

European NGO confederation
for relief and development

CONCORD

Confédération européenne des ONG
d'urgence et de développement

READER

ON THE 2010 PRACTICAL GUIDE

to contract procedures for

EU external actions

(March 2011 update)

June 2012

CONTENT:

- ⊙ Introduction – page 2
 - ⊙ Reader – page 3
 - ⊙ Annexes – page 33
1. Differences between 2010 (March 2011 update) general conditions and 2007 – 2008 – 2010 (November update) – 2012 versions
 2. Applicable rules of nationality and origin for the 2007-2013 instruments for procurement purposes within grant agreements
 3. Memo on financial reporting template
 4. CONCORD interpretation to the treatment of taxes within the 2007-2013 Funding instruments
 5. Explanatory note on claiming default interests within EuropeAid grant contracts
 6. Changes to the rules for grants 2010 PRAG (March 2011 update)



Introduction

CONCORD, the European NGO confederation for Relief and Development representing 1,800 NGOs across Europe, is proud to present the **2012 Reader**. This report is based on the March 2011 update of EuropeAid's 2010 Practical Guide (PRAG) for external actions¹. It was compiled in 2012 by the CONCORD **"Funding for Development and Relief" (FDR) working group (subgroup on Financial Regulation)** through regular meetings with Mr. Laurent Sarazin's unit R3 – Legal Affairs – within the European Commission's Development and Cooperation Office EuropeAid – DEVCO.

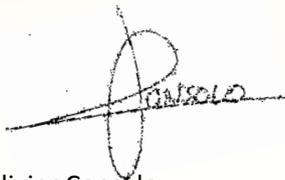
While the core report has been **formally endorsed by EuropeAid's unit R3 in May 2012**, the annexes haven't and are indicative.

The Reader is an important tool for NGOs and EU officials to interpret the complex rules of the European Commission. Indeed, it provides a clear explanation on all articles in the 2010 Practical Guide (March 2011 update). The Reader is conceived as a concrete instrument that should help CONCORD members and other NGOs to better address different contractual issues concerning the implementation of grant contracts. Meanwhile, we remind you that the final interpretation of the rules always falls within the mandate of the European Commission and EU Delegations.

The previous editions of the Reader (2003 and 2007) have proved to be very useful for various stakeholders. It has been highly appreciated by the wider NGO community, and also by the European Commission staff, both in the EU Delegations in the field and in Brussels. We hope that this last edition will have the same success.

CONCORD would like to thank the co-chairs of the FDR, Alexandra Makaroff (Plan) and Annette Wulf (German Platform) as well as the members of the FDR Financial Regulation subgroup², led by Nils Rocklin from Handicap International, for their excellent work. The Confederation would also like to thank the EC officials working in R3 unit of EuropeAid, particularly Annica Floren, Piergiorgio Rieder and Laura Giambelli, for the constructive meetings and exchanges that led to this third Reader.

Finally, with this Reader, CONCORD shows again how a member led experts group serves our entire constituency and other NGOs in their day-to-day work.



Olivier Consolo
Director of CONCORD



Izabella Toth
Cordaid - Member of the CONCORD Board

June 2012.

¹ The Practical Guide (PRAG) is the first sole working tool, which explains the contracting procedures applying to all EU external aid contracts financed from the European Union general budget (Budget) and the 10th European Development Fund (EDF). The PRAG itself can also be found on EuropeAid's website: http://ec.europa.eu/europeaid/work/procedures/implementation/practical_guide/index_en.htm

² Jenny O'Brien (OXFAM UK), Stijn de Lameillieure (Save the Children), Alexandra Makaroff (PLAN) and Johanna Rasimus (KEHYS).

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
GENERAL AND ADMINISTRATIVE PROVISIONS	
ARTICLE 1 - GENERAL OBLIGATIONS	
<p>1.1. The Beneficiary shall implement the Action under its own responsibility and in accordance with the Description of the Action in Annex I with a view to achieving the objectives laid down therein.</p>	<p>The project proposal sent to the Contracting Authority is an integral part of your contract and therefore you should implement the project, as described in your proposal. Your project may require modifications: two scenarios should be considered:</p> <ul style="list-style-type: none"> • for modifications that are known before the signature of the contract, you should discuss them with the Contracting Authority (before the contract is signed). • for modifications needed once the contract is already signed, you should send a request for a contract modification. <p>In both cases, you are also advised to change/adjust the log frame of the project and send the new version in order to keep the Contracting Authority informed about the evolution of the project.</p> <p>However, pay attention to article 6.2 of the special conditions, which implies that in case of conflict between what is written in your project and the provisions of the general conditions, the general conditions take precedence unless it is differently specified in article 7.2 of the special conditions.</p>
<p>1.2. The Beneficiary shall implement the Action with the requisite care, efficiency, transparency and diligence, in line with best practice in the field concerned and in compliance with this Contract.</p> <p>For this purpose the Beneficiary shall mobilise all the financial, human and material resources required for full implementation of the Action as specified in the Description of the Action.</p>	
<p>1.3. The Beneficiary shall act alone or in partnership with one or more non-governmental organisations or other bodies identified in the Description of the Action. Partners take part in the implementation of the Action, and the costs they incur are eligible in the same way as those incurred by the Beneficiary.</p> <p>If the Beneficiary or, where applicable its partners, have to conclude contracts in order to carry out the Action, these may only cover a limited portion of the Action and shall respect the contract-award procedures and rules of nationality and origin set out in Annex IV of this Contract.</p> <p>In order to support the achievement of the objectives of the Action, and in particular where the implementation of the Action requires financial support to be given to third parties, the Beneficiary may award sub-grants if so provided for in the Special Conditions. However, sub-granting may not be the main purpose of the Action and it shall be duly justified. The Special Conditions shall establish the total amount which may be used for awarding sub-grants as well as the minimum and maximum amount per sub-grant. The maximum amount of a sub-grant shall be limited to EUR</p>	<p>=> See Annex IV of grant contract on procurement for all detailed applicable procedures.</p> <p>Contract award procedures: market consultation has to be organized for every purchase (works; supplies; services). The extent of the consultation (from single bid to an open international tender) depends on the value of the contract (not the cost of individual items).</p> <p>In the 2010 (March 2011 update) version of the standard contract, thresholds for consultation and calls for tender are:</p> <ul style="list-style-type: none"> - single quote for transactions up to 10.000 euros for service, work and supply contracts; <p>The thresholds are the same for EDF grants.</p> <p>However the use of negotiated procedure (single quote) regardless of the amount of the contract is allowed in the cases listed under section 7. Prior authorization of the EUD is not required. However it is recommended that an audit trail is left (e.g. in the form of a note to the file) which provides the justification argued by the grant beneficiary for the use of negotiated procedures.</p> <p>Grant contract beneficiaries may use the standard templates of the Practical Guide, but they are not obliged to do so.</p> <p>Rule of nationality: refers to the nationality of the service providers, suppliers and contractors. It applies to all service, works and supply contracts. The rule of nationality does not apply to experts proposed by service providers for service contracts financed by the grant</p> <p>Rule of origin: refers to the origin of goods and equipment. Goods originating in a country shall be those wholly obtained or produced in that country. Goods whose production involves more than one country shall be deemed to originate in the country where they underwent their last substantial transformation.</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
<p>10 000 per third party while the total amount which may be awarded as sub-grants to third parties shall be limited to EUR 100 000. The Description of the Action shall include a list with the types of activity which may be eligible for sub-grants, together with the criteria for the selection of the beneficiaries of these sub-grants.</p> <p>The bulk of the Action must, however, be undertaken by the Beneficiary and, where applicable, his partners.</p> <p>The Beneficiary alone shall be accountable to the Contracting Authority for the implementation of the Action. It shall undertake that the conditions applicable to it under Articles 1, 3, 4, 5, 6, 7, 8, 10, 14, 16 and 17 shall also apply to its partners, and those applicable under Articles 1, 3, 4, 5, 6, 7, 8, 10 and 16 to all its contractors. It shall include provisions to that effect as appropriate in its contracts with them.</p>	<p>For vehicles and equipments with a unit cost exceeding 5.000 euros, the origin must be certified by a “certificate of origin” that you should ask the supplier to provide when making the purchase. The certificate of origin must be made out by the competent authorities of the country of origin of the supplies or supplier (for example Chambers of commerce).</p> <p>The nationality and origin rules apply right from the very first euro, even though the certificates of origin only need to be attached with the final report for purchased equipment and vehicles whose unit price is over 5.000 euro. Both nationality and origin rules must be complied with when making any purchases of goods or equipment as part of a project co-financed by EU, even for the goods that are not covered by the EU co-financing in the project’s accounts (EC rules apply to the entire project budget presented, no matter the co-financing level).</p> <p>=> See annex 2 of this reader for detailed applicable rules of nationality and origin.</p> <p><u>Derogations:</u></p> <p>If it is impossible to apply such rules, the grant Beneficiary can ask for a derogation as long as it is well justified and requested in advance. However, general derogations will not be granted.</p> <p>EU Delegations have currently the authority to decide on requests for derogations to the rules on nationality and origin submitted to them, provided that the contracts do not exceed the threshold for international calls for tenders (150.000 Euros for supply contracts, 200.000 euros for service contracts and 5.000.000 euros for work contracts) and that the justification falls into the situations foreseen in the programme regulation which finances the contract.</p> <p>It is possible to group together your requests for derogations in a formal mail. For example, after the signature of the contract for certain purchases already scheduled and/or that will be made during the project implementation period.</p> <p>Partners and subcontractors must also respect the rules of nationality and origin and the contract award procedures.</p>
<p>1.4. The Beneficiary and the Contracting Authority are the only parties to this Contract. Where the European Commission is not the Contracting Authority, it is not party to this Contract, which confers on it only the rights and obligations explicitly mentioned therein.</p>	<p>This provision refers particularly to the EDF contracts where the Contracting Authority is most often the National Authorising Officer (NAO) and not the EU.</p> <p>Contracts are not endorsed anymore by the EU, unless there are derogations to the standard contract templates..</p> <p>When a NAO is not compliant to EC rules, the grant beneficiary should contact the EU delegation and/or the Commission Headquarters (Director in charge of the country where the action is implemented).</p>
<p>1.5. Any personal data included in the Contract shall be processed pursuant to Regulation (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the European Union institutions and bodies and on the free movement of such data. The data shall be processed solely for the purposes of the performance, management and monitoring of the Contract by the Contracting Authority without prejudice to possible transmission to the bodies charged with a monitoring or inspection task in application of Union law. The Beneficiary shall have the right of access to his/her personal data and the right to rectify any such data. Should the Beneficiary have any queries concerning the processing of his/her personal data, s/he shall address them to the Contracting Authority. The Beneficiary shall have right of recourse at any time to the European Data Protection Supervisor.</p>	<p>It is not possible here to exhaustively list all concrete solutions and/or implications necessary to implement this article. However this article applies to all entities which process personal data related to the implementation of the action. So this provision should be included in agreements with implementing partners.</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
<p>Where the Contract requires the processing of personal data, the Beneficiary may act only under the supervision of the data controller, in particular with regard to the purposes of the processing, the categories of data which may be processed, the recipients of the data, and the means by which the data subject may exercise his/her rights.</p> <p>The data shall be confidential within the meaning of Regulation (EC) No 45/2001 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by Community institutions and bodies and on the free movement of such data. The Beneficiary shall limit access to the data to the staff strictly necessary for the performance, management and monitoring of the Contract.</p> <p>The Beneficiary undertakes to adopt appropriate technical and organisational security measures having regard to the risks inherent in the processing and to the nature of the personal data concerned in order to:</p> <ul style="list-style-type: none"> a) prevent any unauthorised person from having access to computer systems processing personal data, and especially: <ul style="list-style-type: none"> aa) unauthorised reading, copying, alteration or removal of storage media; ab) unauthorised data input as well as any unauthorised disclosure, alteration or erasure of stored personal data; ac) unauthorised persons from using data-processing systems by means of data transmission facilities; b) ensure that authorised users of a data-processing system can access only the personal data to which their access right refers; c) record which personal data have been communicated, when and to whom; d) ensure that personal data being processed on behalf of third parties can be processed only in the manner prescribed by the contracting institution or body; e) ensure that, during communication of personal data and transport of storage media, the data cannot be read, copied or erased without authorisation; f) design its organisational structure in such a way that it meets data protection requirements. 	

