New Financial Regulation No 966/2012

changes guided by three objectives to increase:

- Simplification of rules and procedures
- Accountability in the implementation
- Leverage of Union funds


applicable mostly from 1 January 2013, but on Methods of Implementation and Financial Instruments from 1 January 2014, replaces the old FR No 1605/2002
General
### Ceilings and procedures

<table>
<thead>
<tr>
<th>SERVICE CONTRACTS</th>
<th>≥ € 300,000</th>
<th>&lt; € 300,000 but ≥ € 20,000</th>
<th>≤ € 20,000</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>International restricted tender procedure</td>
<td>- Framework contracts</td>
<td>Single tender</td>
</tr>
<tr>
<td></td>
<td>or</td>
<td>- Competitive negotiated procedure</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SUPPLY CONTRACTS</th>
<th>≥ € 300,000</th>
<th>&lt; € 300,000 but ≥ € 100,000</th>
<th>&lt; € 100,000 but &gt; € 20,000</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>International open tender procedure</td>
<td>- Local open tender procedure</td>
<td>- Competitive negotiated procedure</td>
</tr>
<tr>
<td></td>
<td>or</td>
<td>- Frame work contract</td>
<td>or</td>
</tr>
<tr>
<td></td>
<td>- Framework contract</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>WORKS CONTRACTS</th>
<th>≥ € 5,000,000</th>
<th>&lt; € 5,000,000 but ≥ € 300,000</th>
<th>&lt; € 300,000 but &gt; € 20,000</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>- International open tender procedure</td>
<td>Local open tender procedure</td>
<td>Competitive negotiated procedure</td>
</tr>
<tr>
<td></td>
<td>or</td>
<td>International restricted tender procedure</td>
<td></td>
</tr>
</tbody>
</table>

For service, and supply contracts, a payment may be made against invoice without prior acceptance of a tender if the expenditure is ≤ 2,500€.
# Procurement or Grants?

<table>
<thead>
<tr>
<th>Procurement</th>
<th>Grants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buying</td>
<td>Purpose</td>
</tr>
<tr>
<td>Contracting authority</td>
<td>Ownership</td>
</tr>
<tr>
<td>Agreed price</td>
<td>Payment</td>
</tr>
<tr>
<td>Profit</td>
<td>Principle</td>
</tr>
<tr>
<td>Call for tenders</td>
<td>Procedures</td>
</tr>
<tr>
<td></td>
<td>Funding</td>
</tr>
<tr>
<td></td>
<td>Beneficiary</td>
</tr>
<tr>
<td></td>
<td>Share of costs</td>
</tr>
<tr>
<td></td>
<td>Non profit</td>
</tr>
<tr>
<td></td>
<td>Call for proposals</td>
</tr>
</tbody>
</table>
Grants
Low value grants

- Grants ≤ € 60.000

- They benefit from much lighter requirements regarding supporting documents (eligibility / selection / non exclusion)

- Exception to the no-profit rule

- No pre-financing guarantee may be requested

- Accounting records and supporting docs to be kept for 3 years
Financial Support to third parties (Sub-granting)

- Sub-granting may become the main aim of the action

- Sub-grant per third party increased to € 60,000, with no overall ceiling

- No limits per sub-grant when the financial support is the primary aim of the action
Simplified Cost Options
(lump sums, unit costs, flat-rate financing)

- Limited to € 60,000 per beneficiary of the grant contract
  (exclusive of the 7% of indirect costs)

- Proposed by the beneficiary

- The approval to the use of the SCO will be given by the Contracting Authority during the contracting phase

- Guidelines and check-list have been developed
Simplified Cost Options
(lump-sums, unit costs, flat rate financing)

- The methods used by the Beneficiary(ies) to determine the simplified cost options must be clearly described in Annex III (justification sheet of the budget).

- Can be based on:
  - Statistical data or other external data as appropriate
  - Certified or auditable historical data of the Beneficiary(ies)
  - Actual accounting or cost accounting data of the Beneficiary(ies)
CONTRACTUAL MATTERS
Interest on pre-financing

- They are not due to the Union any more
- No need to open interest bearing accounts
- No more reporting
Guarantee on PRE-FINANCING

Grants ≤ 60 000
- No right to ask for it !!

