



FUSION FOR ENERGY

The European Joint Undertaking for ITER and the Development of Fusion Energy

THE GOVERNING BOARD

DECISION OF THE GOVERNING BOARD ADOPTING AN ANTI-FRAUD STRATEGY

THE GOVERNING BOARD,

HAVING REGARD to the Statutes annexed to the Council Decision (Euratom) No 198/2007 of 27 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy (hereinafter "Fusion for Energy") and conferring advantages upon it¹, and in particular Articles 6(3)(k) thereof;

HAVING REGARD to Council Decision N° 791/2013 of 13 December 2013 amending decision 2007/198/EURATOM establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it²

HAVING REGARD to Council Decision N° 224/2015 of 10 February 2015 amending decision 2007/198/EURATOM establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it³

WHEREAS the Governing Board should adopt and apply measures and guidelines to combat fraud, irregularities and manage potential conflicts of interest:

HAS ADOPTED THIS DECISION:

Article 1

The Anti-Fraud Strategy annexed hereto is adopted.

Article 2

This Decision shall have immediate effect.

Done at Barcelona, 9 June 2015

For the Governing Board

Stuart Ward

Chair of the Governing Board

¹ OJ L 90, 30/03/2007, p. 58

² OJ L 349, 21/12/2013 p.100-102

³ OJ L 37, 13/02/2015 p.8-14

For the Secretariat

Raymond Monk
Secretary of the Governing Board

ANNEX

FUSION FOR ENERGY'S ANTI-FRAUD STRATEGY AND ACTION PLAN

1. BACKGROUND

In 2011, the European Commission adopted its *Anti-Fraud Strategy*⁴, aiming at improving the prevention and detection of fraud, the conditions for investigations of fraud, and at achieving adequate reparation and deterrence. The Council, Commission and Parliament, in a political agreement of 2012⁵ have developed a *Common Approach on EU decentralised agencies* which requires a set of anti-fraud measures to be put in place⁶, to combat any fraud, corruption or other illegal activity affecting the financial interests of the European Union, with the objective to improve efficiency, transparency and accountability.

As an EU body, Fusion for Energy (F4E) is responsible for the management of the EU budget, i.e. the operational and administrative resources allocated to it in order to provide the contribution of Euratom to the ITER International Fusion Energy Organisation and to contribute to the good functioning of the institutions in a cost effective way as well as reducing administrative burden as far as possible. Like all other agencies and bodies, F4E is responsible for taking the necessary measures to provide reasonable assurance of achieving prevention and detection of fraud and irregularities.

Taking into consideration the priorities set within the framework of the above mentioned Common Approach, considering the need to pursue the Commission's main objectives for its implementation ("more balanced governance, improved efficiency and accountability and greater coherence") and considering the guidance provided by the European Anti-Fraud Office (OLAF)⁷, F4E has in this document developed its Anti-Fraud Strategy and the related Action Plan.

The overall objective is to improve prevention, detection and the conditions for investigations of fraud, and to pursue adequate deterrence and reparation, with proportionate and dissuasive sanctions. The F4E Anti-Fraud Strategy with its Action Plan reinforces the adopted measures preventing and managing conflicts of interests within F4E and is integrated into the broader legal framework of F4E protecting the financial interests of the EU and combating fraud, as stipulated in Articles 5a and 5aa of the Council Decision 2007/198/Euratom establishing F4E⁸.

This Anti-Fraud Strategy is part of the Agency's internal controls system and meets the requirements of Article 48 of the Framework Financial Regulations of the European Commission⁹ as well as of the respective Articles in F4E's Financial Regulation (FR) and Implementing Rules (IR), which refers *inter alia* to the need of preventing and detecting "irregularities" and "fraud"¹⁰.

⁴ Communication from the Commission to the European Parliament, the Council, the European and Social Committee and the Committee of the Regions and the Court of Auditors on the Commission Anti-Fraud Strategy, COM(2011)376 final, 24.6.2011, available at http://ec.europa.eu/anti_fraud/documents/preventing-fraud-documents/ec_antifraud_strategy_en.pdf

⁵ Joint Statement of the European Parliament, the Council of the EU and the European Commission of 19.7.2012, on decentralised agencies, available at http://europa.eu/agencies/documents/joint_statement_and_common_approach_2012_en.pdf

⁶ Point 60 ff. of the Roadmap on the Common Approach, annexed to the Joint Statement of 2012.