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
ARTICLE 2 - OBLIGATION TO PROVIDE INFORMATION AND FINANCIAL AND NARRATIVE REPORTS	
<p>2.1. The Beneficiary must provide the Contracting Authority with all required information on the implementation of the Action. To that end, the Beneficiary must draw up interim reports and a final report. These reports shall consist of a narrative section and a financial section and shall conform to the model in Annex VI. They shall cover the Action as a whole, regardless of which part of it is financed by the Contracting Authority. Each report must provide a full account of all aspects of the Action's implementation for the period covered. In case where, in accordance with Article 15.6, no expenditure verification report is required the Beneficiary has to provide a list detailing each item of expenditure incurred in the period covered by the report, and indicating for each its title, amount, relevant heading in the Budget of the Action and the reference of the justifying document, is annexed to it. The proofs of the transfers of ownership referred to in Article 7.3 are also annexed to the final report.</p>	<p>Both narrative and financial reports should cover the whole Action, as it was presented in the application form and accepted by the Contracting Authority. Financial reports and audits should include all the expenditures and not only those paid with the EC grant.</p> <p>Reporting formats (narrative & financial, interim & final, Annex VI to the Grant contract) have to be used.</p> <p>The narrative template requests rather sensitive information on our evaluation of the collaboration with local authorities. If you want that your reports be kept confidential, you must state so very clearly; otherwise the EC can publish them on the internet or disseminate them. You should indicate which part is confidential and agree on it with the contracting authority.</p> <p>The financial report should have the same level of detail as the budget annexed to the contract.</p> <p>A detailed list of expenditure (for example nominal ledger) has to be provided if an expenditure verification is not required (the expenditure verification report is needed for every request for pre-financing payments per financial year in grants of 750.000 € or more, final report in grants more than 100.000 € or request for payment of over 100.000 € for the financial year in operating grants). (See article 15.6.)</p> <p>There is no standard template for this list, but it must indicate for each item of expenditure: the nature of the expenditure, the amount, the concerned budget heading and the reference of the supporting document. It should also have cross-references to the budget headings and items.</p> <p>Reference of the supporting document can be the accounting reference (the number of the supporting document in the accounting books), as far as the link can be clearly established.</p> <p>=> See the Memo on financial reporting template of this reader for more information.</p> <p>Copies of the proofs of transfers of equipment and vehicles to local partners, the purchase cost of which was more than 5.000 euros per item, must be attached to the final report (see article 7.3). The information on transferring ownership of the aforementioned items has to be provided in Annex IX (this annex is new).</p>
<p>2.2. The Contracting Authority may request additional information at any time and that information must be supplied within 30 days of the request.</p>	<p>If the documents submitted are not detailed enough, the Contracting Authority has the right to ask for more information on the basis of a justified request. The Contracting Authority is always entitled to ask any information it considers necessary (e.g. on the basis of its risk assessment about the beneficiary).</p> <p>When a request for additional information is made by the Contracting Authority, the Beneficiary has then 30 days to reply.</p>
<p>2.3 The reports shall be drafted in the language of the Contract. They shall be submitted to the Contracting Authority at the following intervals:</p> <ul style="list-style-type: none"> • if payments are made in accordance with option 1 or option 3 of Article 15.1: a single final report shall be forwarded no later than three months after the implementation period as defined in Article 2 of the Special Conditions; • if payments are made in accordance with option 2 of Article 15.1: <ul style="list-style-type: none"> – an interim report must accompany every request for payment ; – the final report shall be forwarded no later than three months after the implementation period as defined in Article 2 of the 	<p>The reports need to be presented in the language in which the contract was drawn up. You may, however, ask for a derogation to be inserted in the Special Conditions if needed.</p> <p>In principle, reports should be sent by the end of every 12 month period unless otherwise specified in the Special Conditions. In practice, we usually consider a 3-month period between the final date covered by the interim report and the date of sending the interim report. See also explanations on Article 2.5 here below. The period covered should be clearly specified in the report for verification purposes.</p> <p>As soon as one has spent 70% of latest pre-financing payment (and 100% of all earlier payments), one is entitled to send an interim report and a request for further payment. For example, the first interim report may be sent even after 5 months from the beginning of the project, as long as 70% of the latest advance has already been spent.</p> <p>If one has not spent the required percentage of the pre-financing when the report is due (12 months after the beginning of the action and in 12 month intervals from that date), grant Beneficiaries should refer to 15.1 where it is foreseen that you can also send an interim report after 12 months without having spent 70% of pre-financing. In that case the further pre-financing payment would be reduced by the unspent amount.</p> <p>Except if otherwise provided for in Article 7 of the Special conditions, at the end of the last interim period of a contract you should not send a last interim</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
<p>Special Conditions.</p> <p>The deadline for submission of the final report is extended to six months where the Beneficiary does not have its headquarters in the country where the Action is implemented.</p>	<p>report. You will only need to detail more the last period in the final report, which will cover the whole period of the project. The expenditure verification though, will only have to cover all the expenditure not covered by any previous expenditure verification report.</p> <p>The final report must be submitted 3 months after the end of the Action. The deadline is extended to 6 months after the end of the Action when the Beneficiary does not have its headquarters in the country where the action is implemented. In multi-country/ regional actions managed by an organisation that has its headquarters in one of the countries of operation, the Beneficiary can request the deadline of the final report to be extended to 6 months after the end of the Action at least 1 month prior to the end of the implementation period.</p>
<p>2.4. Any additional reporting requirement will be set out in the Special Conditions.</p>	<p>The specific conditions state the number of reports to send to the Contracting Authority and to whom they should be addressed.</p> <p>Additional reporting requirements (financial or narrative, beyond the principle laid down in the general conditions of one set of reports per year) are not mandatory as per the standard contract and therefore should be discussed with the delegation.</p> <p>If they are agreed upon, they should be included in Article 7.2 of the Special Conditions.</p>
<p>2.5. If the Beneficiary fails to supply the Contracting Authority with a final report by the final report deadline laid down in Article 2.3 and fails to furnish an acceptable and sufficient written explanation of the reasons why it is unable to comply with this obligation, the Contracting Authority may terminate the Contract in accordance with Article 12.2 a) and recover the amounts already paid and not substantiated.</p> <p>Furthermore, where payments are made in accordance with option 2 of Article 15.1 and the Beneficiary fails to present an interim report and a request for payment by the end of each twelve-month period following the date laid down in Article 2.2 of the Special Conditions, the Beneficiary must inform the Contracting Authority of the reasons why it is unable to do so, and provide a summary of progress in the Action. If the Beneficiary fails to comply with this obligation, the Contracting Authority may terminate the Contract in accordance with Article 12.2 a) and recover the amounts already paid and not substantiated.</p>	<p>You are advised to inform the Contracting Authority of any delay you may have in submitting the final report. If your report is submitted late and you don't inform and explain the reason for the delay, the Contracting Authority has the right to terminate the contract and ask for the reimbursement of grant funding already paid.</p> <p>If 1 year after the beginning of the action (and at 12 months intervals from that date) you have not yet sent an interim report you have to send a letter explaining the reasons of the delay and outlining the progress of the project. This can be done through a summary of progress in the action, and not a full detailed report. It can consist of a mere listing of the main activities implemented so far. A full detailed report is not due every twelve months, as it is linked to the next payment request.</p>
<p>ARTICLE 3 - LIABILITY</p>	
<p>3.1. The Contracting Authority cannot under any circumstances or for any reason whatsoever be held liable for damage or injury sustained by the staff or property of the Beneficiary while the Action is being carried out or as a consequence of the Action. The Contracting Authority cannot therefore accept any claim for compensation or increases in payment in connection with such damage or injury.</p>	<p>The Grant Beneficiary is solely responsible for all materials, equipment and other properties used and staff employed for the project. The fact that the EU is supporting the project financially does not transfer at all or in part, any of the responsibility over the EU.</p>
<p>3.2. The Beneficiary shall assume sole liability towards third parties, including liability for damage or injury of any kind sustained by them while the Action is being carried out or as a consequence of</p>	

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
<p>the Action. The Beneficiary shall discharge the Contracting Authority of all liability arising from any claim or action brought as a result of an infringement by the Beneficiary or the Beneficiary's employees or individuals for whom those employees are responsible of rules or regulations, or as a result of violation of a third party's rights.</p>	
<p>ARTICLE 4 - CONFLICT OF INTERESTS</p>	
<p>The Beneficiary undertakes to take all necessary precautions to avoid conflicts of interests and shall inform the Contracting Authority without delay of any situation constituting or likely to lead to any such conflict.</p> <p>There is a conflict of interests where the impartial and objective exercise of the functions of any person under this Contract is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with another person.</p>	<p>A conflict of interest relates to any event influencing the capacity of a candidate, tenderer, contractor or grant beneficiary to give an objective and impartial professional opinion, or preventing at any moment, from giving priority to the interests of the European Commission. Any consideration relating to possible contracts in the future or conflict with other commitments, past or present, of a candidate tenderer, contractor or grant beneficiary. These restrictions also apply to any sub-contractors and employees of the candidate, tenderer, contractor or grant beneficiary.</p> <p>There is also a conflict of interest within the meaning of Article 52 of the Financial Regulation where the impartial and objective exercise of the functions of a player in the implementation of the budget or an internal auditor is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with the applicant.</p> <p>Here is an example: you are advised to inform the Commission, for instance, if a member of your staff involved in procurement is linked to someone who owns one of the companies from which you buy your supplies or equipment. You should also inform the Commission if one of your staff members -in a position of responsibility- is linked to a person working at the Delegation, in charge of the follow up of your contract.</p>
<p>ARTICLE 5 - CONFIDENTIALITY</p>	
<p>Subject to Article 16, the Contracting Authority and the Beneficiary undertake to preserve the confidentiality of any document, information or other material communicated to them in confidence until at least seven years after the final payment. Where the European Commission is not the Contracting Authority it shall still have access to all documents communicated to the Contracting Authority and shall maintain the same confidentiality.</p>	
<p>ARTICLE 6 – VISIBILITY</p>	
<p>6.1 Unless the European Commission agrees or requests otherwise, the Beneficiary must take all necessary steps to publicise the fact that the European Union has financed or cofinanced the Action. Such measures must comply with the Communication and Visibility Manual for EU External Actions laid down and published by the European Commission, that can be found at:</p> <p>http://ec.europa.eu/europeaid/work/visibility/documents/communication_and_visibility_manual_en.pdf. The Beneficiary shall submit a communication plan for the approval of the European Commission and report on its implementation in accordance with Article 2.</p>	<p>The visibility of the donor is a contractual requirement. You will need to make sure that you publicise that the EU has funded or partly funded your project, unless you have prior permission not to do so (for example where your staff might be at risk).</p> <p>You can find guidelines and a template on how to draft a communication plan in chapter 2.3 of the Visibility Manual. You should always include a visibility budget in line with your communication plan, also in a small project.</p> <p>Requests in order to obtain derogation from the visibility obligation should be included in the communication plan which is to be sent to the project manager for approval after contract signature.</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
<p>6.2. In particular, the Beneficiary shall mention the Action and the European Union's financial contribution in information given to the final recipients of the Action, in its internal and annual reports, and in any dealings with the media. It shall display the EU logo wherever appropriate.</p>	<p>The EU's contribution should also be mentioned in internal, annual reports and to the media, where appropriate. You will have to include visibility material to the final report (see art. 2.3). The logo information can be found at http://ec.europa.eu/europeaid/work/visibility/documents/communication_and_visibility_manual_en.pdf</p>
<p>6.3. Any notice or publication by the Beneficiary concerning the Action, including those given at a conference or seminar, must specify that the Action has received EU funding. Any publication by the Beneficiary, in whatever form and by whatever medium, including the internet, must include the following statement: "This document has been produced with the financial assistance of the European Union. The contents of this document are the sole responsibility of < Beneficiary's name > and can under no circumstances be regarded as reflecting the position of the European Union."</p>	<p>The EU encourages the use of EU's logo as often as possible. In particular, the logo and the sentence mentioned in article 6.3 should be included in all the publications produced in the framework of the project supported by the EU: that is to say both if those are paid with the EU grant or if they are produced using the Beneficiary's own funds or co-financing funds. You must publicise the EU's contribution.</p>
<p>6.4 The Beneficiary authorises the Contracting Authority and the European Commission (where it is not the Contracting Authority) to publish its name and address, nationality, the purpose of the grant, duration and location as well as the maximum amount of the grant and rate of funding of the Action's costs, as laid down in Article 3 of the Special Conditions. A derogation from publication of this information may be granted if it could endanger the Beneficiary or harm its commercial interests.</p>	<p>In order to obtain derogation from publication of this information, the grant beneficiary should submit a justification to the Contracting Authority before signature of the contract.</p>
<p>ARTICLE 7 - OWNERSHIP/USE OF RESULTS AND EQUIPMENT</p>	
<p>7.1. Ownership of, and title and intellectual and industrial property rights to, the Action's results, reports and other documents relating to it shall be vested in the Beneficiary.</p>	<p>The Beneficiary is the owner of any intellectual or industrial right developed within the project such as brevets and patents, royalties etc. However, the EC can use, free of charge, all the documents produced in the project, except financial and narrative reports.</p>
<p>7.2. Notwithstanding the provisions of Article 7.1 and subject to Article 5, the Beneficiary grants the Contracting Authority (and the European Commission where it is not the Contracting Authority) the right to use freely and as it sees fit all documents deriving from the Action, other than those reports referred to in Article 2, whatever their form, provided it does not thereby breach existing industrial and intellectual property rights.</p>	