Grants > 60 000
- May be requested based on risk analysis
- Shouldn't be requested if the Coordinator is a No-Profit organisation, gov. Department or public body, or signatory of a Framework agreement with the EC
Payment deadlines

- One SINGLE time limit
- No more SUB limits for approval / payment periods
- 30 / 60 / 90 depending on type of payment
# Payment deadlines

<table>
<thead>
<tr>
<th></th>
<th>2012</th>
<th></th>
<th>2013</th>
<th></th>
<th>2013</th>
<th>EDF</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>BUDGET</td>
<td>EDF</td>
<td>BUDGET</td>
<td>PRAG - Companion 2013 Centralised</td>
<td>PRAG - Companion 2013 Decentralised, i.e. COM &lt;&gt; CA</td>
<td>PRAG - Companion 2013 under FA signed before 2013, when COM make payments</td>
</tr>
<tr>
<td>Grants*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>pre-financing</td>
<td>45</td>
<td></td>
<td>30</td>
<td>30</td>
<td></td>
<td>30 (BUDG) 45 (FED)</td>
</tr>
<tr>
<td>interim and final payments</td>
<td>90</td>
<td></td>
<td>60</td>
<td>90</td>
<td>90</td>
<td></td>
</tr>
<tr>
<td>- Approval of report</td>
<td>45</td>
<td></td>
<td>included: 0</td>
<td>included: 0</td>
<td>45</td>
<td></td>
</tr>
<tr>
<td>- Payment</td>
<td>45</td>
<td></td>
<td>60</td>
<td>90</td>
<td>45</td>
<td></td>
</tr>
<tr>
<td>interim and final payments for grants &gt; €5 Mio + (Monobenef with affiliated entities or Multibenef (i.e. with IP))</td>
<td>90</td>
<td></td>
<td>90</td>
<td>90</td>
<td>90</td>
<td></td>
</tr>
<tr>
<td>- Approval of report</td>
<td>45</td>
<td></td>
<td>included: 0</td>
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<td>45</td>
<td></td>
</tr>
<tr>
<td>- Payment</td>
<td>45</td>
<td></td>
<td>90</td>
<td>90</td>
<td>45</td>
<td></td>
</tr>
</tbody>
</table>

*NB: for GRANTS, any contract 2012 signed from 01.01.2013 onwards must include the 2013 payment deadlines according to the relevant case.*

## Grants

- **Pre-financing**: 45
- **Interim and final payments**: 90
- **Approval of report**: 45
- **Payment**: 45
- **Interim and final payments for grants > €5 Mio + (Monobenef with affiliated entities or Multibenef (i.e. with IP)) TOTAL**: 90
- **Approval of report**: 45
- **Payment**: 45

*NB: for GRANTS, any contract 2012 signed from 01.01.2013 onwards must include the 2013 payment deadlines according to the relevant case.*
Payment procedures

- For Option 2 (actions > 12 months and > € 100 000)

- Initial pre-financing increased to 100% of first year budget financed by the CA
### Expenditure Verification report

<table>
<thead>
<tr>
<th>Previous versions</th>
<th>2013</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Choice of auditor</strong></td>
<td></td>
</tr>
<tr>
<td>With any request for pre-financing in case of grant contracts:</td>
<td></td>
</tr>
<tr>
<td>&gt; € 750 000</td>
<td>&gt; € 5 000 000</td>
</tr>
<tr>
<td>With any final report in case of grant contracts:</td>
<td></td>
</tr>
<tr>
<td>&gt; € 100 000</td>
<td>&gt; € 100 000</td>
</tr>
<tr>
<td>When the expenditure verification is not required:</td>
<td>Detailed breakdown of expenditure with every other request for further pre-financing</td>
</tr>
</tbody>
</table>
Amendments to the contract

- Ceiling increased from 15% to 25% for transfers between main budget headings

- Not to be used to modify:
  - amounts or rates of the simplified cost options
  - in-kind contribution
  - indirect costs
## Annex IV
- Updated according to new thresholds