⁷ European Anti-Fraud Office (OLAF), Methodology and guidance for anti-fraud strategies for EU decentralised agencies, Ref. Ares(2013)3560341, 25.11.2013.

⁸ Council Decision 2007/198 establishing the Joint Undertaking for ITER, OJ L90/58, 30.3.2007; as amended by Council Decision 2013/791, 17th December 2013, OJ L349/101, 21.12.2013 and last amended by Council Decision 2015/224 of 10th February 2015, OJ L 37/8, 13.2.2015.

See legal framework in Appendix 2.

⁹ Commission Delegated Regulation of 30.9.2013, C(2013) 6287 final.

¹⁰ See for the Definitions below, under point 3 and the F4E FR and IR in Appendix 1

2. F4E'S CONTEXT

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

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

F4E is established for a period of 35 years from 19 April 2007.

To achieve its objectives towards the ITER International Organisation:

- F4E, as the European Domestic Agency for ITER, manages the procurement of components, equipment and materials according to specifications provided by the ITER IO.
- F4E also provides Europe's share of the direct financial contributions to the running costs of the ITER International Organisation and for the procurements under its responsibility.

To achieve its objectives towards Japan in the framework of the BA Agreement:

- F4E, as the designated Implementing Agency, acts as an interface between Japan and the European Voluntary Contributors who are responsible for managing the procurement of components and equipment
- F4E also provides a minor contribution both in procurement of components and as a direct financial contribution.

Within the current financial perspective, F4E directly manages a budget of 6600 MEuro of European Union funding, and the majority of this budget is implemented through industrial contracts. In addition, F4E coordinates a contribution of 400MEuro made by Member States for BA.

3. DEFINITIONS AND CONCEPT OF FRAUD

The concept of fraud and irregularity infringing the financial interests of the EU¹¹ dates from Council Acts of 1995 and encompasses both internal and external misbehaviour. It takes into account that the reputational impact of a misbehaviour might be equally or more important than the financial damage itself.

Fraud is "in respect of expenditure, as any intentional act or omission relating to:

- the use or presentation of false, incorrect or incomplete statements or documents, which has as its effect the misappropriation or wrongful retention of funds from the general budget of the European Communities or budgets managed by, or on behalf of, the European Communities;
- non-disclosure of information in violation of a specific obligation, with the same effect;

¹¹ The EU **Treaty on the Functioning of the European Union** (Lisbon Treaty), JO 30.3.2010, C 83 p. 47- 200. states in **Article 325**:

"(1) The Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union through measures to be taken in accordance with this Article, which shall act as a deterrent and be such as to afford effective protection in the Member States, and in all the Union's institutions, bodies, offices and agencies."

(4) The European Parliament and the Council ... shall adopt the necessary measures in the fields of the prevention of and fight against fraud affecting the financial interests of the Union with a view to affording effective and equivalent protection in the Member States and in all the Union's institutions, bodies, offices and agencies."

- the misapplication of such funds for purposes other than those for which they were originally granted.”¹²

Irregularity is

“any infringement of a provision of Community law resulting from an act or omission by an economic operator, which has, or would have the effect of prejudicing the general budget of the Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected directly on behalf of the Communities, or by an unjustified item of expenditure”.¹³

Fraud also covers¹⁴ misbehaviour, that may not have a direct effect on the EU's financial interests, but has anyhow a reputational impact, such as some cases of forgery (in CVs for example), concealment of material facts, breaches of IT systems, cyber fraud and conflicts of interests. Favouritism and collusion are also included in the definition of fraud.

4. PRINCIPLES

Ethics and transparency are key concerns for F4E, which is fully committed to ensure that these principles are properly applied. F4E staff, members of Committees and all external contractors must pursue the highest standards of honesty, propriety and integrity in the exercise of their duties. This also needs to be visible to our stakeholders.

F4E will not tolerate fraud, impropriety or dishonesty and will report, without delay, any instance of suspected fraud to OLAF, which is exclusively competent to investigate those cases.