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
<p>7.3. Where the Beneficiary does not have its headquarters in the country where the Action is implemented and unless otherwise specified in the Special Conditions, the equipment, vehicles and supplies paid for by the Budget for the Action must be transferred to any local partners of the Beneficiary and/or the final beneficiaries of the Action, at the latest when submitting the final report. Copies of the proofs of transfers of equipments and vehicles, the purchase cost of which was more than EUR 5 000 per item, must be attached to the final report. Such proofs must be kept for control in all other cases.</p>	<p>Before the end of the action everything that is bought for the project (including goods and equipment bought with co-financing funds) must be transferred to the local partners or to the final beneficiaries of the action. This obligation exists in order to comply with the non-profit rule and ensure sustainability of the project when the action is over.</p> <p>This also includes all the vehicles and equipment (computers, furniture, etc.) bought for the local office of the European or the partner organisation. This handing-over requirement concerns all goods and equipment, but the proof of this transfer must only be included in the final report for items above € 5.000. The transfer of equipment with a purchase cost up to € 5,000 can however be checked later by external auditors. The information on transferring ownership of the aforementioned items has to be provided in Annex IX.</p> <p>If your project continues beyond the end date of the operational duration of the contract, you can ask the Contracting Authority for a written derogation to this article so that you can keep the material until the end of the project. However, this request must be very well justified and you should already announce when and to whom the material and equipment will be finally handed over. In case the beneficiary keeps the equipment which was purchased under the Contract, these expenditures are not eligible.</p> <p>If the final beneficiaries are not in the position to utilise equipment purchased in the project, a derogation can be introduced in the Special conditions covering part or all the equipment. This is made case by case. As regards projects under DCI NSA-LA objective 2 (DEAR), usually a derogation article is introduced in the Special conditions and the equipment purchased remains with the NGO that signs the contract.</p>
ARTICLE 8 – EVALUATION/MONITORING OF THE ACTION	
<p>8.1. If the European Commission carries out an interim or ex post evaluation or a monitoring mission, the Beneficiary shall undertake to provide it and/or the persons authorised by it with any document or information which will assist with the evaluation or monitoring mission, and grant them the access rights described in Article 16.2.</p>	
<p>8.2. If either party (or the European Commission) carries out or commissions an evaluation in the course of the Action, it must provide the other party and the European Commission (or the Parties) with a copy of the evaluation report.</p>	<p>This obligation concerns the grant beneficiary, the contracting authority and the European Commission (if it is not the contracting authority). This implies that grant beneficiaries submit any formal evaluation of the action with the final report at the latest.</p> <p>But based on this article grant beneficiaries may also request results from Results Oriented Monitoring Visits.</p>
ARTICLE 9 - AMENDMENT OF THE CONTRACT	
<p>9.1. Any amendment to the contract, including the annexes thereto, must be set out in writing in an addendum. This contract can be modified only during its execution period.</p> <p>If an amendment is requested by the Beneficiary, it must submit that request to the contracting authority thirty days before the date on which the amendment should enter into force, unless there are special circumstances duly substantiated by the Beneficiary and accepted by the Contracting Authority.</p>	<p>Pay attention to the fact that any modification must be requested at least 30 days before it should occur (but we would recommend to do it as early as possible as the CA may take more than 30 days to validate the amendment).</p> <p>In exceptional circumstances beyond the grant beneficiary's control,(e.g. delays in a subcontract (delayed delivery), unexpected delays in activities implemented by a partner that could not inform the beneficiary within the 30 day limit etc.), the amendment can have a retroactive effect provided the execution period has not expired, but the grant beneficiary will only receive confirmation that the Contracting Authority has agreed to its request once the addendum has been duly signed. The grant beneficiary bears the financial risk of any costs incurred or goods and services provided before the addendum has been issued, because the Contracting Authority has the right to refuse to sign the addendum. Only once the addendum enters into force may the grant beneficiary claim payment for the costs, goods or services.</p> <p>Execution period: legal validity of the contract, from contract signature until final payment, and in no event later that 18 months after the end of the implementation period.</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
	<p>Implementation period: period during which project activities take place, lasting from the date and for the number of months specified in the Special Conditions.</p>
<p>9.2. However, where the amendment to the Budget or Description of the Action does not affect the basic purpose of the Action and the financial impact is limited to a transfer between items within the same budget heading including cancellation or introduction of a new item, or a transfer between main budget headings involving a variation of 15% or less of the amount originally entered (or as modified by addendum) in relation to each concerned main heading for eligible costs, the Beneficiary may amend the budget and inform in writing without delay the Contracting Authority accordingly. This method may not be used to amend the headings for administrative costs or the contingency reserve.</p> <p>Changes of address, bank account or auditor may simply be notified, although this does not stop the Contracting Authority from opposing the Beneficiary's choice of bank account or auditor.</p> <p>The contracting Authority reserves the right to require that the auditor referred to in Article 5.2 of the Special Conditions be replaced if considerations which were unknown when the Contract was signed cast doubt on the auditor's independence or professional standards.</p>	<p>There are different types of contract amendment:</p> <p>a. Budget reallocations:</p> <p>The budget submitted with the project should be respected. However, you can benefit from some flexibility within the budget, as long as the main objective of your project remains the same.</p> <p>The "basic purpose" could refer to the specific objective of the project, target groups, location of activities and/or sustainability. It is always safer to check with the Contracting Authority that the proposed modifications are acceptable and do not impact the "basic purpose" of the project.</p> <ul style="list-style-type: none"> • You can modify unilaterally the expenditures of a single main budget heading as long as the total amount of the concerned headings doesn't deviate by more than 15% from the original amount foreseen in the contract: for instance, if you budgeted one doctor you might replace him/her with 2 nurses. • You can transfer a part of the budget from a main heading to another (from H1 to H6 for instance) as far as this transfer does not imply a variation of more than 15% of the <u>headings concerned</u> by such transfer. Please note that all transfers are <u>cumulative</u>: as soon as you reach the 15% limit, a formal amendment of the contract is required from which point you can start again with transfers up to a maximum of 15%. • The term "main budget headings" has to be understood as the main budget headings of the direct costs, i.e. the headings number 1 (human resources), 2 (travel), 3 (equipment and Supplies), 4 (local offices), 5 (other costs, services) and 6 (other), and not as any of the sub-headings or sub-sub-headings. • In the case the basic act/financing agreement exclude financing of taxes and the beneficiary (or its partners) can show it cannot reclaim. The 15% flexibility may not be used to amend heading 12, by moving eligible costs to accepted costs or the opposite. • In the case of introduction of new budget items which modify in a substantial way the composition of the main budget line, it is always prudent to check with the Contracting Authority if it agrees that the modification does not change the main aim of the action. • With regards to a contractually approved budget (i.e. original or modified with an amendment/rider to the contract) if one main budget heading is overspent by more than 15% (and for which no amendment was requested), these amounts will not be reimbursed and will have to be paid by the grant beneficiary (in addition to the co-financing). In case of under-spending, this will not really have practical implications as long as the under-spending in one or more headings has not been used to cover excess expenses in other headings leading to an overspending of more than 15% in those headings. <p>b. Change in the co-financing percentage:</p> <p>While the maximum amount of the grant cannot be increased, the % covered by the EU grant can (if the total budget is reduced) as long as this new percentage stays within the authorised co-financing rules set by the guidelines of the concerned call for proposals (for instance, min co-financing 50% - max. 75%). This is applicable once the project is being implemented through a budget amendment.</p> <p>c. Changes in the "breakdown of the sources of funding":</p> <p>Changes concerning the co-financing shares are possible and do not need prior approval from EC. It is compulsory to update the funding plan provided with the final report.</p> <p>The EU contribution cannot however be increased in absolute value nor in percentage (see art. 17.1 and 17.2), except if modified through a formal amendment as explained in the previous §.</p> <p>d. Changes in project:</p> <p>Changes in project are allowed as long as they do not affect the essential aim of the project (specific objective of the logframe) or do not call into question the initial award of the grant/equal treatment of applicants. The maximum amount of the grant referred to in the special conditions cannot be increased.</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
	<p>e. No-cost extensions: This applies when the duration of the project is extended and the budget remains the same. Very often, a “no-cost extension” is accompanied by a budget reallocation. A no-cost extension requires an amendment and should therefore also be requested at least 30 days prior to the end of the contract. Don't assume that a no-cost extension will automatically be granted! It depends notably on what was indicated in the Guidelines to applicants on maximum duration of projects and the Commission's internal payment deadlines for the budget which finances the action.</p> <p>The notion of “information without delay” should be carefully observed. If you are about to send a report, you may include the change in the report. If there are months until the next report, the advice is to inform the project manager, e.g. by e-mail, as soon as possible, even if they do not require prior approval and validation from the Contracting Authority.</p>
<p>9.3. An addendum may not have the purpose or the effect of making changes to the Contract that would call into question the grant award decision or be contrary to the equal treatment of applicants. The maximum grant referred to in Article 3.2 of the Special Conditions may not be increased.</p>	
<p>ARTICLE 10 – ASSIGNMENT</p>	
<p>The Contract and the payments attached to it may not be assigned to a third party in any manner whatsoever without the prior written consent of the Contracting Authority.</p>	
<p>ARTICLE 11 - IMPLEMENTATION PERIOD OF THE ACTION, EXTENSION, SUSPENSION, FORCE MAJEURE AND END DATE</p>	
<p>11.1 The implementation period of the Action is laid down in Article 2 of the Special Conditions. The Beneficiary must inform the Contracting Authority without delay of any circumstances likely to hamper or delay the implementation of the Action. The Beneficiary may request an extension of the Action's implementation period in accordance with Article 9. The request must be accompanied by all the supporting evidence needed for its appraisal.</p>	<p>The end date of a project is defined in the Special conditions. A no-cost extension of the project can be granted in duly justified cases. This is a contract amendment, so the request must be introduced at the latest one month before the end of the project. In most of the cases, the request for extension has to be accompanied by a request for budget amendment.</p>
<p>11.2 The Beneficiary may suspend implementation of all or part of the Action if circumstances (chiefly force majeure) make it too difficult or dangerous to continue. The Beneficiary must inform the Contracting Authority without delay and provide all the necessary details. Each party may terminate the Contract in accordance with Article 12.1. If the Contract is not terminated, the Beneficiary shall endeavour to minimise the time of its suspension and shall resume implementation once circumstances allow, and shall inform the Contracting Authority accordingly.</p>	<p>In case of force majeure you can suspend the project. You should give the EC all the information about the problem you are facing, the foreseeable effects of the problem and the measure taken to minimize the damage; you should indicate the period of suspension and the reasons of the suspension. As a suspension of the implementation period in principle implies that the costs incurred during the suspension will not be eligible, you should also agree with the EC in writing the fixed costs that will nevertheless remain eligible during the suspension (e.g. office rent and certain staff costs).</p>
<p>11.3 The Contracting Authority may request the Beneficiary to suspend implementation of all or part of the Action if circumstances (chiefly force majeure) make it too difficult or dangerous to continue. Each party may terminate the Contract in</p>	<p>The Contracting Authority can also ask you to suspend the project.</p> <p>You can only resume the implementation of the Action after obtaining the written approval of the Contracting Authority.</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
<p>accordance with Article 12.1. If the Contract is not terminated, the Beneficiary shall endeavour to minimise the time of its suspension and shall resume implementation once circumstances allow, after obtaining the prior written approval of the Contracting Authority.</p>	
<p>11.4 The implementation period of the Action shall be extended by a period equivalent to the length of suspension, without prejudice to any amendment to the Contract that may be necessary to adapt the Action to the new implementing conditions.</p>	<p>In case of suspension, the months of suspension will be added to the original implementation period.</p>
<p>11.5 Force majeure shall mean any unforeseeable exceptional situation or event beyond the parties' control which prevents either of them from fulfilling any of their contractual obligations, is not attributable to error or negligence on their part (or the part of their subcontractors, agents or employees), and proves insurmountable in spite of all due diligence. Defects in equipment or material or delays in making them available, labour disputes, strikes or financial difficulties cannot be invoked as force majeure. A party shall not be held in breach of its contractual obligations if it is prevented from fulfilling them by force majeure. Without prejudice to Articles 12.2 and 12.4, the party faced with force majeure shall inform the other party without delay, stating the nature, probable duration and foreseeable effects of the problem, and take any measure to minimise possible damage.</p>	<p>This article defines what constitutes "force majeure". Pay attention to the fact that "defects in equipment or material or delays in making them available, labour disputes, strikes or financial difficulties cannot be invoked as force majeure".</p>
<p>11.6 The payment obligations of the European Union under this Contract shall end 18 months after the implementation period laid down in Article 2 of the Special Conditions, unless the Contract is terminated under Article 12.</p> <p>The Contracting Authority shall notify the Beneficiary of any postponement of the end date.</p>	<p>As long as you have complied with the time limits for submitting the final report and payment is due in accordance with the contract, you are entitled to a payment. If the EU is late in proceeding to that payment you should calculate and claim late payment interest</p> <p>In any case the payment of the balance of your grant should be made within this 18-month period. After this delay, the EU will no longer be in a position to pay the balance of its contribution.</p>
<p>ARTICLE 12 – TERMINATION OF THE CONTRACT</p>	
<p>12.1 If a party believes that the Contract can no longer be executed effectively or appropriately, it shall consult the other party. Failing agreement on a solution, either party may terminate the Contract by serving two months' written notice, without being required to pay compensation.</p>	<p>Pay attention to the fact that the Contracting Authority can put an end to your contract if for example you don't deal with conflict of interest stipulated in article 4, if you transfer the contract (article 10) or if, after an audit, it is demonstrated that you don't comply with the rules described in article 16.</p> <p>Previously the Contracting Authority could terminate the contract without any notice. This has now been changed to 7 days notice.</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
<p>12.2. The Contracting Authority may terminate the Contract, by giving a seven day notice and without paying compensation of any kind:</p> <p>a) where the Beneficiary fails, without justification, to fulfil any of the obligations incumbent on it and, after being given notice by letter to comply with those obligations, still fails to do so or to furnish a satisfactory explanation within 30 days of sending of the letter;</p> <p>b) where the Beneficiary is bankrupt or being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;</p> <p>c) where the Contracting Authority has evidence on the Beneficiary or any related entity or person, of grave professional misconduct; this also applies to partners and agents of the Beneficiary;</p>	

