

General Funding Conditions for Funding Agreements
based on the RTI Guidelines
(Themes, Structure, Human Resources)

0. Introduction

- 0.1 These General Funding Conditions (GFC)¹ shall apply to any funding contracts managed by Österreichische Forschungsförderungs GmbH (hereinafter referred to as "the Funding Agency") in its capacity as the funding institution appointed by the respective funding provider for the management of funding agreements. The Funding Agency acts as the direct representative of the funding provider.
- 0.2 References to persons shall be regarded as gender neutral, including but not limited to the terms "funding recipient" and "funding provider" (Federal Minister).

1. General

1.1 Funding recipients shall

- a. commence the project in accordance with the agreed schedule, or else immediately after the funding has been granted, to carry out the project in a speedy manner and to conclude it within the agreed schedule, or in a reasonable period of time;
- b. immediately and on their own initiative, inform the Funding Agency about any events that delay or prevent the performance of the funded project or require a modification with respect to the funding application or the agreed terms and conditions, and to comply with their reporting obligations without delay;
- c. grant officials or representatives of the Federal Government, the EU and the Funding Agency the right to inspect their books and accounts as well as other documents required for monitoring the performance of the project on their own premises and the premises of third parties, or submit such documents at their request, and the right to carry out on-site visits. Funding recipients shall provide or arrange for the provision of any information required by such officials or representatives and appoint a suitable contact person for this purpose. Any decision concerning the context between these documents and the project to be performed shall be at the discretion of the official carrying out the inspection;
- d. keep and preserve all books and accounts as well as all documents required for monitoring the performance of the funded project for a period of ten years (subject to extension of the retention period by the Funding Agency in justified cases) as from the end of the year in which the entire funding amount has been disbursed, starting from the implementation of the project at the latest. The documents may be preserved on separate image and data media if these ensure complete, consistent, authentic, true and verifiable reproduction until the end of the retention period. In this case funding recipients shall, at their own expense, make available any auxiliary devices necessary for reading the books, accounts and other documents and, if required, make available permanent copies that can be read without the use of auxiliary devices and provide such permanent copies on data media;
- e. state the amount of any grants they have applied or plan to apply for to another federal ministry, authority or other legal entity, including funding agencies, for the same work, albeit for a different purpose, including grants that have already been approved or earmarked,

¹ "This document is a translated version of the original German version. In cases of unclear formulation the German version is the decisive document".

unless the funding recipient has already provided this information in the application. The funding recipient shall also disclose the amount of funding received for similar work from public and EU funds within the three years preceding the submission of the funding application. This obligation to disclose information shall also include any subsequent funding applications submitted by the funding recipient;

- f. comply with the Equal Treatment Act (GIBG, Federal Law Gazette BGBl. I No. 66/2004), the Equal Opportunities for People with Disabilities Act (BGStG, BGBl. I No. 82/2005) and the prohibition of discrimination specified in Sec. 7b of the Disabled Persons Employment Act (BEinstG, BGBl. No. 22/1970), as amended;
 - g. not dispose of claims under any funding agreement by way of assignment, transfer or pledge or in any other way. Any assignment, transfer, pledge or other disposition of claims under the present funding agreement shall be ineffective with respect to the Federal Government and the Funding Agency;
 - h. observe the principles of parsimony, efficiency and expedience when carrying out the funded project and use the funds provided economically and efficiently and only for the purpose for which they have been granted;
 - i. ensure that any exploitation rights (e.g. patents, utility models, copyrights etc.) are contractually regulated in accordance with the provisions of the European Union, national provisions and programme guidelines, in particular with respect to the (consortium) partners;
 - j. guarantee compliance with the applicable provisions of social and labour law;
 - k. ensure that capital assets and equipment are actually purchased if funding has been applied for and granted for purchasing these assets and equipment.
- 1.2 In order for funding to be granted, the funding recipient must accept the funding proposal including any conditions and requirements imposed in writing within a reasonable period of time, failing which the agreement shall not be valid.

2. Collaboration

- 2.1 The funding recipient shall ensure that all (consortium) partners involved in the project and accepted by the funding provider are fully informed about the funding agreement and all related documents and that they fully submit to the contractual provisions and any related documents with all respective rights and obligations, in particular cost accounting obligations, by means of a written contract. The partners shall be jointly and severally liable. The funding recipients shall ensure that such contracts are drawn up in due form.
- 2.2 This contract, which specifies the provisions of the collaboration project, including but not limited to contributions to the project costs, the sharing of risks and results, dissemination of results, access to and rules for allocation of intellectual property rights, must be concluded prior to the start of the project for collaboration projects² between institutions of research and knowledge dissemination (research organisations) and enterprises and shall form an integral part of the funding agreement.
- 2.3 The funding recipient shall appropriately manage all funding amounts to be transferred to the partners under the contract in a fiduciary manner. Any interest accrued shall be taken into account.

3. Reporting obligations

- 3.1 The factual report shall provide information about the use of the federal and EU funds granted and include documentary evidence of the performance of the funded work and the resulting

² See 2.2.2. (27) of the Framework for State aid for research and development and innovation (OJ C 198/2014).

output. Numerical evidence shall include a breakdown of all income and expenditure related to the funded work, substantiated with receipts.

