

17) Specific support actions involving Transnational Access

A. Definitions

In addition to the provisions of Article II.1, the following definitions shall apply to this *contract*:

a. Access provider: means the *contractor* that is in charge of providing access to the *infrastructure*, as specified in Annex I.

b. Infrastructure: means the research facility (facilities) to which *user groups* are given transnational access under the *project*, as specified in Annex I.

c. International European Interest Organisations: means an *international organisation*, the majority of whose members are European Community Member States or *Associated States*, and whose principal objective is to promote scientific and technological co-operation in Europe.

d. User: means a researcher within a *user group*, including the *user group* leader.

e. User group: means a research team of one or more researchers given access to the *infrastructure* under the *project*. Each *user group* is led by a *user group* leader.

B. Performance obligations

For activities aimed at providing transnational access, the *access provider* shall, in addition to the provisions of Annex I and Article II.3:

- (a) publicise widely, including on a dedicated Web page on the Internet, the access offered under this *contract* so that researchers throughout the Member States and the *Associated States* who might wish to have access to the *infrastructure* may be made aware of the possibilities open to them;
- (b) select the *user groups* in accordance with part C of this Article;
- (c) provide access free of charge to selected *user groups*, including all the infrastructural, logistical, technological and scientific support (including training courses for *users*) that is normally provided to external researchers given access to the *infrastructure*;
- (d) ensure that *users* comply with the terms and conditions of this contract;
- (e) maintain, on a regular basis and in accordance with its own usual accounting principles, appropriate documentation to support and justify the amount of access reported; this documentation shall include records of the names, nationalities, and home institutions of *users* within the *user groups*, as well as the nature and quantity of access provided to them.

C: Eligibility and selection of the *user groups*

1. To be eligible to benefit from access to the *infrastructure* under the *contract*, a *user group* must satisfy the following two conditions:

- both the *user group* leader and the majority of the *users* must come from Member States or *Associated States*;
- both the *user group* leader and the majority of the *users* must come from a country other than the country(ies) where the legal entity(ies) operating the *infrastructure* is(are) established.

The second condition shall not apply when the *access provider* is an *international European interest organisation* or the *JRC*.

When the *infrastructure* is composed of several research facilities operated by different legal entities, the second condition shall apply to each facility.

2. Only *user groups* that are entitled to disseminate the *knowledge* they have generated under the *project* are eligible to benefit from access to the *infrastructure* under the *contract*. The sole exception to this rule shall be *user groups* from an *SME* that wish to use the *infrastructure* for the first time.

3. Prospective *user groups* requesting access shall be required by the *access provider* to submit in writing a description of the work that they wish to carry out and the names, nationalities and home institutions of the researchers expected to take part.

4. The *access provider* shall set up a *user group* selection panel, which will assist the *access provider* in the selection of the *user groups*, according to the conditions set out in this Article. The *user group* selection panel shall assess all proposals received and recommend a short-list of the *user groups* that should benefit under the *contract*. In so doing, it will apply the principles of transparency, fairness and impartiality.

5. The *user group* selection panel shall be composed of international experts in the field, at least half of whom shall be independent and external to the staff of the *infrastructure*, unless otherwise specified in Annex I.

6. The *user group* selection panel shall base its selection on scientific merit, taking into account that priority should be given to *user groups* who:

- have not previously used the *infrastructure*, and
- are working in countries where no such research *infrastructures* exist.

The *Commission* may, within the overall scope and financial limits of the *contract*, request the *access provider* to follow additional priorities in the selection of *user groups* in the *interest of the Community*. The *access provider* shall not unreasonably withhold its agreement to such requests.

7. Before selecting *user groups* requiring access exceeding 3 months, the *access provider* shall seek prior written approval of the *Commission*, unless such longer access is foreseen in Annex I.

D. Reports and deliverables

For the activities of providing transnational access, the *access provider* shall, in addition to the provisions of Article II.7, submit to the *Commission* for approval:

- (a) an initial database report, to be updated annually, if necessary, suitable for publication in an electronic database and in the yearbooks published by the *Commission*;
- (b) a section in the periodic activity reports required by Article II.7, reporting on the access activity, that shall include the membership of the *user group* selection panel as well as the amount of access provided to the *user groups*, with the description of their work, and the names and home institutions of *users*.