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
<p>d) where the Contracting Authority has evidence on the Beneficiary or any related entity or person, of fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the European Union's financial interests; this also applies to partners and agents of the Beneficiary;</p> <p>e) where the Beneficiary changes legal personality, unless an addendum recording that fact is drawn up;</p> <p>f) where the Beneficiary does not comply with Articles 4, 10 and 16;</p> <p>g) where the Beneficiary makes false or incomplete statements to obtain the grant provided for in the Contract or provides reports that do not reflect reality;</p> <p>h) where the Beneficiary has not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which it is established;</p> <p>i) where the Contracting Authority has evidence on the Beneficiary or any related entity or person, of substantial errors, irregularities or fraud in the award procedure or the performance of the grant; this also applies to partners and agents of the Beneficiary;</p> <p>In the cases referred to in points (c), (d) and (i) above, any related person shall mean any physical person with powers of representation, decision-making or control in relation to the Beneficiary. Any related entity shall mean in particular any entity which meets the criteria laid down by Article 1 of the Seventh Council Directive n° 83/349/EEC of 13 June 1983.</p>	<p>Please note that h) and i) are new in this version. You should pay particular attention to liaising with the Contracting Authority in case you have justified reasons for not being able to pay social security contributions.</p> <p>For all other taxes please refer to the annex 4 to the reader on how to deal with taxes within this PRAG.</p>
<p>12.3. The Beneficiary who has made false declarations, has made substantial errors or committed irregularities and fraud, or has been found in serious breach of its contractual obligations may be excluded from all contracts financed by the Contracting Authority for a maximum of five years from the date on which the infringement is established, as confirmed following the adversarial procedure with the Beneficiary. This period can be extended to 10 years in the event of a repeated offence within 5 years of the date referred above.</p>	<p>Proven infringement can ultimately result in a ban for your organisation to apply for European Commission's funding for a period of up to 10 years (5 years following the establishment of an infringement + additional 5 years if repeated offence is proved).</p>
<p>12.4. In the event of termination, the Beneficiary shall be entitled to payment of the grant only for the part of the Action carried out, excluding costs connected with current commitments that would be implemented after termination. For this purpose the Beneficiary shall introduce a payment request and a final report in accordance with Article 2.</p>	

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
<p>12.5. However, in the event of termination of the Contract by the Contracting Authority under the cases specified in points d), e) and g) of Article 12.2, the Contracting Authority may request full or partial repayment of sums already paid from the grant, in proportion to the gravity of the failings in question and after allowing the Beneficiary to submit its observations.</p>	
<p>12.6. Prior to, or instead of, terminating the Contract as provided for in this Article, the Contracting Authority may suspend payments as a precautionary measure without prior notice.</p>	
<p>12.7. This Contract shall be terminated automatically if it has not given rise to any payment by the Contracting Authority within three years of its signature.</p>	
<p>ARTICLE 13 – APPLICABLE LAW AND DISPUTE SETTLEMENT</p>	
<p>13.1. This Contract shall be governed by the law of the Contracting Authority or, where the Contracting Authority is the European Commission, by the European Union law supplemented as appropriate by Belgian law.</p>	<p>In cases where disputes between your organisation and the contracting authority cannot be settled amicably they should be brought to court. Whereas the EU Delegations are part of the European External Action Service (EEAS) structure, they sign contracts on behalf of the European Commission and they fall under EU law supplemented as appropriate by Belgian law. Thus whether the contracting authority is the EC headquarters in Brussels or an EU Delegation, the dispute has to be settled in Belgium. On the other hand, when the contracting authority is the National Authorising Officer (for instance in case of EDF funds) then the case has to be brought to court in the country of the contracting authority and is thus governed by the laws of that country.</p>
<p>13.2. The Parties shall do everything possible to settle amicably any dispute arising between them during implementation of this Contract. To that end, they shall communicate their positions and any solution that they consider possible in writing, and meet each other at either's request. A party must reply to a request for an amicable settlement within 30 days. Once this period has expired, or if the attempt to reach amicable settlement has not produced agreement within 120 days of the first request, each party may notify the other that it considers the procedure to have failed.</p>	<p>However, before bringing the case to court, both parties should try everything possible to settle the dispute amicably. In case of disputes with Delegations for example on the interpretation of contract rules, which cannot be resolved through dialogue, the Grant Beneficiary may involve the European Commission headquarters in Brussels (for example the contracts, finance and audit unit of the directorate responsible for the country in which the action is implemented).</p>
<p>13.3. In the event of failure to reach an amicable agreement, the dispute may by common agreement of the Parties be submitted to the conciliation of the European Commission if it is not the Contracting Authority. If no settlement is reached within 120 days of the opening of the conciliation procedure, each party may notify the other that it considers the procedure to have failed.</p>	

