



Brussels, 26.1.2017
C(2017) 308 final

COMMISSION DECISION

of 26.1.2017

authorising the use of reimbursement of indirect costs on the basis of a maximum flat-rate of 25% for the actions carried out by the European Joint Undertaking for ITER and the Development of Fusion Energy in the context of the ITER Project, the Broader Approach Activities and the programme of activities in preparation for the construction of a demonstration fusion reactor and related facilities

(Only the text in English is authentic)

COMMISSION DECISION

of 26.1.2017

authorising the use of reimbursement of indirect costs on the basis of a maximum flat-rate of 25% for the actions carried out by the European Joint Undertaking for ITER and the Development of Fusion Energy in the context of the ITER Project, the Broader Approach Activities and the programme of activities in preparation for the construction of a demonstration fusion reactor and related facilities

(Only the text in English is authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Treaty establishing the European Atomic Energy Community,

Having regard to the Council Decision (Euratom) No 198/2007¹ establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it , and in particular Article 1 (2) thereof,

Having regard to Regulation (EC, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 , and in particular Article 124 (4) thereof,

Whereas:

In order to ensure consistency and coherence of its grant conditions for indirect costs with the approach under Horizon 2020, it is justified that the Joint Undertaking for ITER and the Development of Fusion Energy shall authorise a flat rate for indirect costs of 25% total eligible costs for the actions related to the implementation of its tasks referred to in Article 1(2) of the Council Decision N° 198/2007.

HAS ADOPTED THIS DECISION:

Article 1

The use by the Joint Undertaking for ITER and the Development of Fusion Energy of a maximum flat rate for indirect costs of 25% of total eligible costs for the actions related to the implementation of its tasks referred to in Article 1(2) of the Council Decision (Euratom) No 198/2007 in the context of the ITER Project, the Broader Approach Activities and the programme of activities in preparation for the construction of a demonstration fusion reactor and related facilities is authorised, for the reasons and under the conditions set out in the Annex.

¹ Council Decision N° 198/2007 of March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it (OJ L 90, 30.3.2007, p58)

Article 2

This Decision is addressed to the Joint Undertaking for ITER and the Development of Fusion Energy.

Done at Brussels, 26.1.2017

For the Commission
Miguel ARIAS CAÑETE
Member of the Commission



ANNEX

Fusion for Energy (F4E) is the European Union's Joint Undertaking for ITER and the Development of Fusion Energy. The organisation was established in 2007 under the Euratom Treaty by a decision of the Council of the European Union in order to meet three objectives:

- F4E is responsible for providing Europe's contribution to ITER, a scientific partnership which aims to demonstrate fusion as a viable and sustainable source of energy. ITER brings together seven parties: the EU, Russia, Japan, China, India, South Korea and the United States.
- F4E also supports fusion research and development initiatives through the Broader Approach Agreement, a fusion energy partnership with Japan.
- Finally, F4E will contribute towards the construction of demonstration fusion reactors.

F4E is involved in the development and procurement of high-technology components for ITER. While in many cases the technologies required are well established, in several areas, including diagnostics, remote handling, heating and current drive systems and test blanket modules, R&D, design and testing activities are required before the actual procurement of the relevant components by F4E can commence. Such preparatory activities are normally carried out in collaboration with European national fusion laboratories, supported by F4E grants.

1. Forms of grants and categories of costs covered

The grants of the Joint Undertaking for ITER and the Development of Fusion Energy take the form of reimbursement of the following eligible costs:

1. With regard to direct costs, those actually incurred by the beneficiary and its affiliated entities; and
2. With respect to indirect costs either:
 - a) those actually incurred by the beneficiary and its affiliated entities, or
 - b) those declared by the beneficiary and its affiliated entities based on a maximum flat-rate.