F4E will inform its staff about the mandate and the way in which OLAF investigates irregular relations between EU Agents/Officials and contractors/candidates, like professional misconduct, conflict of interest, tender manipulations and irregularities in the tender procedure, disclosing of confidential information, e.g. with regard to selection test of candidates, collusion, etc.

Thus, anti-fraud activities will be especially developed through prevention, detection, awareness raising and close cooperation with OLAF. F4E will take all appropriate actions against anyone defrauding or attempting defraud F4E and EU assets or resources.

5. METHODOLOGY AND SCOPE OF THE PRESENT STRATEGY

This document has been prepared following the “Methodology and Guidance” for agencies and bodies to draft their anti-fraud strategies provided by OLAF.¹⁵

F4E has nominated a group composed of experts in the various areas of work (legal, procurement, personnel, finance, etc.) and given them the task of performing a fraud risk assessment and propose an action plan. The membership of the group can be found in Appendix 1. Finally the senior management of F4E reviewed and endorsed this analysis, before its submission to the Audit Committee and its final adoption by the Governing Board.

In line with OLAF's guidance, a complete Anti-Fraud Strategy should encompass all stages of the anti-fraud cycle, namely prevention, detection, investigation and sanctions/recovery. In this exercise, the analysis has concentrated on the two first two stages (prevention and detection) whereas the development of investigation and of sanctions/recovery measures are left for a further exercise, as part of the Action Plan.

¹² Council Act, drawing up on the basis of Article K.3. of the Treaty on European Union, the Convention “on the protection of the European Communities' financial interests”. OJ 27.11.1995, C 316/49.

¹³ Council Regulation on the protection of the European Communities' financial interests (EC, Euratom) 2988/95, OJ 23.12.1995, L 312 p.1-4.

¹⁴ According to the OLAF guidance for anti-fraud strategies, (p. 7), see above Fn.4.

¹⁵ See above Fn. 4.

The F4E strategy applies the principle of proportionality, according to which the achievement of the strategy should not require disproportionate and excessively expensive inputs and should not jeopardise the operational and current activities of F4E. The proportionality principle has also been taken into account when assessing the risks.

The exercise has analysed both

- internal fraud (involving the F4E's staff), and
- external fraud (by tenderers, grant beneficiaries, service providers, members of committees).

The exercise started with a compilation of the relevant legislation, main internal rules and measures already in place to deal with fraud within F4E (Appendix 2). In the fraud risk assessment part of these measures re-appear as mitigating controls already in place.

In addition, the group has carried out a benchmarking exercise of the measures in place, following the method proposed in the report to the European Commission entitled "Identifying and reducing corruption in public procurement in the EU" delivered on 30 June 2013 to the Commission by PWC-Ecorys. Section 13.2 of this report presented the most important results of the benchmarking exercise in each EU member state. The same analysis was conducted for F4E providing also the benchmarking of this organization.

The group has also taken into account previous internal assessments: for instance, regarding grants, an internal audit of grants management was performed in 2010. The implementation was followed in 2015, and the majority of the recommendations had been followed.

6. FRAUD RISK ASSESSMENT

F4E has conducted a fraud risk assessment of its main activities based on the estimated likelihood and possible impact of fraud. The format of the risk assessment provided by OLAF has been adapted to reflect the current practice in F4E's routine risks assessments of its projects.

The fraud risk assessment was performed in the first quarter of 2015, and the comprehensive Table is given in Appendix 3. The Table is subdivided in sections (procurement, finance, human resources, external committees, etc.¹⁶).

As a result of this fraud risk assessment the following **main fraud risks** were identified within F4E:

- Fraud related to contract adjudication (internal and external)
- Fraud related to contract management (internal and external)
- Irregularities related to conflicts of interest, both in contract and procurement matters, and regarding recruitment of personnel (internal).

These results were not unexpected, as the core activity of F4E is the direct placement and management of a large number of contracts with industry.

The assessment of what constitutes fraud is complicated by the nature of the ITER Project. ITER is simultaneously

- a very complicated "big science" project, implying that a very large proportion of the components that F4E has to provide have non-standard specifications, or are one-of-a-kind;
- a new kind of nuclear facility, which imposes further quality constraints on all components, and in particular on the buildings, which could be otherwise considered a standard kind of procurement;

¹⁶ This risk assessment did not cover the risk of specific IT related fraud as there is an on-going internal exercise assessing the IT related risks including fraud.