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
<p>13.4. In the event of failure of the above procedures, each party may submit the dispute to the courts of the country of the Contracting Authority, or to the Brussels courts where the Contracting Authority is the European Commission.</p>	
<p>ARTICLE 14 - ELIGIBLE COSTS</p>	
<p>14.1 Eligible costs are costs actually incurred by the Beneficiary which meet all the following criteria:</p> <p>a) They are incurred during the implementation of the Action as specified in Article 2 of the Special Conditions with the exception of costs relating to final reports and expenditure verification and evaluation of the Action, whatever the time of actual disbursement by the Beneficiary and/ or its partners. Procedures to award contracts, as referred to in the Article 1.3, may have been initiated but contracts may not be concluded by the Beneficiary or its partners before the start of the implementation period of the Action, provided the provisions of Annex IV were respected;</p>	<p>Prior to 2007, Article 14.1 stated “costs actually incurred by the beneficiary <u>or his partners</u>”: the removal of the reference to “partners” has no impact, however, on the applicable provisions as partners’ costs are clearly eligible (see Article 1.3).</p> <p>All costs have to be committed within the implementation period of the action.</p> <p>Article 14.1 clarifies that, <u>at the outset of the project</u>, procurement procedures may be initiated (in compliance with annex IV) but contracts for programme activities may not be signed before the implementation start-date. Likewise, invoices may not be issued nor payments made before the implementation start-date.</p> <p><u>At the end of the project</u>, orders must be placed before the implementation end-date and goods and services ordered are also normally expected to be delivered during the implementation period. However, depending on the circumstances of the specific contract/nature of the procurement, it is not excluded that they are delivered at a later stage. Only costs relating to the final report, the final evaluation and expenditure verification may be committed and delivered after the implementation period. There is however no time limit for the actual payment of these costs.</p> <p>Bank guarantees often need to be in place for several months after the project has ended. Note that the cost of the bank guarantee is considered to be incurred the moment it is issued and the interest may be paid later, even after the end of the implementation period.</p> <p>Stocks are not eligible costs per se under the Europeaid contract. Any procurement under the contract must follow annex IV. If a central buying officer or humanitarian buying office is used, it is not excluded that the equipment will come from their stocks, as long as the rules of origin of annex IV are respected.</p>
<p>b) must be indicated in the estimated overall budget of the Action;</p>	<p>In principle, only those cost items that have been approved as part of the project budget are eligible, although it is permitted to remove a budget item or introduce a new one providing this does not affect the basic purpose of the action. For the rules on making budgetary and other changes to EU contracts, please see Article 9 and the explanations above.</p>
<p>c) must be necessary for the implementation of the Action;</p>	
<p>d) they are identifiable and verifiable, in particular being recorded in the accounting records of the Beneficiary and determined according to the applicable accounting standards of the country where the Beneficiary is established and according to the usual cost accounting practices of the Beneficiary;</p>	<p>All costs incurred – corresponding to the entire budget and not only to the EU grant – must be recorded in the accounts. The supporting documents (tenders, orders, vouchers, invoices, receipts etc.) must be in place and tally with the recorded costs. See also Article 16 below.</p>
<p>e) must be reasonable, justified and comply with the requirements of sound financial management, in particular regarding economy and efficiency.</p>	
<p>14.2 Subject to the above and where relevant to the provisions of</p>	<p>The eligibility of costs is also determined by compliance with the procurement rules set out in Annex IV. If the grant beneficiary does not follow these</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
Annex IV being respected, the following direct costs of the Beneficiary and partners shall be eligible:	rules, the EU may not accept the costs incurred and may demand reimbursement of part of its grant.
- the cost of staff assigned to the Action, corresponding to actual gross salaries including social security charges and other remuneration-related costs; salaries and costs must not exceed those normally borne by the Beneficiary or its partners, as the case may be, unless it is justified by showing that it is essential to carry out the Action;	Staff costs are eligible provided that the staff are essential to the implementation of the action and are explicitly mentioned in the project proposal.
- travel and subsistence costs for staff and other persons taking part in the Action, provided they do not exceed those normally borne by the Beneficiary or its partners, as the case may be. Any flat-rate reimbursement of the subsistence costs must not exceed the rates set out in Annex III, which correspond to the scales published by the European Commission at the time of signing this contract;	<p>Note that the travel and subsistence costs of any person taking part in the action are eligible, including associates and project beneficiaries.</p> <p>The daily allowance rates (per diems) approved by the European Commission include food, accommodation, local transportation and sundry expenses. They are available at the following address: http://ec.europa.eu/europeaid/work/procedures/implementation/per_diems/index_en.htm and are regularly updated (every 6 months). They are a maximum; you can set a lower rate if you wish, but not a higher rate.</p> <p>The maximum accepted rates are those indicated in the budget submitted to the Contracting Authority and approved by it. The approved budget is part of the contract.</p> <p>You may also choose to reimburse real costs for daily allowances, instead of the flat-rate system described above.</p>
- purchase or rental costs for equipment and supplies (new or used) specifically for the purposes of the Action, and costs of services, provided they correspond to market rates;	
- costs of consumables;	
- costs entailed by contracts awarded by the Beneficiary for the purposes of the Action referred to in Article 1.3;	This refers to the costs of supplies, service or works contracts awarded in line with the procurement rules set out in Annex IV.
- costs deriving directly from the requirements of the Contract (dissemination of information, evaluation specific to the Action, audits, translation, reproduction, insurance, etc.) including financial service costs (in particular the cost of transfers and financial guarantees).	
- taxes, including VAT, where the Regulation and/ or Financing Agreement with the third country under which the Contract is financed do not exclude coverage of taxes and the Beneficiary (or, where applicable, its partners) can show it cannot reclaim. Notwithstanding, the Beneficiary (or its partners) will not have to show it cannot reclaim taxes in any of the cases set out in Article 14.7.	<p>This clause refers to indirect taxes such as VAT and customs/ import duties and not to direct taxes such as the income tax of staff working on the project, which are part of the gross salary. Please note that the rules on taxes apply to partners as well as to the grant beneficiary.</p> <p><u>DCI and EIDHR:</u> Until 31st December 2011, indirect taxes were not eligible costs under some regulations, e.g. the Regulations for the Development Cooperation Instrument (DCI) and the European Instrument for Democracy and Human Rights (EIDHR). The DCI is the legal basis of (a) the following thematic budget lines – Non State Actors and Local Authorities in Development; Food Security; Environment and Sustainable Management of Natural Resources; Investing in People; and Migration/ Asylum and (b) EU geographical funding for Asia, the Middle East (east of Jordan), Latin America and South Africa.</p> <p>Under previous versions of the Standard Contract, taxes could not be charged to EU contract budgets for any DCI or EIDHR contracts and grant</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
	<p>beneficiaries had to cover tax costs from other sources. Under the November 2010 Standard Contract updated in March 2011, the Commission introduced the possibility of charging taxes to the NGO contribution to the project as “accepted” but ineligible costs. “Accepted” costs are total eligible project costs plus indirect taxes.</p> <p>Mid-term amendments to the DCI and EIDHR Regulations came into force on 31st December 2011 allowing taxes as eligible costs, if grant beneficiaries can demonstrate that they are unable to get tax exemption or reclaim taxes. However, the amendments are not retroactive. This means that contracts signed before 31st December 2011 are not affected and also that taxes remain ineligible but “accepted” costs for all recent calls for proposals published before 31st December 2011, unless an explicit corrigendum to the call declares taxes eligible.</p> <p><u>Other Funding Instruments:</u> For projects funded from the European Neighbourhood and Partnership Instrument (ENPI), the European Development Fund (EDF), the Pre-Accession Instrument (IPA), the Food Facility and the Stability Instrument, indirect taxes are eligible costs providing the grant beneficiary can demonstrate that it is unable to get tax exemption or reclaim taxes.</p> <p><u>Financing Agreements with Third Countries:</u> In some cases, the EU may have signed financing agreements with third countries declaring taxes ineligible costs under a particular funding source for a specified period of time. In this case ineligible taxes may be considered as accepted costs provided that you can prove that you cannot reclaim them. There is no list of third countries where such financing agreements exist.</p> <p>The evidence that the grant beneficiary and its partners are not tax-exempt and cannot recover taxes may take the following forms:</p> <ul style="list-style-type: none"> • An official document from the national tax authority stating that the entity is not entitled to reclaim taxes incurred for the activities in question. This official document may be a specific declaration or a refused claim for reimbursement by the tax authority. • The entity’s annual accounts, complemented if deemed necessary by the Contracting Authority by, for example, an extract from the national VAT law or a declaration of honour accompanied by an expert statement (eg by a lawyer or auditors). <p>In practice, there are many countries where the tax authorities do not operate efficiently or simply do not reply to correspondence. In such cases, grant beneficiaries are recommended to seek advice from the Delegation and keep as much evidence as possible of the steps undertaken.</p> <p>This proof does not have to be submitted to the EU Delegation but must be available to auditors during the expenditure verification report.</p>
<p>14.3 A contingency reserve not exceeding 5 % of the direct eligible costs may be included in the Budget of the Action. It can be used only with the prior written authorisation of the Contracting Authority.</p>	<p>The budgeting of a contingency reserve is highly recommended when preparing a proposal budget. It can provide some flexibility if there are unforeseen circumstances. However, note that the use of the contingency is subject to the prior <u>written approval</u> of the Contracting Authority.</p> <p>Please note that some calls for proposals include a mandatory contingency reserve.</p>
<p>14.4 A fixed percentage not exceeding the percentage laid down in Article 3 of the Special Conditions of the total amount of direct eligible costs (excluding taxes) of the Action may be claimed as indirect costs to cover the administrative overheads incurred by the Beneficiary for the Action, save where the Beneficiary is in receipt of an operating grant financed from the EU budget. The flat-rate funding in respect of indirect costs does not need to be supported by accounting documents. Indirect costs are eligible provided that they do not include costs assigned to another heading of the budget of this Contract.</p>	<p>The administrative overheads are all the structural and support costs of an administrative, technical and logistical nature that are cross-cutting for the implementation of the grant beneficiary’s various activities and cannot therefore be booked in full to the action for which the grant is awarded, because the grant is only one part of those activities.</p> <p>Up to 7% of the total direct eligible costs of the action can be included in the budget to cover eligible indirect costs (administrative overheads). Example: Total direct eligible costs: €100,000 + 7% = € 7,000 admin overheads = €107,000 total costs. Note that 7% is a maximum and you can choose to charge a smaller percentage. The basis of calculation for the indirect costs does not include ineligible but accepted taxes (heading 12).</p> <p>The final amount of indirect costs that can be claimed depends on the amount of total direct costs reported in the final financial report and accepted by the Contracting Authority.</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
<p>This Article 14.4 does not apply in the case of an operating grant.</p>	<p>Costs already budgeted as direct costs (eg costs of bank transfers) cannot be included under the indirect costs.</p> <p>The indirect costs are a flat rate and no supporting documents are required after contract signature. However, the contracting authority may ask for justification as part of the evaluation and contract preparation process (e.g. to check that there is no double funding), before contract signature.. Consequently, no supporting documents are required for the interim and final financial reports.</p> <p>Beneficiaries already receiving an operating grant to cover their (full) operational budget cannot claim admin overheads for other contracts they implement.</p> <p>Some Delegations have questioned the eligibility as direct costs of some local staff and office costs incurred by the lead organisation and have asked that these costs be covered by the indirect costs. The Country Director might, for instance, need to spend 20% of his time on direct implementation of the project. The grant beneficiary may need to use office space for project management and administration. EuropeAid's interpretation is that local staff and/ or office costs are eligible as direct provided that:</p> <ul style="list-style-type: none"> • They are necessary for the implementation of the project (and comply with the other requirements of Article 14 of the General Conditions); • There is no double-funding of the same costs (between the direct and indirect budget headings). In particular, you are advised to explain to the Delegation your organisation's practice / approach regarding direct and indirect costs. (The majority of European grant beneficiaries have an indirect cost policy under which they consider all costs incurred in Europe as indirect, except when they can show a direct link to the action with supporting documents (eg air tickets), and all their costs in the country of operation as direct). Note however that provisions/estimates/pro-rata approaches do not represent real costs and can therefore not be accepted as direct costs; • The required supporting documents can be provided. <p>EuropeAid has advised its services that the choice of budgeting local staff and office costs as direct or indirect costs should be left to the grant beneficiary, subject to the above.</p> <p>In addition, you may refer the Delegation to Section 6.4.10.2 of the <i>Practical Guide to Contract Procedures for EU External Actions</i> available at http://ec.europa.eu/europeaid/eprag/document.do?locale=en</p> <p>This states: "The budget proposed for the action by the successful applicant at the call for proposals stage must be corrected to remove any arithmetical errors or ineligible costs prior to signing the contract. The Description of the action is corrected accordingly if need be. Other clarifications or minor corrections may be brought to the Description of the action or to the budget in so far as they would not call into question the grant award decision or be contrary to the equal treatment of applicants and:</p> <ul style="list-style-type: none"> - Relate to aspects clearly identified by the Evaluation Committee; or - Aim at taking into consideration the changes which have occurred since the date of receipt of the proposal <p>Any other alteration to the successful applicant's proposal or negotiation with him is prohibited."</p> <p>In the light of this, you can ask the Contracting Authority to forward the evaluation committee's comments on the proposal, in particular the comments on the budget and cost efficiency. If the changes requested by the Delegation are not clearly identified by the evaluators, then any requested modifications must be approved by the Head of Delegation.</p>
<p>14.5 Any contributions in kind, which must be listed separately at Annex III, do not represent actual expenditure and are not eligible costs. Unless otherwise specified in the Special Conditions, the contributions in kind may not be treated as co-financing by the Beneficiary. Notwithstanding to the above, if the Description of the Action foresees the contributions in kind, such contributions have</p>	<p>Contributions in kind may only be treated as co-financing if the guidelines of the particular call for proposals allow contributions in kind and the contributions in kind are explicitly mentioned in the Special Conditions of the contract.</p> <p>Staff directly involved in project implementation and management paid by the grant beneficiary or its partners are not considered as in-kind contributions and may be included as direct costs in Heading 1 of the budget. Formal proof of the costs involved (eg amendment of the work contract to affect the staff to the Action, post and task description, work-time documentation or timesheets for part-time posts) is required. Note that voluntary work is considered as an in-kind contribution and cannot be included in the budget.</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
