the temporary work agency acts as economic operators selling services that are necessary to implement action tasks by the beneficiary.

Thus, although NOT eligible as personnel costs, the costs related to the staff provided by a temporary work agency can be charged under other budget categories (i.e. either D.3 other goods and services or B. subcontracting), if they comply with the eligibility conditions (e.g. best value for money and no conflict of interest; see Articles 10 and 13 of the MGA).

Given the lack of clarity and dual interpretation of the terminology referring to “the temporary work agency carrying out directly some task of the action”, the CSJU asked opinion of the Legal Service of the Common Support Center of DG RTD.

In accordance with the received legal opinion the common approach under H2020 Framework Programme applicable to the costs related to the staff provided by a temporary work agency shall be the following:

The costs related to staff provided by a temporary work agency shall normally be classified under “other direct costs” category (Article 10 of the MGA). Only in the specific cases, when the temporary work agency is directly in charge of performing a specific action task as described in Annex 1 of the grant agreement, the costs shall be considered as subcontracting (subject of the contract signed between the beneficiary and the temporary work agency).

Therefore, it’s up to the beneficiaries to thoroughly analyse the content of the contract concluded with the temporary work agency in order to assess whether:

- the agency directly supervises the outsourced staff executing part of the task of the action described in Annex 1 to the grant agreement and takes full responsibility for the execution of the specific work package - “Subcontracting” in the meaning of Article 13 of MGA;
- or
- the agency only outsources its staff expressed in the contract as number of man/days put at the disposal of the beneficiary<sup>1</sup> - “Other Direct Costs” category Article 10 of the MGA.

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<sup>1</sup> this type of contract is supposed to be the most common one

The approach can be summarised as follows:

Cost category	costs for staff provided by a temporary work agency
Personnel costs	NO
Other Direct Costs Article 10 of MGA	<b>YES (in general)</b>  If the agency only provides services or staff resources expressed in the contract as number of man/ days put at the disposal of the beneficiary
Subcontracting Article 13 of MGA	<b>YES (in specific cases)</b>  If the temporary work agency directly supervises the outsourced staff executing part of the task of the action described in Annex 1 to the grant agreement and takes full responsibility for the execution of the specific work package

Finally, the CSJU reminds also the beneficiaries that the costs claimed shall in any case be compliant with the H2020 eligibility rules specified in Article 6.2, Article 10 and Article 13 of the H2020 MGA.

Done in Brussels, on 6<sup>th</sup> June 2018,

  
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