To determine the amount of F4E funding related to the indirect costs of the beneficiary and its affiliated entities, F4E grant agreements may apply a maximum flat rate of 25% of the total eligible direct costs for the action, excluding subcontracting. In such cases, indirect costs are calculated in accordance with the method set out in point 3.

2. Justification

Article 124(4) of the Financial Regulation¹ provides that a Commission decision is required to enable that grant agreements may authorise or impose in the form of flat-rates funding of the beneficiary's indirect costs above 7% of total eligible direct costs for the action. Accordingly, the present decision is needed to justify a flat rate funding of the beneficiary's indirect costs up to a maximum of 25 % rather than the 7% ceiling. It is based on the following considerations:

¹ Regulation (EU, Euratom) n° 966/2012 of 25 October 2012, OJEU L 298 of 26.10.2012 p.1

- As is demonstrated in Section 3, actual indirect costs of F4E beneficiaries based on historical data on average significantly exceed the 25% maximum flat rate.
- Moreover, most of F4E's beneficiaries also participate in similar actions as part of Horizon 2020 activities, including participation in a European Consortium for the Development of Fusion Energy under the EUROfusion European Joint Programme Grant. Article 29(1) of the Horizon 2020 Rules for Participation applies a maximum flat rate for indirect costs of 25 % of the total direct eligible costs. For reasons of harmonisation, the flat rate applied by F4E should be aligned with the intended effect of reducing the bureaucratic burdens for beneficiaries electing to apply the flat rate under grants issued by F4E.

3. Method to determine the amounts

The maximum flat rate of 25% has been defined based on:

- The analysis of actual indirect costs claimed under grants awarded by F4E demonstrated the following: The actual indirect costs claimed by a representative group of 13 beneficiaries² within the audited reference period between 2010 and 2012 represent, on average, 67.04% of their total eligible direct costs.

The above percentage exceeds the 25% maximum flat rate significantly.

4. Risks of irregularities and fraud and costs of controls

F4E will be using the instruments foreseen in the F4E grant agreements, namely monitoring and reporting processes as well as audits, e.g.

- F4E monitors closely the progress and status of the work forming the subject matter of the action and makes any observations or suggestions which it may deem appropriate. Beneficiaries are obliged to submit reports at the end of each reporting period (notably financial activity reports related to this work). This way, F4E undertakes a regular follow-up of the direct costs which form the basis for the calculation of the indirect cost.
- F4E may, at any time during the implementation of the action and up to five years after the end of the action, arrange for financial audits to be carried out, by external auditors, or by F4E's auditors; the Commission, the European Court of Auditors and OLAF have the same rights as F4E, notably right of access, for the purpose of checks and audits, without prejudice to F4E's own rules;

F4E since October 2013 recurs to external audit services under the Framework Contract FP7/2013/M1/1-3 of the Research Family (Commission Research DGs, Executive Agencies and JTIs). The planning of these audits is coordinated by the Common Audit Research (CAR) group and the audit results are shared among the CAR members, thus

² Out of 65 beneficiaries who have received grants from F4E since its establishment in 2007, 13 beneficiaries were selected as a representative sample as they account for 78.98% of the total value of all grants signed by F4E since 2007.

allowing F4E to access these results whenever needed. This common platform for accessing and sharing audit results and issues further reduces the risk of irregularities and fraud.

The risk of fraud or irregularities is thus limited.

As the personnel-intensive costs of checking indirect costs are high, there could be gains in efficiency and cost-effectiveness in providing the option for F4E beneficiaries to recur to a flat rate for indirect costs.

5. No-profit and co-financing principles and absence of double financing

The following elements limit the risk of profit and double funding:

- Non-profit obligations contained within applicable grant agreements;
- Required auditor certification of submitted claimed costs;
- Audits conducted under above-mentioned Framework Contract FP7/2013/M1/1-3.

The co-financing principle is complied with by the application of the reimbursement rates set out in F4E grant agreements (e.g. currently a maximum of 40% of total eligible costs for research, technological development and demonstration).