to be provided.	
<p>14.6 The following costs shall not be considered eligible:</p> <ul style="list-style-type: none"> - debts and debt service charges; - provisions for losses or potential future liabilities; - interest owed; - costs declared by the Beneficiary and covered by another action or work programme; - purchases of land or buildings, except where necessary for the direct implementation of the Action, in which case ownership must be transferred to the final beneficiaries and/or local partners, at the latest at the end of the Action; - currency exchange losses; - credits to third parties, unless otherwise specified in the Special Conditions. 	
<p>14.7 The Beneficiary (or, where applicable, its partners) will not have to show it cannot reclaim taxes in any of the following cases:</p> <ul style="list-style-type: none"> - where the amount of taxes per invoice is less than EUR 200, within a maximum of EUR 2,500, representing not more than 5% of the Contracting Authority's contribution; - where the Beneficiary can demonstrate that the steps necessary for recovery of taxes oblige it to incur costs in a country where it only performs the relevant operations on an ad hoc and isolated basis; and that these costs for recovery (e.g. registration fees in the country or the costs for appointing a tax representative, declaration fees, etc.) clearly exceed the amount of the taxes declared to the Contracting Authority; - where a country has been declared in crisis situation or in the need for emergency and post-emergency assistance by the European Commission. This exception is limited to the period in which the declaration is in force. The Beneficiary shall be informed in writing thereof. - where the Action relates to the protection of fundamental rights of peoples, as provided for in the Special Conditions. <p>The Beneficiary shall certify that the concerned taxes have not been or will not be recovered from the local tax authorities and prove that the above requirements are met at the latest when submitting the final report.</p>	<p>Article 14.7, introduced in the March 2011 Update, sets out clearly situations in which grant beneficiaries may report taxes as project expenditure but do not need to prove that they cannot get tax exemption or recover the taxes.</p> <p>This article is detailed within the context of the call for proposals in Annex J "Information on the tax regime applicable to grant contracts".</p> <p>For the first exception, the auditors will verify that the thresholds have been respected and no further documentation will be required.</p> <p>The fourth exception covers all EIDHR and other human-rights related projects. If the exception has not been explicitly mentioned in Annex J to the call, you are advised to discuss it with the Delegation before signature of the contract to ensure that it is included in the Special Conditions.</p> <p>In general, grant beneficiaries are recommended to seek the advice of the Delegation if they are unsure whether a particular proof exemption applies to their project.</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
ARTICLE 15 - PAYMENT AND INTEREST ON LATE PAYMENT	
<p>15.1 Payment procedures are set out in Article 4 of the Special Conditions and correspond to one of the three options below:</p> <p><u>Option 1: Actions with an implementation period not exceeding 12 months or where the financing provided by the Contracting Authority does not exceed EUR 100,000</u></p> <p>The Contracting Authority shall pay the grant to the Beneficiary in the following manner:</p> <ul style="list-style-type: none"> • pre-financing of 80% of the sum referred to in Article 3.2 of the Special Conditions following the provisions in Article 4.3 of the Special Conditions. • the balance within 45 days of the Contracting Authority approving the final report in accordance with Article 15.2, accompanied by a request for payment of the balance conforming to the model in Annex V. <p><u>Option 2: Actions with an implementation period of more than 12 months and where the financing provided by the Contracting Authority is more than EUR 100 000</u></p> <p>The Contracting Authority shall pay the grant to the Beneficiary in the following manner:</p> <ul style="list-style-type: none"> • an initial pre-financing instalment of 80% of that part of the estimated budget for the first 12 months financed by the Contracting Authority, by applying the percentage to eligible costs laid down in article 3.2 of the Special Conditions, following the provisions in Article 4 of the Special Conditions. • further pre-financing instalments designed to normally cover the part of the Beneficiary's financing needs for each twelve month period of implementation of the Action financed by the Contracting Authority by applying the percentage to eligible costs laid down in article 3.2 of the Special Conditions. Payment will be made within 45 days of the Contracting Authority approving an interim report in accordance with Article 15.2 accompanied by: <ul style="list-style-type: none"> ○ a request for payment conforming to the model in Annex V, ○ an expenditure verification report under Article 15.6, if required ○ a financial guarantee if required under Article 15.7; ▪ the balance within 45 days of the Contracting Authority approving the final report in accordance with Article 15.2, 	<p>The frequency with which EU payments are made depends on the duration of the project and on the total amount of the EU grant. The option applicable to the project in question will therefore be stated in the Special Conditions of the contract.</p> <p>Art. 4.3 of the Special Conditions stipulates that the first instalment of pre-financing will be paid within 45 days after the Contracting Authority has received a signed contract accompanied by a financial guarantee, if required under Article 15.7 of the General Conditions. Please note that it is no longer necessary to submit a payment request with the signed contract when requesting the first EU instalment.</p> <p><u>Option 1:</u> For projects that last no longer than 12 months or where the EU contribution does not exceed €100,000, the EU will make 2 payments. 80% of the approved EU contribution will be paid after the contract has been signed by both parties (and a financial guarantee has been submitted if required). The remainder (up to 20% of the approved amount) will be paid after the end of the project, when the EU has approved the final report. A payment request should be submitted with the final report. Please note that for contracts above € 100.000 an expenditure verification report has to be provided according to art 15.6</p> <p><u>Option 2:</u> For projects which last more than 12 months and where the EU contribution is more than €100 000, the EU will split its contribution on the basis of 12 month intervals in the following manner:</p> <p>The first payment will be made after the contract has been signed by both parties (and a financial guarantee has been submitted if required). This payment will, however, cover only 80% of the EU contribution to budgeted eligible costs for the first year. <i>An example:</i> The EU is contributing €120,000 to a project in the first year – 50% of total eligible costs. The first instalment will be €96,000, which is 80% of the foreseen EU contribution. Note that the March 2011 Update refers specifically to <i>eligible</i> costs, excluding accepted costs (ineligible taxes).</p> <p>Further pre-financing or interim payments: Interim instalments are intended to cover 12-month periods but the total interim instalments are shown as a single global amount and not broken down into annual payments. The actual payments are based on the updated budget forecast for the next 12 months, which should be presented using the Forecast Budget and Follow-up template in Annex VI (financial reporting formats).</p> <p>The EU's percentage contribution to the forecast budget is in line with its percentage contribution to eligible costs as set out in Article 3.2 of the Special Conditions. Note that for projects where taxes are ineligible, the EU's percentage contribution to total "accepted" project costs and total eligible costs may well be different.</p> <p><i>An example:</i> The maximum EU contribution under a particular Food Security call is 80% of accepted costs. The total 3-year project budget is €300,000. Indirect taxes, which are accepted but not eligible costs, account for 5% of the total budget - €15,000 – so total eligible costs are €285,000. The EU is contributing €240,000 to the project, which is 80% of total accepted costs but 84.21% of total eligible costs. The total second year budget estimate is €112,000, including €4,480 (4%) indirect taxes, which are not an eligible cost. The EU will pay 84.21% of eligible costs ie €112,000 -€4,480 = €107,520 x 84.21% = €90,543.</p> <p>The payments will only be made if the requests are accompanied by a payment request, an interim report (see Article 2.3 above) and, if necessary, an expenditure verification report and financial guarantee. (See Articles 15.6 and 15.7 below).</p> <p>Full pre-financing of a subsequent instalment will only be given if at least 70% of the last EU payment (and 100% of all other previous payments) has been spent.</p> <p>The EU may release a new instalment when less than 70% of the previous payment has been spent but the new instalment will be reduced by the difference between the 70% threshold and the amount actually spent.</p> <p><i>An example:</i> An NGO has received an initial instalment of €96,000 and submits a first interim report stating that €60 000 of this – 62.5 % - has been spent. The forecast budget for the following period included in the interim report specifies that EU contribution for the second year of the project is budgeted at €87,000.</p> <p>However, the difference between the 70% threshold - €96,000 x 70% = €67,200 and the amount actually spent - €60,000 – is €7,200. So the second EU</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
<p>accompanied by:</p> <ul style="list-style-type: none"> - a request for payment of the balance conforming to the model in Annex V, - an expenditure verification report required under Article 15.6. <p>Further pre-financing may only be given if the part of the expenditure actually incurred which is financed by the Contracting Authority (by applying the percentage set out in Article 3.2 of the Special Conditions) stands at 70% at least of the previous payment (and at 100% of any previous payments) as supported by the corresponding interim report and, where applicable, by an expenditure verification report as specified in Article 15.6.</p> <p>Where reports are submitted in compliance with Article 2 but where the consumption of the previous pre-financing payment is less than 70%, the amount of the new pre-financing payment shall be reduced by the amount corresponding to the difference between the 70% threshold and the amount actually consumed of the previous pre-financing payment.</p> <p>The sum total of pre-financing under the Contract may not exceed 90% of the amount referred to in Article 3.2 of the Special Conditions.</p> <p><u>Option 3: All Actions</u></p> <p>The grant shall be paid to the Beneficiary by the Contracting Authority in one payment within 45 days of the Contracting Authority approving the final report in accordance with Article 15.2, accompanied by:</p> <ul style="list-style-type: none"> - a request for payment of the balance conforming to the model in Annex V, - an expenditure verification report if required under Article 15.6. 	<p>instalment will be reduced by €7,200 to €79 800.</p> <p>Payment of Balance: 10% of the approved EU contribution will only be paid after the end of project implementation, when the final report together with a request for payment has been approved by the Contracting Authority. If required, the final report has to be accompanied by an expenditure verification report (see Article 15.6 below). If total final expenditure is less than originally foreseen, the balance to be paid will be less than 10% as the EU will only contribute its percentage share as stated in the Special Conditions. (See Article 17.2) <i>An example:</i> Total budgeted costs are €500,000 of which the EU has agreed to contribute 80% - ie €400,000. It is stated in the Special Conditions that a final instalment of €40,000 will be paid as the balance. However, at the end of the project, total reported expenditure is only €475,000. The EU will pay 80% of this ie €380,000. The grant beneficiary has already received €360,000, so the balance to be paid is only €20,000.</p> <p>It is not possible for the grant beneficiary to charge to the EU the interest on the balance so you must ensure that you are able to pre-finance the balance.</p> <p>The EU percentage contribution to the project must be respected over the life-time of the project but may vary in interim reports. For example, if the EU's contractual contribution to a 3-year project is 75%, its contribution to actual expenses may be 60% in year one and 80% in year two, provided that the 75% co-financing share is respected over the duration of the project.</p> <p>The grant beneficiary may need to submit reports at shorter or longer intervals than a year, according to the rate of progress of the action and therefore of the expenditure. However, in line with Article 2.5, if you are unable to present interim reports and payment requests by the end of each 12-month implementation period, you should inform the Delegation and agree in writing a clear reporting schedule.</p> <p><u>Option 3:</u> <i>This will only apply in cases where the grant beneficiary is able and willing to pre-finance the entire EU contribution.</i></p>
<p>15.2 Any report shall be considered approved if there is no written reply from the Contracting Authority within 45 days of its receipt accompanied by the required documents. Approval of the reports shall not imply recognition of their regularity nor of the authenticity, completeness and correctness of the declarations and information they contain.</p> <p>The Contracting Authority may suspend the time-limit for approval of a report by notifying the Beneficiary that the report cannot be approved and that it finds it necessary to carry out additional checks. Suspension shall take effect when the notification is sent by the Contracting Authority. In such cases, the Contracting Authority may request clarification, alteration or additional</p>	<p>If your organization has not received any feedback from the EU (headquarters or a Delegation) 45 days (plus mailing time!) after you submitted your report, you can consider your report approved. If, however, the EU has questions on the report (narrative or financial report) and seeks clarifications (see Article 2.2), the time limit of 45 days is frozen and starts from the day the EU receives the requested alteration or additional information.</p> <p>However, even if your reports are approved (explicitly or because there is no reaction from the EU within 45 days) this doesn't mean that all the reported expenditure is accepted. In fact, the EU can audit your project and your accounts for up to 7 years after the final payment was made and can ask your organisation to reimburse a part of the grant, if some costs are found to be ineligible.</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
<p>information, which must be produced within 30 days of the request. The time-limit starts running again on the date the required information is received.</p> <p>Reports shall be presented in accordance with Article 2.</p>	
<p>15.3. The time-limit of 45 days for payment referred to in Article 15.1 above shall expire on the date on which the Contracting Authority's account is debited. Without prejudice to Article 12.6, the Contracting Authority may suspend this time-limit by notifying the Beneficiary that the request for payment is inadmissible, either because the amount in question is not due or because proper supporting documents have not been supplied or it thinks it necessary to conduct further checks, including on-the-spot checks, to make sure that the expenditure is eligible. Suspension shall take effect when the notification is sent by the Contracting Authority. The time-limit for payment shall start running again on the date on which a correctly formulated request for payment is recorded.</p>	<p>After approving a report, the EU has 45 days to pay the requested instalment. This limit can once again be extended if the EU has questions or doubts regarding the request for payment. The time-limit of 45 days starts running again from the day the EU receives the information or clarifications needed.</p> <p>Altogether this gives the EU up to 90 days from the day they receive the report to the day the payment is made (plus the suspension periods in case of a request for information if the report is incomplete/ unclear.</p>
<p>15.4 Once the time-limit referred to above has expired, the Beneficiary - unless the Beneficiary is a government department or public body in a European Union Member State</p> <ul style="list-style-type: none"> - may, within two months of receipt of the late payment, claim default interest: - at the rediscount rate applied by the central bank of the country of the Contracting Authority if payments are in the currency of that country; - at the rate applied by the European Central Bank to its main refinancing transactions in euro, as published in the Official Journal of the European Union, C series, if payments are in EUR, <p>on the first day of the month in which the time-limit expired, plus three and a half percentage points. The interest shall be payable for the time elapsed between the expiry of the payment deadline and the date on which the Contracting Authority's account is debited. By way of exception, when the interest calculated in accordance with this provision is lower than or equal to EUR 200, it shall be paid to the Beneficiary only upon demand submitted within two months of receiving late payment. This interest is not considered income for the purposes of Article 17.3. Any partial payments shall first cover the default interest thus established.</p>	<p>a) You have two months from receipt of late payment to claim default interest if the EU payment is credited to your account more than 90 days after submitting an interim or final report together with a payment request without any feedback from the EU.</p> <p>If additional information is requested, the span of time for providing additional information/ clarification/ alteration is added to the 90 days period.</p> <p>If you do claim interest, you should refer to this article and state the date when the payment should have arrived and the date when it actually arrived but please note that the official date of payment is the date on which the Contracting Authority's account is debited</p> <p>The NGO has to make the calculation and present the request for payment, and the Commission then has to verify the calculation and pay the appropriate amount.</p> <p>When the EC is the Contracting Authority the interest is automatically paid.</p> <p>See ANNEX 5 of this Reader on how to claim default interest.</p>