- a project where seven parties contribute in-kind, which means that changes triggered by difficulties in other parties procurements will appear late in the day and force unplanned changes in F4E contracts.

To perform its duties in procurement, F4E has to place contracts in very closed markets. In many cases, there are few suppliers worldwide (this problem is aggravated by the default tendering with EU industries imposed by the F4E Statutes). The large variety of high specific components to be provided means dealing with small communities of “super specialists” that usually knows each other.

With these constraints, F4E has some difficult tasks, for instance

- during tendering and adjudication of contracts, to balance the need to minimise the risk of not delivering a component and cause F4E to default in its obligations towards ITER IO, with the need to make fair tenders and adjudications.
- during the tender and contract execution phases, to distinguish between external abuses constituting fraud and legitimate risk management by suppliers;
- in personnel matters, to recruit the adequate specialists while giving fair opportunities to all candidates.

The main conclusion of the risk assessment is that the most important actions concern raising the awareness of staff on fraud issues, as well as improving the tools necessary for them to identify fraud and to prevent fraud, also the appearance of fraud, which can cause unnecessary reputational damage.

The Action Plan covers a period of for 2 ½ years (7/2015 - 12/2017) and will be updated if necessary during its implementation and at the end of its implementation.

The Action Plan will be loaded into the same database used for following up the implementation of the audit action plans, and its implementation will be regularly followed up by the internal control function.

F4E's anti-fraud objectives and identified actions are documented in the Action Plan

below. Objective 1: Awareness

During the implementation of the F4E Anti-Fraud Strategy the priority will be put on awareness raising of staff. The desired outcome would be that a clear anti-fraud culture would be develop within F4E, in which staff members have a better understanding of the types of behaviour that are unacceptable, of the channels where such fraudulent activities can be reported and of the procedures in place to detect, investigate and counteract fraud.

Objective 2: Clarify roles and improve cooperation

To tackle fraud efficiently, the different roles in the process should be clear. E.g: There should be one or more easy-to-approach Ethics contact person(s), avoiding overlaps.

The desired outcome would thus be that all staff members know who to approach to get more information on the procedures in place and where to turn during possible investigations.

Objective 3: Process improvement

While awareness and clarification of roles are the main priorities, F4E intends to analyse and potentially implement some additional measures to tackle some of the main risks identified (see above point 6.) with a focus on procurement, contract management, finance and human resources management. It will also be analysed if existing measures should be further reinforced.

ACTION PLAN 2015-2017

This action plan, designed to implement F4E's Anti-Fraud Strategy, covers the period from 1 July 2015 until 31 December 2017. The actions will cover all stages of the anti-fraud cycle: prevention, detection, investigation and corrective measures.

	Stage anti-fraud cycle	Unit etc. in charge	Deadline
Objective 1 : <u>Awareness and Training</u>			
1.1 Improve the internal publication of all ethic and anti-fraud material by creating a direct link on the main F4E Net website to ethics, fraud and conflict of interest information [including responsible contact person(s)]	Prevention	COMM (in cooperation with respective Units)	15.9.2015
1.2 Review information on ethics and anti-fraud in material and induction provided to all newcomers upon entrance into service.	Prevention	HR (in cooperation with respective Units)	31.12.2015 Regularly updated
1.3 Organise a compulsory in-house training for all staff covering general ethical and professional integrity principles, scope of fraud and fraud prevention and detection. ----- Participation in training organised by OLAF "Train the trainer" of the Agencies	Prevention	HR/ IAC / MSOI / LSU Nominate person (see point 2)	Regular intervals 30 th June 2015
1.4 For functions dealing with procurement, project/contract management and with personnel, organise targeted trainings (including elements of ethics, fraud prevention and fraud identification).	Prevention	C&P / HR / LSU/ IAC	Regular intervals
1.5 Draw up Whistleblowing Guidelines for staff, covering in particular internal process how to report and tackle alleged fraud instances as well as ensuring protection of whistle-blowers, Director Decision according to Art. 22 c Staff Regulations	Detection	LSU / MSOI /HR	September 2015
Objective 2 : <u>Clarify Roles and improve Cooperation</u>			
2.1 Identify a person/function in charge of coordinating Anti-Fraud Strategy implementation , and update list of actions.	Prevention	Director	August 2015
2.2 To align with the EU institutional practice, formally nominate Ethics Officer for staff and the Anti-fraud contact person(s) dealing with OLAF (can be performed by the same person)	Prevention Detection Investigation	Director	August 2015