<table>
<thead>
<tr>
<th>Contracts</th>
<th>€ ≥ 300,000</th>
<th>€ 300,000 but ≥ € 100,000</th>
<th>€ 100,000 but ≥ € 60,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service Contracts</td>
<td>International restricted tender procedure</td>
<td>Framework contracts</td>
<td></td>
</tr>
<tr>
<td>Supply Contracts</td>
<td>€ 300,000</td>
<td>Local open tender procedure</td>
<td>Competitive negotiated procedure</td>
</tr>
<tr>
<td>Works Contracts</td>
<td>€ 5,000,000</td>
<td>Local open tender procedure</td>
<td></td>
</tr>
</tbody>
</table>

For contracts of ≤ € 60,000 the Beneficiary’s procedures may be used.
3 Indirect Management
Methods of Implementation of the Budget

• in French: **Modes de Gestion**, hence confusingly also called (even in the FR): **Management Modes** or **Modes of Management**

• new rules will apply to commitments from 1 Jan 2014

• they are the **conceptualisation of the relation between the Final Recipient and the Commission**.
  - Is there a direct contact?
  - Is the Commission the Contract Party (Contracting Authority)?
  - Does the Commission pay to the Final Recipient?
Direct Management

The Commission is in direct contractual relation with the Final Recipient, in direct contact and makes payments to him/her.

- **1.** Final Recipient of Union funds
- **2.** European Commission (has the action done, *fait faire l'action*)
- **3.** Direct contractual link, such as grant or procurement contract
- **4.** Payment of Union funds

≠ Policy Beneficiary of Union action
Indirect Management

European Commission has the Delegate have the action done

Payment of Union funds

Entrusted Entity or Delegatee

Payment to the Final Recipient

Delegation Agreement

Second-Level Contract (e.g. grant or procurement)

Final Recipient of Union funds
Entrusted Entity or Delegatee: Old Financial Regulation terminology

• numerus clausus of mainly public bodies
• Member States: "Shared Management" (80 % of the Budget)
• Indirect Management in the narrow sense:
  o **Member State** or third country **Agencies**
    • DLVCO = Indirect Centralised Management
    • Third countries or entities identified by them
      • DEVCO = Decentralised Management
  o **International Organisations** = Joint Management
  o Specialised EU agencies AND executive ones)
  o EIB, EIF = Joint or Indirect Centralised Management?
  o private entities in charge of a Public Private Partnership
  o persons (like you and me!) charged with CSDP Missions
But what IS Indirect Management???

1. Executive powers involving a large measure of discretion implying political choices

2. Award Decisions for grants and procurement; complementary decisions to reject the other applicants and tenderers

3. Implementation of funding procedures implying the use of discretionary powers of judgment (margin of appreciation or of manoeuvre) of a public authority

4. Tasks of the Accounting Officer: payments, treasury, accounting

5. Technical expertise and administrative, preparatory and ancillary tasks not involving the exercise of public authority or the use of discretionary powers of judgment may be outsourced to service providers

2 + 3 + 4 = Budget-Implementation Tasks
Equivalence of Public Finances Management
How to ensure it?

Ex ante examination

Solid Delegation Agreement

Regular monitoring and reporting
Ex ante examination Pillar Assessment

before entrustment, the Commission obtains evidence on:

• functioning effective and efficient **Internal Control System**

• **Accounting** system providing accurate, complete and reliable information in a timely manner

• independent **External Audit**, performed in accordance with internationally accepted auditing standards by a functionally independent Audit service

• **appropriate Funding Rules** and procedures for grants, procurement and financial instruments (and prizes?)

**principle**: allowing the Delegatee to use his own systems, rules and procedures provided that they meet the Benchmarks of Equivalence being

  o International Standards where available
  o Financial Regulation Standards elsewhere
Reporting in Indirect Management

• **Narrative Implementation Report**
• **Accounts** on the expenditure incurred

• *(new)* **Management Declaration** confirming
  - reliability of information provided
  - conformity of expenditure with rules
  - proper functioning of the Internal Control System
  - summary of Audit reports and controls carried out, analysing errors and weaknesses, identifying remedies

• *(new)* **Audit Opinion**