<p>15.5. Where the award procedure or performance of the Contract is vitiated by substantial errors or irregularities or by fraud attributable to the Beneficiary, the Contracting Authority may</p>	<p>If at any time during project implementation it turns out that either the contract award procedure was irregular through the fault of your organisation or that your organisation has seriously violated the rules of the signed contract, the EU can suspend payments and/or recover payments already made. This does not only affect the project in question. If your organization is found to have committed fraud or other serious contract violations in project A, the EU</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
<p>refuse to make payments or may recover amounts already paid, in proportion to the seriousness of the errors, irregularities or fraud. The Contracting Authority may also suspend payments in cases where there are suspected or established errors, irregularities or fraud committed by the Beneficiary in the performance of another contract funded by the general budget of the European Union or by EDF, which are likely to affect the performance of the present contract. Suspension shall take effect when the notification is sent by the Contracting Authority.</p>	<p>can also suspend payments for project B if this project is connected to project A.</p> <p>Please be reminded that the EU can audit your project and your accounts for up to 7 years after the final payment was made, and can ask your organisation to reimburse part of the grant if costs are found to be ineligible or other serious irregularities are discovered.</p>
<p>15.6. A report on the verification of the Action's expenditure, produced by an approved auditor who meets the specific conditions of the Terms of Reference for the expenditure verification, shall be attached to:</p> <ul style="list-style-type: none"> - any request for pre-financing payments per financial year in case of grants of EUR 750 000 or more; - any final report in the case of a grant of more than EUR 100,000; - any request for payment of over EUR 100 000 for the financial year, in the case of an operating grant. <p>The auditor examines whether the costs declared by the Beneficiary are real, accurately recorded and eligible in accordance with the Contract, as well as the revenue of the Action and issues an expenditure verification report conforming to the model in Annex VII.</p> <p>The Beneficiary grants the auditor all access rights mentioned in Article 16.2.</p> <p>The expenditure verification report accompanying a request for payment of the balance covers all expenditures not covered by any previous expenditure verification report.</p> <p>Based on the expenditure verification report the Contracting Authority determines the total amount of eligible expenditure which may be deducted from the sum total of pre-financing under the Contract (clearance).</p> <p>Where the Beneficiary is a government department or a public body or an international organisation, the Contracting Authority may exempt it from the expenditure verification requirement.</p>	<p>The terms of reference and template for the expenditure verification report set out in Annex VII of the Standard Contract are obligatory for all projects.</p> <p>When the EU grant is €750,000 or more, an expenditure verification report, covering the entire project accounts (EU, other donors and the NGO's contributions) and produced by an approved external auditor, must be submitted together with each interim report. Each expenditure verification report must cover all expenses incurred since the end of the previous reporting period and not covered by the previous expenditure verification report.</p> <p>When the EU grant is less than €750,000 and more than € 100.000, an expenditure verification report is only required to be submitted along with the final report.</p> <p>The EU considers audits or expenditure verifications important tools for verifying a project's accounts and expenditure according to EU rules and regulations. Based on a risk assessment for external actions, the requirements may be stricter than foreseen in the Financial Regulation.</p> <p>When the contracting NGO is a European NGO but most project accounting is done in the field, where most supporting documents are kept, it is possible to use only one auditor. It is up to this auditor to decide how to verify the entire project accounts. This may include an auditor accepting European or field audits done by other auditors. You are strongly advised to discuss the way the audit is planned with the Delegation at the outset of the project and to seek their written agreement.</p> <p>It is up to the grant beneficiary to choose the audit firm, which must be a member of an internationally recognised supervisory body of statutory auditors and must also comply with the TOR in Annex VII. The name of the auditor must be indicated in the Special Conditions of the contract in order to enable the EU to make sure that the choice of auditor does not raise problems.</p> <p>The Beneficiary (and its partners) has to make sure that the external auditors have access to all information and documentation needed to fulfil their tasks (see also Article 16.2.).</p> <p>Change of auditor may be done through a written notification (not a formal amendment request) to the Contracting Authority, which reserves the right to oppose to this change (see Article 9.2).</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
<p>15.7 If the total sum of pre-financing paid under the Contract is more than 80% of the Contract amount and exceeds EUR 60 000, its payment must be fully covered by a financial guarantee.</p> <p>Where the Beneficiary is a non governmental organisation, such guarantee is requested if the total sum of pre-financing paid under the Contract is more than EUR 1 million or 90% of the Contract amount. The financial guarantee must be denominated in euro or currency of the Contracting Authority conforming to the model in Annex VIII and, unless the Contracting Authority otherwise agrees, provided by an approved bank or financial institution established in one of the Member States of the European Union. This guarantee shall remain in force until its release by the Contracting Authority when the total amount of pre-financing under the Contract is once again less than EUR 1 million or after payment of the balance.</p> <p>This provision shall not apply if the beneficiary is a government department or public body or an international organisation, unless otherwise stipulated in the Special Conditions.</p>	<p>For NGOs, a bank guarantee is only needed when the sum of pre-financing payments which have not been cleared by an expenditure verification exceeds €1 million or 90% of the approved grant amount. So, expenditure verification requirements partly exist to avoid bank guarantees except for very large projects. Note that you can sometimes avoid a bank guarantee by negotiating with the Delegation at the contract signature stage to reduce EU contributions below the maximum allowed and/ or to be paid a balance of more than 10%.</p> <p>When the EU is deciding whether your organisation needs a bank guarantee, it will only take account of the contract in question and not pre-financing for several different contracts.</p>
<p>The payments owed by the Contracting Authority shall be made to the bank account or sub-account referred to in the financial identification form in Annex V, which identifies the funds paid by the Contracting Authority and allows the calculation of the interests produced by such funds. The funds paid to this account or sub-account shall, in accordance with the law of the State in which the account or sub-account is opened, yield interest or equivalent benefits. Such interest or benefits shall, if they are generated by pre-financing, be deducted from the payment of the balance or recovered by the Contracting Authority as specified in Article 15.9.</p>	<p>When it signs a contract with the EU, the grant beneficiary needs to provide details of the bank account or sub-account into which the EU funds will be paid. It is not necessary to open a project-specific account provided the EU funds can be traced and the interest generated can be calculated.</p> <p>Note that grant beneficiaries are now required to open interest-bearing accounts, except in countries (eg countries that have an Islamic banking system) where this is impossible.</p> <p>Furthermore, if the costs for opening and/or maintaining an interest-bearing account equals or exceeds the expected interest, applicants may be exempted from this obligation by submitting a declaration of honour to this fact. This exemption has to be inserted in the Special Conditions.</p>
<p>15.8 The Contracting Authority shall make payments in the currency of the country to which it belongs or in euro, in accordance with the Special Conditions. In the latter case, any conversion into euro of the real costs borne in other currencies shall be done at the rate made up by the average of the rates published in InforEuro for the months covered by the relevant report, unless otherwise provided in the Special Conditions.</p> <p>In the event of an exceptional exchange-rate fluctuation, the Parties shall consult each other with a view to restructuring the Action in order to lessen the impact of such a fluctuation. Where necessary, the Contracting Authority may take additional measures such as terminating the Contract.</p>	<p>The method of converting actual expenditure incurred in other currencies into EUR is based on the monthly InforEuro rate published on: http://ec.europa.eu/budget/inforeuro/index.cfm</p> <p>To get the average, you have to add up the InforEuro rates for the months of the reporting period and divide the sum by the number of months covered by the report. This average exchange rate will then be used to convert all expenses in the reporting period into EUR.</p> <p>The conversion has to be done individually for each foreign currency and directly from the currency of expenditure without any intermediate conversion. Example: If, in a project in Cambodia, some expenses are incurred in Cambodian RIEL and others in USD, the expenses in RIEL have to be converted into EUR using the InforEuro RIEL/EUR rates and the expenses in USD using the InforEuro USD/EUR rates. You must not convert the RIEL first into USD and then the USD into EUR.</p> <p>There is no specific definition of an exceptional exchange-rate fluctuation; however this article should be invoked only exceptionally. The first thing to do is to restructure the project - for example, one project component could be removed. Under no circumstances will the amount of the EU grant be increased.</p>
<p>15.9 Any interest or equivalent benefits accruing from pre-</p>	<p>Interest earned on the EU contribution has to be shown as income in the interim and final reports.</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
<p>financing paid by the Contracting Authority to the Beneficiary shall be mentioned in the interim and final reports. Subject to the conditions laid down in the basic act, any interest accruing from pre-financing equal or below EUR 250 000 paid by the Contracting authority shall not be due to the Contracting authority and may be used by the Beneficiary for the Action. Any interest accruing from pre financing of more than EUR 250 000 paid by the Contracting authority shall be assigned to the Action and deducted from the payment of the balance of the amounts due to the Beneficiary, unless the Contracting Authority requests the Beneficiary to reimburse the interest generated by pre-financing payments before the payment of the balance.</p> <p>Interest shall not be due to the Contracting Authority for pre-financing paid to the EU member states or for pre-financing under pre-accession aid.</p>	<p>There are three rules. (The amounts indicated refer to the total EU pre-financing instalment and not to the interest):</p> <ol style="list-style-type: none"> 1. Interest earned on an EU pre-financing instalment of up to €250,000 may be used for project activities in addition to the approved EU contribution. 2. Interest earned on an EU pre-financing instalment of between €250,001 and €750,000 in principle has to be paid back to the EU only at the end of the action. 3. Interest earned on an EU pre-financing instalment of over €750,000 has to be paid back to the EU at the end of each reporting period. (See also Article 15.11). <p>This means that if a pre-financing of €200 000 is given the interest is not due. But if another pre-financing of €200 000 is paid for the same Action without clearance of the previous one, then the interest earned from the second payment, has to be deducted from the balance. (since the total pre-financing of the Action exceeds € 250 000)</p> <p>Please note that the obligation applies only to the entity receiving pre-financing directly from the Commission (not the implementing partners).</p>
<p>15.10 Subject to the conditions laid down in the basic act, in case of crisis management actions recognized as such by the Contracting authority, the interests accruing from pre-financing equal or below EUR 750 000 shall not be due to the Contracting authority and may be used by the Beneficiary for the Action. Any interest accruing from pre-financing of more than EUR 750 000 is due to the Contracting Authority.</p>	<p><i>The EU can recognize certain projects as being implemented in a crisis situation and the grant beneficiary will be informed of this when signing the contract. For such projects, the beneficiary organisation may use for the Action the interest earned on pre-financing of up to €750,000 (and not just €250,000 as in the normal situation explained in the previous article).</i></p> <p><i>This is not applicable to projects funded from the ENPI (European Neighbourhood and Partnership Instrument).</i></p>
<p>15.11 Subject to the conditions laid down in basic act, the Contracting Authority shall recover for each reporting period the interests accruing from pre-financing of more than EUR 750 000 by the end of each financial year.</p>	<p>See commentary for Article 15.9.</p>
<p>15.12 The interests are not taken into account when calculating the sum total of pre-financing under the Contract and are not considered as revenue of the Action for the purposes of the final amount as referred to in Article 17.</p>	<p>The interest earned on the EU contribution will not be counted when calculating the total pre-financing payments made to your organization.</p>
<p>15.13. All references to days in this article 15 are to calendar days.</p>	
<p>ARTICLE 16 - ACCOUNTS AND TECHNICAL AND FINANCIAL CHECKS</p>	
<p>16.1. The Beneficiary shall keep accurate and regular accounts of the implementation of the Action using an appropriate accounting and double-entry book-keeping system. These systems may either be an integrated part of the Beneficiary's regular system or an adjunct to that system. This system shall be run in accordance with the accounting and bookkeeping policies and rules that apply in the country concerned. Accounts and expenditure relating to the Action must be easily identifiable and verifiable. This can be done</p>	<p>Your organisation as well as your partners should follow professional and recognized standards for book-keeping and accounting system and should use double entry book-keeping systems to manage EC funds.</p> <p>As long as your organisation's accounting procedures allow EC funds to be easily traced within your accounting systems and interests produced can be calculated and possibly returned to the EC, you do not need a project-specific bank account (see above Article 15.7)</p> <p>Note that there is no obligation to translate all the supporting documents in the language of the contract or in any European language. And that electronic copies of supporting documents may be used if this complies with the rules and practises of the country where the beneficiary is established</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
<p>by using separate accounts for the Action concerned or by ensuring that expenditure for the Action concerned can be easily identified and traced to and within the Beneficiary's accounting and bookkeeping systems. Accounts must provide details of interest accruing on funds paid by the Contracting Authority.</p> <p>The Beneficiary shall ensure that the financial report (both interim and final) as required under Article 2 can be properly and easily reconciled to the Beneficiary's accounting and bookkeeping system and to the underlying accounting and other relevant records. For this purpose the Beneficiary shall prepare and keep appropriate reconciliations, supporting schedules, analyses and breakdowns for inspection and verification.</p>	<p>and keeps its accounts</p> <p>Subgranting is considered as any activity undertaken under the grant contract. So the supporting documents for sub-grantees depends on the purpose of the sub-grant, type of sub-grant chosen (lump-sum, flat-rate, reimbursement of actual incurred costs) as explained in the description of the action. As general case this should include : the partnership agreement, proof that the funds of been received and that the activity for which the sub-grant is given has taken place.</p>