2.3 Establish good working relationship with OLAF and IDOC. Invite experts from OLAF to give presentations and trainings to F4E staff and management.	Prevention / Detection / Investigation	Nominated person(s)	Regular
Objective 3: <u>Process improvements</u>			
3.1 Regularly follow up and update of Anti-Fraud Strategy and the Action Plan through the internal control function . Perform a full update of the current strategy at the end of its validity period, by reviewing existing fraud risk assessments and the related mitigating actions included in Appendix 3 and develop detailed risk assessments in other areas (e.g. grants, IT)	Prevention / Detection	MSOI (in cooperation with respective units)	Annually
<u>In the area of HR:</u> (See HR risk assessment in Appendix 3 for detailed list of possible mitigating actions) 3.2 Selection procedures: the implementation of the recommendations of recent audits is in course. Consider the inclusion of the following <ul style="list-style-type: none"> • clarify roles and responsibilities of HR and operational units in the drafting of vacancy notices/use of reserve lists • compulsory anonymous written tests for all positions • review measures put in place to reduce the risk of favouritism 	Prevention/ Detection	HR and operational units	31.12.2016
<u>In the area of Finance</u> (see Finance risk assessment in Appendix 3 for detailed list of possible mitigating actions). Many of the risks identified in the finance assessment are connected with procurement and contracts or with behaviour of personnel, and the mitigating actions belong to the sections on training and on procurement. Only the finance-specific recommendations are retained. 3.3 Improve communication and coordination between finance and operational units with a view to reduce the risk of fraud, by reducing urgent/ last minute actions 3.4 Review periodically the segregation of duties and rotation of staff	Prevention/ Detection Periodically	Finance	31.12.2015

**APPENDIX 1
MEMBERSHIP OF THE GROUP**

Susana Clement Lorenzo , Chair	Senior Advisor and F4E IFERC Project Manager, Broader Fusion Development Department
Angela Bardenhewer-Rating	Senior Legal Officer, Legal Service
Alessandro Bonito Oliva	Project Team Manager, Magnets
Jorge Caballero	Procurement Expert, Contracts and Procurement Unit
Caroline Georges	Human Resources Officer, Human Resources Unit
Benjamin Perrier	Market Intelligence Officer, Contracts and Procurement Unit
Raquel Raspall Infante	Internal Control Coordinator, MSOI Unit
Tzeitel Schuster	Finance Group Leader, Finance Unit

Facilitation, guidance and support for the activities of the group:

Marc Miot	Internal Audit Assistant, Internal Audit Capability
Radoslav Sinkovic	Internal Audit Officer, Internal Audit Capability

APPENDIX 2 MEASURES IN PLACE

This appendix lists the relevant F4E legislation regarding fraud, and the main measures in place to prevent and deal with (potential) fraud and irregularities.

AI Council Decision establishing F4E¹⁷

Article 5a

Protection of the Union's Financial Interests

1. *The Commission shall take appropriate measures ensuring that, when actions financed under this Decision are implemented, the financial interests of the Union are protected by the application of preventive measures against fraud, corruption and any other illegal activities, by effective checks and, where irregularities are detected, by the recovery of the amounts wrongly paid and, where appropriate, by effective, proportionate and dissuasive penalties.*
2. *The Commission or its representatives and the Court of Auditors shall have the power of audit, on the basis of documents and on-the-spot checks and inspections, over all grant beneficiaries, contractors, subcontractors and other third parties who have received Euratom funds under this Decision.*
3. *The European Anti-Fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures laid down in Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council and Council Regulation (Euratom, EC) No 2185/96 with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with an agreement or decision or a contract funded under this Decision.*

Without prejudice to paragraph 2 and the first subparagraph of this paragraph, cooperation agreements with third countries and international organisations, contracts, agreements and decisions resulting from the application of this Decision shall expressly empower the Commission, the Court of Auditors and OLAF to conduct audits, on-the-spot checks and inspections.