- 3.2 Any reports additionally demanded by the EU shall be presented to the Funding Agency in a timely manner. If the reporting obligations of the Funding Agency or funding provider to the European Commission change, the funding recipient shall be obliged to adjust the corresponding reports to the new regulations.
- 3.3 Any reports additionally demanded by the EU shall be presented to FFG in a timely manner. If the reporting obligations of FFG to the European Commission change, the funding recipient shall be obliged to adjust the corresponding reports to the new regulations.
- 3.4 Documentary evidence can be provided by means of copies of invoices or payment receipts, with the FFG reserving the right to inspect or demand subsequent presentation of the original documents. Receipts may also be transmitted in electronic form if the complete, consistent, authentic, true and verifiable reproduction is ensured. The FFG reserves the right to inspect or demand subsequent presentation of the original documents. If the use of personal data is required to prove that the funding has been used in accordance with the intended purpose, the funding recipient shall be obliged to obtain relevant approval in accordance with Art 6 (1) (a) GDPR unless the use of such data is permitted under the data protection regulations.
- 3.5 If funding recipients have contributed financial funds of their own or received financial funds from another legal entity for the same purpose, these funds shall also be included in the documentary evidence.

4. Use of data by the Funding Agency

- 4.1 The funding recipient acknowledges that the personal data collected during initiation and performance of the contract which are necessary for the performance of a task carried out by the funding provider in the public interest (Art 6 (1) (e) GDPR), for compliance with a legal obligation (Art 6 (1) (c) GDPR) or for safeguarding the legitimate interests pursued by the controller or by a third party (Art 6 (1) (f) GDPR) may be used by the funding provider for the initiation and performance of the funding contract, for carrying out the tasks assigned to the funding provider and for control purposes. It is possible that, in the context of such use, data have to be transmitted or disclosed to other parties, including but not limited to bodies and agents of the federal (regional) government, the Court of Audit and the European Union. The legal basis for this use shall be compliance with a legal obligation (Art 6 (1) (c) GDPR) or the performance of a task carried out in the public interest (Art 6 (1) (e) GDPR). If several federal bodies and/or funding providers wish to grant funding to the same funding recipient for the same project (albeit with a different purpose) and need to coordinate with each other, this shall be done either on the basis of a legal obligation according to Art 6 (1) (c) GDPR or for safeguarding the legitimate interests pursued by the controller or by a third party (Art 6 (1) (f) GDPR). Detailed information about data processing is available on the website www.ffg.at under Privacy Policy (www.ffg.at/datenschutz).
- 4.2 The same applies if several bodies of the Federal Government and/or the Funding Agency intend to grant funding to the same funding recipient for the same work, albeit for different purposes, and therefore require mutual information.

5. Suspension and repayment of funding

- 5.1 The funding recipient, subject to the assertion of more extensive statutory claims including but not limited to repayment obligations pursuant to Sec. 30b of the Employment of Foreign Nationals Act (AuslBG), shall be obliged to immediately repay the funding upon demand by the FFG or the European Union based on a justified decision. In this case, any funding loans

that have not yet been repaid shall immediately become due and payable and the claim to any approved funding not yet disbursed shall expire in particular if:

1. the funding recipient has informed executive bodies or agents of the Federal Government or the European Union incorrectly or incompletely about material circumstances;
2. the funding recipient has not provided mandatory reports, documentary evidence or required information if a written warning with a corresponding deadline and an express reference to the legal consequences of non-compliance has remained without effect and if the funding recipient has failed to give notice as provided;
3. the funding recipient does not of his/her own initiative notify events immediately – in any event before an inspection or the notification thereof – that would delay or render impossible the performance of the funded project or require modifications to the project;
4. the funding recipient ceases operation or sells his/her business before the due conclusion of the funded project or within a period of three years of conclusion thereof;
5. the funding recipient impedes or prevents intended inspection measures or if the eligibility for funding can no longer be verified within the period of time provided for the retention of documents;
6. the funding recipient has used the funding in whole or in part contrary to its intended purpose;
7. the work has not been or cannot be carried out in time by the funding recipient;
8. the funding recipient fails to comply with the prohibition on assignment, transfer, pledging and other disposition in accordance with Sec. 24 (2) 11 of the applicable federal guidelines (ARR);
9. one of the funded companies fails to comply with the provisions of the Equal Treatment Act;
10. the Equal Opportunities for People with Disabilities Act and the prohibition of discrimination specified in Sec. 7b of the Disabled Persons Employment Act (BeinstG) has not been complied with;
11. the funding recipient has not carried out the publication measures required pursuant to Sec. 31 of the applicable federal guidelines (ARR) (applies only to EU funding);
12. suspension and/or repayment is demanded by executive bodies of the European Union; or
13. the funding recipient has not complied with other conditions for funding, terms and requirements, in particular such that are intended to secure the attainment of the purpose of the funding.

5.2 Instead of full repayment as stated above, partial suspension or repayment of funding is possible in individual cases if

1. the obligations assumed by the funding recipient can be divided into several parts and the partial performance is in itself eligible for funding,

2. the funding recipient cannot be held responsible for the ground for repayment; and
 3. the funding provider can be reasonably expected to continue the funding agreement.
- 5.3 Interest shall be payable on the amount of repayment from the date of disbursement of the funding at a rate of 4% per annum, applying compound interest. If this rate of interest is below the rate of interest specified by the European Union for repayments, the latter shall be applied.
- 5.4 Funding for the benefit of a third party may in principle only be granted if prior to conclusion of the funding agreement such third party accepts joint and several liability (Sec. 891 of the Austrian Civil Code, ABGB) for the repayment of funding in the event of the occurrence of a ground for repayment. The joint and several liability may be limited to the proportional amount of funding in the funding agreement.

6. Liability

- 6.1 The funding recipient shall be fully liable to the funding provider and the Funding Agency for compliance with the contractual provisions. The funding recipient shall also be liable for the conduct of any related third parties (e.g. shareholders, executive bodies, etc.). The funding recipient shall indemnify and hold harmless the funding provider and the Funding Agency from and against any claims from third parties.

7. Jurisdiction

- 7.1 Any legal disputes arising in connection with the granting of funding shall be settled by the court of competent jurisdiction in Vienna.