<p>16.2. The Beneficiary shall allow the European Commission, the European Anti-Fraud Office, the European Court of Auditors and any external auditor authorised by the Contracting Authority carrying out verifications as required per Article 15.6 to verify, by examining the documents and to make copies thereof or by means of on-the-spot checks, the implementation of the Action and conduct a full audit, if necessary, on the basis of supporting documents for the accounts, accounting documents and any other document relevant to the financing of the Action. These inspections may take place up to 7 years after the payment of the balance.</p> <p>Furthermore, the Beneficiary shall allow the European Anti-Fraud Office and any external auditor authorised by the Contracting Authority carrying out verifications as required per Article 15.6 to carry out checks and verification on the spot in accordance with the procedures set out in the European Union legislation for the protection of the financial interests of the European Union against fraud and other irregularities.</p> <p>To this end, the Beneficiary undertakes to give appropriate access to staff or agents of the European Commission, of the European Anti-Fraud Office and of the European Court of Auditors as well as to any external auditor authorised by the Contracting Authority carrying out verifications as required per Article 15.6 to the sites and locations at which the Action is implemented, including its information systems, as well as all documents and databases concerning the technical and financial management of the Action and to take all steps to facilitate their work. Access given to agents of the European Commission, European Anti-Fraud Office and the European Court of Auditors and to any external auditor authorised by the Contracting Authority carrying out verifications as required per Article 15.6 shall be on the basis of confidentiality with respect to third parties, without prejudice to the obligations of public law to which they are subject. Documents must be easily accessible and</p>	<p>All grant beneficiaries, receiving funds from the European Commission, will need to allow personnel from the European Commission, European Anti-Fraud Office, the European Court of Auditors and any external auditor carrying out verifications/audits of the project, to have easy access to all documents and systems (financial and tools) used to manage this project. They will require access to documents in the country, where the project is operational, and at your Head Office. As part of reviewing all the documents they may conduct a full audit of the project.</p> <p>The types of documents that need to be kept are outlined in article 16.3 (minimum requirement).</p> <p>These documents need to be available to the European Commission for them to be sure that you have not misspent their funds in any way and being compliant with EC financial regulations, (article 49 of the Implementing Rules). The information provided to the Commission will be confidential and not shared openly with other organisations, without prejudice to the obligations of public law to which the agents are subject to.</p> <p>Please note that you and your partners will need to hold all the relevant information outlined up to 7 years after the final payment has been made to your organisation, even if it's not a requirement of the country where the project is being implemented.</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
<p>filed so as to facilitate their examination and the Beneficiary must inform the Contracting Authority of their precise location.</p>	
<p>The Beneficiary guarantees that the rights of the European Commission, of the European Anti-Fraud Office and of the European Court of Auditors as well as of any external auditor authorised by the Contracting Authority carrying out verifications as required per Article 15.6 to carry out audits, checks and verification shall be equally applicable, under the same conditions and according to the same rules as those set out in this Article 16, to the Beneficiary's partners, contractors and sub-grantees. Where a partner, contractor or sub-grantee is an international organisation, any verification agreement concluded between such organisation and the European Commission applies.</p>	<p>The same rules outlined above in articles 16.1, 16.2 and 16.3 apply to your partners, subcontractors and sub-grantees that are taking part in the EC funded project. You will need to make sure that your partners, sub-grantees and subcontractors are made aware of this by including in your contracts with them (or MOU) a provision that authorizes officials from the EC to check their documents and accounts.</p>
<p>16.3. In addition to the reports mentioned in Article 2, the documents referred to in Article 16.2 include:</p> <ul style="list-style-type: none"> - Accounting records (computerised or manual) from the Beneficiary's accounting system such as general ledger, sub ledgers and payroll accounts, fixed assets registers and other relevant accounting information; - Proof of procurement procedures such as tendering documents, bids from tenderers and evaluation reports; - Proof of commitments such as contracts and order forms; - Proof of delivery of services such as approved reports, time sheets, transport tickets , proof of attending seminars, conferences and training courses (including relevant documentation and material obtained, certificates), etc; - Proof of receipt of goods such as delivery slips from suppliers; - Proof of completion of works, such as acceptance certificates; - Proof of purchase such as invoices and receipts; - Proof of payment such as bank statements, debit notices, proof of settlement by the contractor; - Proof that taxes and/or VAT that have been paid cannot actually be reclaimed; - For fuel and oil expenses, a summary list of the distance covered, the average consumption of the vehicles used, fuel costs and maintenance costs; - Staff and payroll records such as contracts, salary statements, time sheets. For local staff recruited on fixed-term contracts, 	<p>The documents listed under article 16.3 represent the minimum requirement for supporting a book-keeping and accounting system according to recognized standards. The list, however, is not exhaustive. In the case of a full EC audit, documents referring to the proper functioning of the organisation (by laws, project contracts, authorization of signatures, minutes of board meetings, accounting and staff policies etc) may also be asked for inspection.</p> <p>The persons authorized to inspect the project (see Article 16.2) will also need all the paperwork related to the procurement undertaken for all the work, supply and service contracts that have been funded within the EC-funded project. In case of an audit, the EC will verify that all the purchases have been done following the procurement rules. It is therefore advisable that you file together all the documents that can prove that you correctly consulted the market (text of the calls for tender, bids from the candidates, result of the evaluation procedure etc...)</p> <p>Staff costs: Make sure that clear records of all local staff and expatriate staff costs that relate to the project are kept. The type of information that should be kept is the working contract and the details of calculation from gross salary to net salary including relevant social security and insurance contributions.</p> <p>All these costs must be documented for your organisation and its partners.</p> <p>There has to be some record that the person in charge has signed off all local staff costs.</p> <p>Please note that for expatriate (based in country) or European-based staff, and in addition to the above information, a more detailed record of how much time that person has spent working on the project per month must be kept. Time-sheets are not required as long as you can provide the distribution of that person along the different projects he/she worked for.</p> <p>If you have an expatriate member of staff who dedicates 40% of his/her time to the project you should be able to demonstrate that he/she has indeed spent 40% of his/her time on this project.</p> <p>If you have hired a consultant for a specific period of time for the EC project, the contract should give you all the relevant information of their participation to the project. Please note that the hiring of consultants are a type of "service" and therefore, in order to recruit them, you have to apply the rules described in annex IV (market consultation)</p> <p>Taxes: In all cases (whether taxes are eligible or ineligible), beneficiaries (and their partners if applicable) must document the fact that they cannot recover taxes nor obtain an exemption under the applicable national law. This proof does not need to be submitted to the EU Delegation but must be available to auditors during the expenditure verification report.</p> <p>Article 16.3 only indicates which type of supporting documents might be accepted with a purpose of harmonization. If such document cannot be produced by your organisation, an explanation should be provided and decisions will be taken on a case-by-case basis. Time sheets for instance are not necessary as long as the presence of staff can be proven by another document, e.g. employment contract or salary statement.</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
<p>details of remuneration paid, duly substantiated by the person in charge locally, broken down into gross salary, social security charges, insurance and net salary. For expatriate and/or European-based staff (if the Action is implemented in Europe) analyses and breakdowns of expenditure per month of actual work; assessed on the basis of unit prices per verifiable block of time worked and broken down into gross salary, social security charges, insurance and net salary.</p>	
ARTICLE 17 - FINAL AMOUNT OF FINANCING BY THE CONTRACTING AUTHORITY	
<p>17.1. The total amount to be paid by the Contracting Authority to the Beneficiary may not exceed the maximum grant laid down in Article 3.2 of the Special Conditions neither in terms of absolute amount nor in percentage.</p>	<p>If your project is overspent, the EC cannot contribute to the excess that you have overspent on the project. The EC will only pay you the total EC contribution amount stipulated in the contract signed by you and the Commission. The amount approved is stated under article 3.2 of your contract (Special Conditions).</p>
<p>17.2. If the total costs of the Action at the end of the Action are less than the estimated total eligible costs as referred to in Article 3.1 of the Special Conditions, the Contracting Authority's contribution shall be limited to the amount obtained by applying the percentage laid down in Article 3.2 of the Special Conditions to the total eligible costs of the Action approved by the Contracting Authority.</p>	<p>If on the other hand, you spend less on your project, as outlined in your approved budget, the EC will limit their contribution to the percentage share as stipulated in Article 3.2 of the Special Conditions of the signed contract.</p> <p>So, suppose you had a budget of 100 000 and the Commission is giving you 50 000 (equal to 50%). If at the end of the project you show that you only spent 90 000, the Commission will pay you only 45 000 (50% of 90 000).</p> <p>In case you face a decrease in another donor's contribution to your project you can ask for a budget amendment in order to increase the percentage covered by the EC.</p> <p>However, this percentage covered by the EC will never be higher than the one allowed in the guidelines of the call for proposals under which your project was submitted, and the absolute maximum amount of the grant may never be increased.</p>
<p>17.3. The Beneficiary accepts that the grant can under no circumstances result in a profit for itself and that it must be limited to the amount required to balance income and expenditure for the Action. Profit shall be defined as:</p> <ul style="list-style-type: none"> - In the case of a grant for an Action, a surplus of actual receipts over the actual costs of the Action in question when the request is made for payment of the balance. However, in the case of Actions designed specifically to strengthen the financial capacity of the Beneficiary, it is distribution to the members making up the beneficiary body of the surplus revenue resulting from its activity leading to their personal enrichment. - In the case of an operating grant, a surplus balance on the operating budget of the Beneficiary. <p>These provisions shall not apply to study, research or training scholarships paid to natural persons, nor in the case of prizes awarded following contests.</p>	<p>You cannot make a profit from funds given by the EC. All the funds received should be spent on what was approved in your proposal.</p> <p>You cannot:</p> <ul style="list-style-type: none"> ▪ Request a final payment from the Commission that is more than the actual costs spent on the project. ▪ Give EC funds to individual members of the grant beneficiary to benefit from activities that were intended to build the financial capacity of your or a partner organisation ▪ Keep EC funds left over from a completed project <p>Please note that article 17.3 does not apply to any individuals obtaining grants intended e.g. for their studies, research, training scholarships or prizes awarded.</p> <p>If revenue is generated by the action, it will be used for the action and therefore deducted from the total eligible costs, unless the special conditions foresee otherwise (where the purpose of the action is to generate an income).</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
<p>17.4 In addition and without prejudice to the right to terminate the Contract in accordance with Article 12.2, the Contracting Authority may, by a duly reasoned decision, if the Action is not implemented or is implemented poorly, partially or late, reduce the grant initially provided for in line with the actual implementation of the Action on the terms laid down in this Contract.</p>	<p>This article states the principle of obligation of results.</p> <p>Without prejudice to article 12.1-2, the Commission can terminate your contract if you do not:</p> <ul style="list-style-type: none"> ▪ Implement the project as a whole, making sure all the activities indicated in your original proposal, overall objective and results have been achieved, as approved by the EC and stated in your contract. ▪ Make sure that the implementation of your project is of good quality; all the activities are carried out in the timeframe stipulated in your contract and proposal. <p>If the Commission considers that you only implemented a part of your project they can reduce your grant proportionally (e.g. you reached only 50% of the planned results; you will get only 50% of the grant, even if you spent the entire budget).</p> <p>Please note that you must let the contracting authority know if you are having any problems with the implementation of your project. Any delays in informing them may jeopardise your relationship with the EC and forfeit your contract. Make sure you get approval</p>
ARTICLE 18 – RECOVERY	
<p>18.1. The Beneficiary undertakes to repay any amounts paid in excess of the final amount due to the Contracting Authority within 45 days of the issuing of the debit note, the latter being the letter by which the Contracting Authority requests the amount owed by the Beneficiary.</p>	<p>If any EC funds remain after the implementation of the project, due to the EC having paid more funds than was needed for the project, you will need to repay the excess amount back to the EC. To do this, you have to wait for the EC to issue a recovery order, after which you have 45 days to pay the money back.</p>
<p>18.2. Should the Beneficiary fail to make repayment within the deadline set by the Contracting Authority, the Contracting Authority may increase the amounts due by adding interest:</p> <ul style="list-style-type: none"> – at the rediscount rate applied by the central bank of the country of the Contracting Authority if payments are in the currency of that country; – at the rate applied by the European Central Bank to its main refinancing transactions in euro, as published in the Official Journal of the European Union, C series, where payments are in euro, on the first day of the month in which the time-limit expired, plus three and a half <p>percentage points. The default interest shall be incurred over the time which elapses between the date of the payment deadline set by the Contracting Authority, and the date on which payment is actually made. Any partial payments shall first cover the interest thus established.</p>	<p>If you fail to pay back these excess funds in the time stipulated by the EC, they will start to charge default interest on the funds.</p> <p>The EC will do the necessary calculation as described in this article and issue the recovery order to your organisation.</p>
<p>18.3. Amounts to be repaid to the Contracting Authority may be offset against amounts of any kind due to the Beneficiary. This shall not affect the Parties' right to agree on payment in instalments.</p>	<p>The EC can recover re-payments for one project against another. i.e. if you owe money on one contract, they'll subtract it from the next payment for another/different contract (even under a different budget line)</p> <p>Please note that the FDR agreed with the EC that they do not automatically do this, but they will inform the Grant Beneficiaries when such re-payments are foreseen. AIDCO services have been reminded to contact and inform the relevant Beneficiary before issuing recovery orders (note from 2004).</p>

EC Standard Contract Annex II : General Conditions 2010 PRAG (March 2011 update)

Text of the Article	Explanation from the FDR
	In case the EC is not the Contracting Authority, it can nevertheless directly claim for repayments when needed since it “owns” the funds on behalf of the Contracting Authority.
18.4. Bank charges incurred by the repayment of amounts due to the Contracting Authority shall be borne entirely by the Beneficiary.	If you have to return funds to the EC and you are charged by your bank for doing so, you will have to take on the burden of these costs, as you cannot reclaim them from the EC.
18.5. Where necessary the European Union may as a donor subrogate itself to the Contracting Authority.	An example of this could be that in decentralised management, the national contracting authority either requests (or other reason) that the Commission recentralises the contract and takes over as contracting authority.
18.6 If the Contract is terminated for any reason whatsoever, the guarantee securing the prefinancing may be invoked forthwith in order to repay the balance of the pre-financing still owed by the Beneficiary, and the guarantor shall not delay payment or raise objection for any reason whatever.	Reminder to the possible call-in of guarantees where the contract has been terminated, as a means to recover undue funds paid to the beneficiary.