Art. 5aa

Protection of the financial interests of the Members

The Joint Undertaking shall ensure that the financial interest of its members are adequately protected by carrying out or commissioning appropriate internal and external controls.(-----)

According to **F4E Statutes**, annexed to the Council Decision establishing F4E

*the Governing Board shall in particular adopt and apply measures and guidelines to combat fraud, irregularities and manage potential conflicts of interest, **Art. 6 k**), and establish respective subsidiary bodies, **Art. 6 r**), e.g. the creation of the Audit Committee, F4E(10)-GB16-19b*

*The Supervision of F4E Annual Accounts through OLAF is addressed as well in **Art. 15**.*

¹⁷ Council Decision 2007/198 establishing the Joint Undertaking for ITER, OJ L90/58, 30.3.2007; as amended by Council Decision 2013/791, 17th December 2013, OJ L349/101, 21.12.2013. Last amended by Council Decision 2015/224 of 10th February 2015, OJ L 37/8, 13.2.2015.

B/ Fusion for Energy's Financial Regulation (FR) and Implementing Rules (IR)¹⁸

Based on its Financial Regulation (FR) and Implementing Rules (IR), F4E has put an extensive set of controls in place and has at its disposal, in particular, the following means and resources addressing **fraud**:

- Art. 3 FR:** F4E to establish effective and efficient internal control standards (see Annex III, Art. 2 of the F4E Statutes)
- Art. 26 FR:** Sound financial management, implementation of the budget in compliance with effective and efficient internal controls, prevention and detection of fraud and irregularities, applicable to all level of management
- Art. 41 (4) FR** Responsibility of the Authorising Officer to implement
- Art. 35 FR:** Without prejudice to the responsibilities of the authorising office as regards prevention and detection of fraud and irregularities, F4E shall participate in fraud prevention activities of the European Anti-Fraud Office.
- Art. 37 FR:** Prevention and management of conflicts of interest for all financial actors and other persons involved in budget implementation, management and audit or control.
- Art. 44 FR:** Whistleblowing regarding irregularities and fraud for any staff involved in financial management
- Financial Irregularity Penal, FIP, Art. 50 (5) FR

In this context see Article 22a of the Staff Regulations on whistleblowing and protection of whistleblowers in general.

- Art. 49(2) FR:** Liability of Financial Actors in case of fraud
- Art. 40 IR:** *Authorities and bodies referred to in Articles 44 and 49(2) FR are the bodies designated by the SRs and the decisions of the EU institutions concerning regarding the conditions for internal investigations in relation to the prevention of fraud, corruption and any other illegal activity detrimental to the Unions' interests.*

- Art. 50(5) FR:** Financial Irregularity Penal (FIP)
- Art.42 IR:** *Irrespectively of powers of OLAF, the specialised IFP referred to in Article 50(5) FR shall be competent in respect of any infringement of a provision of the FR or of a provision relating to financial management or the checking of operations resulting from an act or omission of a member of staff.*

Art.43 IR: *Procedure of the FIP*

- Art. 75 FR** F4E to have an Internal Auditor / Commissions Internal Auditor to exercise the same powers with respect to F4E as with respect to the Commission

Charter on Internal Auditor Capability F4E-GB(11)-21 -12c.

Procurement and Grants - Award procedure and control

- Art. 83(e) FR** Procurement : exclusion criteria–fraud, corruption etc.
Cases defined in **Art. 126 IR**

¹⁸ Financial Regulation of the Joint Undertaking, adopted by its Governing Board on 22 October 2007 F4E(07)-GB03-11, as last amended by Decision of the Governing Board on 24-25 November 2011, F4E(11)-GB21-10b, adopted on 25/11/2011, and Implementing Rules as last amended by Decision of the Governing Board on 19th March 2015, F4E(15)-GB31-Summary.