E. Confidentiality

The *access provider* shall ensure that the *users* have the same rights and obligations in regard to confidentiality as referred to for the *access provider* in Article II.9.

In addition to the provisions of Article II.9, the *access provider* shall require the *users* to keep confidential any document, information, *knowledge*, *pre-existing know-how* or other documents communicated to them in relation to the *project*.

F. Publicity

The *access provider* shall ensure that the *users* have the same rights and obligations in regard to publicity as referred to for the *access provider* in Article II.12.

In particular, the *access provider* shall, throughout the duration of the *project*, take any appropriate measure to ensure that, in their publications, *users* make suitable publicity to the access provided to them under the *contract* by the European Community, in conformity with Article II.12.

In addition to the information referred to in paragraph 2 of Article II.12, the *Commission* shall be authorised to publish, in whatever form and on or by whatever medium, including the Internet, the list of the *users*.

G. Access rights

In addition to the provisions of Article II.35, the *access provider* shall ensure that the *users* enjoy, on a royalty-free basis, *access rights* to the *pre-existing know-how* of the *access provider* and to the *knowledge*, if that *pre-existing know-how* or *knowledge* is needed to carry out their own work under the *project*.

H. Incompatible or restrictive commitments

In addition to the provisions of Article II.36, the *access provider* required to grant *access rights* shall inform, as soon as possible, the *users* of any restriction which might substantially affect the granting of *access rights*, as the case may be.

I. Cost reporting models

For the activities of providing transnational access, this section shall replace Article II.22 of Annex II.

1. There are two models for reporting costs under the *contract*:
 - eligible direct costs, calculated as specified in paragraph 2 of this section, and a flat rate for indirect costs, are charged by an *access provider* using the user fee reporting model (UF). The flat rate is 20% of all direct costs minus costs of subcontracts, which is deemed to cover any indirect costs incurred by the *access provider* under the *project*.
 - eligible direct additional costs and a flat rate for indirect costs are charged by an *access provider* using the additional cost model (AC). The flat rate is 20% of all direct additional costs minus costs of subcontracts, which is deemed to cover any indirect costs incurred by the *access provider* under the *project*.
2. The *access provider* may identify its eligible direct costs, related to the access provided to the *users* given access to the *infrastructure*, on the basis of a user fee (UF), according to the following formula:

user fee = unit cost x actual quantity of access delivered within the *project*

The unit cost, negotiated between the *Commission* and the *access provider*, shall be defined on the basis of the average annual direct costs of providing access to the *infrastructure*, divided by the total annual quantity of access provided to the researchers normally having access to the *infrastructure* (excluding the *user groups* supported for access by the *Community*). These direct costs may cover also preparatory work and specific training courses for the *users* but shall exclude all contributions to the capital investments of the *infrastructure*. This unit cost shall be specified in Annex I to the *contract* and is to be used throughout the duration of the *contract*.

Eligible direct costs may also include the travel and subsistence costs related to visits by *users* and to the *user group* selection panel, where necessary.

When the *infrastructure* is composed of several research facilities with different access costs, a separate unit cost may be defined for each facility.

3. *Access providers* which may use the additional cost reporting model (AC) are:
 - non-commercial or non-profit organisations established either under public law or private law, or
 - international organisations,
 which do not have an accounting system that allows the share of their direct and indirect costs relating to the *project* to be distinguished.
4. All *access providers* may use the user fee cost reporting model (UF), provided they have an accounting system that allows their direct costs relating to the *project* to be identified.

5. Any *access providers* using for the other activities of the *project* one of the full cost reporting models established in Article II.22.1 (FC or FCF) must use the user fee cost reporting model (UF) for activities aimed at providing transnational access.
6. Where an *access provider* may choose between the UF or AC cost reporting model for activities aimed at providing transnational access, it shall apply that model for the same type of activities in all *contracts* established under the Sixth Framework Programme which include activities aimed at providing transnational access.