Art. 93 FR Suspension or Cancellation of the procurement procedure, in case of fraud or irregularities; as well as after award e.g. refuse to make payments, recovery of amounts paid or termination of the contract

Art.141 IR *Suspension and Definition of “substantial error or irregularity”*

C/ F4E’s Anti-Fraud Framework

I. Human Resources, in the sense of : responsible people/unit

	Body / Units/ functions	Tasks related to anti-fraud issues
	European Anti-Fraud Office (OLAF)	OLAF is empowered to conduct in full independence internal and external investigations, including inside any EU institution or body established by, or on the basis of, the Treaties or at national level in the premises of economic operators.
	European Court of Auditors (ECA)	Within their remit as the external financial auditor of F4E, ECA is responsible for identifying and assessing potential fraud risks and assess how these risks are managed by F4E. In case ECA is notified about or identifies potential fraud it will pass the information to concerned parties and in particular to OLAF.
	Internal Auditor of the European Commission Head of the Internal Audit Service IAS	The Commission’s Internal Auditor is fully independent of F4E, advises F4E on dealing with risks and assesses the suitability of systems and controls to manage risks, including the risk of fraud. The IA has to report any suspected fraudulent activities within the Joint Undertaking to OLAF and, as appropriate, to the Director and to the Governing Board.
	Governing Board of F4E and its Audit Committee	The Governing Board of F4E is responsible for endorsing and reviewing the Antifraud Strategy and antifraud measures put in place by the Director of F4E. The Audit Committee advises the GB and the Director of F4E in all matters regarding risk including the risk of fraud.
	Director of F4E	As the authorizing officer, s/he shall put in place the organizational structure and the internal management and control systems and procedures suitable for implementing the revenue and expenditure in accordance with the principles of sound financial management and for ensuring that the principles of legality and regularity are complied with. In the event of any illegal activity, fraud or corruption which may harm the interest of the Community, s/he shall inform the authorities and bodies designated by the applicable legislation.

	Body / Units/ functions	Tasks related to anti-fraud issues
	Internal Audit Capability (IAC)	F4E's internal audit capability is an independent audit and advisory function within F4E. Within its remit, IAC has the responsibility to report any suspected fraudulent activities within F4E to the Director, the Audit Committee and OLAF, save in cases in which it is inappropriate.
	Members of F4E staff	Any member of F4E shall in the event of any illegal activity, fraud or corruption which may harm the interests of the Union shall inform the Director. If unresolved or inadequate, members of F4E staff can directly contact OLAF, ECA, IAS or IAC, which will assess the information and deal with it according to the remits of their responsibilities.
	Internal Control Coordinator	Coordinates activities in the area of internal controls including those for the prevention and detection of fraud and irregularities.
	Process owners	Have the responsibility to design the processes and make sure that the related risks of fraud are adequately mitigated.
	Pay Master Office (PMO) of the European Commission	As Appointing Authority for Fusion for Energy staff in respects of rights and entitlements under the Staff Regulations and Conditions of Employment of Other Servants, the PMO is entitled to conduct random checks and may detect, in that framework, fraud.
	Legal Service Unit (LSU)	Responsible to ensure compliance with legal and regulatory framework of F4E, including provisions related to fraud. infringements Contact person regarding relations to OLAF
	Human Resources Unit (HR) / LSU	HR staff is responsible for implementation of the provisions of Staff Regulations, the related Implementing Provisions as well as design and implement the internal rules, processes and procedures in the area of HR. HR is responsible for/involved in the conduct of administrative inquiries and disciplinary proceedings at F4E based on Annex IX of the Staff Regulations as well as for complaints and requests under Article 90 of the Staff Regulations. HR officer is the IDOC contact point. = IDOC contact persons within F4E, following training
	Finance Unit	Staff of the Finance Unit performs ex-ante and ex-post financial controls of the financial transactions. Financial actors are independent from the operational actors and the authorizing officers at various levels. Financial Verifying agents are obliged to follow the Code of Professional Standards.
	Accounting Officer	Accounting Officer of F4E is functionally independent from the Authorising Officer when exercising his duties, in particular in relation to the execution of payments and when producing financial statements of F4E.

II. Specific Tools, Procedures, Networks:

	Tools/ procedures / networks	Units involved
	Early Warning System (EWS)	EWS is an internal alert tool, containing restricted information concerning third parties likely to represent a threat to the EU financial interests in the form of warnings.
	ABAC Workflow	Used for 100% of financial operations
	ABAC Assets Database	The ABAC Assets Database is used for the inventory and management of fixed assets
	Audit-net for Agencies	F4E Internal Audit Capability (IAC), and Internal Control (MSOI)
	Three lines of defense model is followed in F4E	The three lines of defense are composed of: a) actors taking decisions b) control functions c) independent auditors
	IVA (Initiate, Verify, Approve) and/or four-eye principle applied in all administrative and operational processes across F4E	All staff
	All financial operations are regulated by <ul style="list-style-type: none"> - the “Sign-Off and Authorisation Policy (SOAP)” and - by a step-by step approach to all tasks in process form. These two tools define the actors in a workflow and their precise tasks.	All staff
	F4E Financial Guidelines (https://idm.f4e.europa.eu/?uid=26RTUP)	
	F4E Financial Delegations to act as Authorising Officer (https://idm.f4e.europa.eu/?uid=3GMD5S)	

	Tools/ procedures / networks	Units involved
	<p>Register/”Record of Exceptions Policy”, 19th May 2014, = to document exceptions and non-compliance related to the F4E Financial Regulation and Implementing Rules) (https://idm.f4e.europa.eu/?uid=27GMDU)</p>	
	<p>Integrated Management System Standards (IMSS), April 2014, <i>standard 3</i> Ethical and organisational values Management and staff shall be aware of and share appropriate ethical and organizational values and uphold these through their own behaviour and decision-making. - ICS-2 Ethical and Organization Values 3.1 F4E has procedures in place - including updates and yearly reminders - to ensure that all staff is aware of relevant ethical and organizational values, in particular ethical conduct, and avoidance of conflicts of interest, fraud prevention and reporting of irregularities.</p>	
	<p>Exercise of Powers conferred by the Staff Regulations to Appointing Authority, Delegation Decision (“AIPN Decision”), 29.4.2015 F4E-D-2BXX3U.</p>	
	<p>Rules regarding independence, preventing and managing Conflicts of Interest (Col) regarding governance Bodies/Committees 27. June 2013 (F4E(13)-GB27–16.1), amended by GB in June 2015, taking into account modified Statutes and governance structure of F4E</p>	
	<p>Rules of procedure regarding all F4E Bodies/Committees, addressing Conflicts of Interest (Col) and independence etc. (GB Decisions of 19th march 2015, F4E(15)-GB31-Summary)</p>	
	<p>Code of Good Administrative Behavior regarding <u>Staff</u> (F4E(07)-GB03-09)</p>	
	<p>Rules for Prevention and Management of Conflicts of Interest regarding Staff of June 2014 and several implementing measures (https://idm.f4e.europa.eu/?uid=22B5BM) Published on F4E Intranet, in particular :</p>	<p>HoA, Line managers, etc. according to specific area/task</p>

	Tools/ procedures / networks	Units involved
	General -, Specific and Spontaneous Declaration of Interest Forms (https://idm.f4e.europa.eu/?uid=22B5BM)	HoA, Line managers, Chairs of Committees etc., according to specific area/task
	Procedure and Declaration regarding Post-Employment, December 2014 https://idm.f4e.europa.eu/?uid=22FJ9E	HR
	Director Decision on Gifts and Hospitality, September 2014 (F4E_D_ 26SD33)	HR
	Commission Decision on outside activities and assignments applying by analogy to F4E, C(2013) 9037	HR
	Guidelines on dealing with Potential Personal Conflicts of Interest in relation to family interests within F4E (F4E_D_23SLAV v1.0)	HR
	Specific Declaration of interest / Declaration on conflict of interest signed by members appointed to Selection Committees in the framework of each selection procedure ref.:F4E_D_22TEDV)	HR
Procurement and Contracts / Calls for expression of interest and Grants:		
	Declarations on Col regarding Opening and Evaluation Committees for contracts and grants https://idm.f4e.europa.eu/?uid=25G4PP	
	<u>Internal Review Panel (IRP)</u> , <i>According to amended Terms of Reference 29.05.2013, F4E 26CQ2N.</i> Review of contracts/grants procedure regarding their correctness, in view of award – below PCC (Procurement and Contracts Committee) threshold = 1 M€ to <10 M€	Head of ADMIN Head of Monitoring/Planning Unit Head of Unit Contracts, procurement Head of LSU Head of Finance Unit
	<u>Procurement and Contracts Committee (PCC)</u> , According Article 8b of amended F4E Statutes, Council Decision 2015/224 of 10.2.2015, OJ L 37/8, 13.2.2015. = 10 M€ and above	Part of F4E Governance Structure