

## **Call for expression of interest for the establishment of a list of prospective individual experts to act as adjudicators for disputes arising from Operational Contracts of Fusion for Energy.**

### **1. Background**

#### **What is Fusion for Energy?**

The European Joint Undertaking for ITER and the Development of Fusion Energy (hereinafter “Fusion for Energy” or “Joint Undertaking”) has been established by the Council of the European Union<sup>1</sup> with three objectives:

- Providing Europe’s contribution to the ITER International Fusion Energy Organisation as the European Domestic Agency;
- Providing Europe’s contribution to the Broader Approach agreement between Euratom and Japan (JT60-SA, IFMIF-EVEDA and IFERC projects) as the Implementing Agency;
- Preparing for the construction of demonstration fusion reactors (DEMO).

Further information on the organisation and activities of Fusion for Energy can be found on its web site at: <http://fusionforenergy.europa.eu/>

#### **What is “Adjudication”?**

A number of Operational Contracts<sup>2</sup> of Fusion for Energy includes a specific dispute settlement mechanism starting with “Adjudication”, based on FIDIC contract provisions.

Adjudication is a procedure by which any party to a construction contract has a right to have a dispute decided by an adjudicator. This process is intended to be quicker and more cost effective than litigation or arbitration. The adjudicator(s) must generally decide the dispute in a very short time and the decision adopted is binding.

It is the intention of Fusion for Energy to include Adjudication not only into its construction contracts but to extend its application also to other areas of activity.

The panel of adjudicators should consist of highly qualified individuals (primarily engineers) specialised in the field of the subject matter of the dispute.

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<sup>1</sup> OJ L 90/58 of 30.3.2007

<sup>2</sup> Operational Contracts are contracts awarded by Fusion for Energy in order to obtain the supply of movable or immovable assets, the execution of works or the provision of services for the implementation of the F4E's international tasks related to the construction of ITER and the implementation of the Broader Approach and Demo.

## **2. Tasks of the Experts**

Fusion for Energy hereby invites applications from individuals with a view to establishing a list of individual independent experts who may be called upon to act as adjudicators in order to provide technical expertise related to their technical area for the resolution of claims. In addition, the adjudicators may be requested to attend a number of information sessions/training days to maintain sound knowledge of overall progress of the contracts and ensure early detection of any potential disagreement with Contractors.

The list shall be valid for a period of five years from the date of publication of this call on the official website of Fusion for Energy.

## **3. Technical Areas of the Experts**

Interested candidates are expected to have skills and knowledge appropriate to the areas of activities in which they might be asked to act as adjudicators.

Interested candidates are expected to have excellent command of English (both written and oral). Some knowledge of French may be advantageous.

Interested candidates are also expected to have and be able to demonstrate solid professional experience in one or more of the following areas of activities:

- 1- Complex civil construction
- 2- Construction of nuclear buildings
- 3- High and medium voltage power supplies
- 4- Superconducting cables and magnets
- 5- Pressure vessels for nuclear applications and complex welded structures
- 6- Components subjected to high thermal loads
- 7- Remote Handling systems for nuclear environment (incl. mechanics, electronics, SW)
- 8- Plasma diagnostics
- 9- Tokamak machine diagnostics
- 10- Heating & current drive systems
- 11- Nuclear safety
- 12- Tritium technology and systems

13- Cryogenic technology & systems

14- Vacuum technologies and systems

15- Nuclear fusion components (breeding blankets, first wall, divertor) design

16- Construction law

17- Engineering contract law

Prospective experts may apply to one or more areas of activities.

Prospective experts should have prior experience in adjudication or arbitration proceedings.

#### **4. Conditions of Appointment**

Experts on the list who possess the appropriate expertise and competences for the task in question may be appointed by Fusion for Energy.

Appointment of an expert shall take place through signature of a contract between the expert as a natural person and Fusion for Energy. Fusion for Energy does not intervene in any agreements between the expert and his/her current employer.

For any given expert, the total duration of an expert's appointment by Fusion for Energy shall not exceed 220 days per calendar year.

Experts are not remunerated but will be entitled to a *per diem* for each full day of work amounting to **950 Euros per day**<sup>3</sup>.

If the expert is required to carry out the tasks away from home, he/she shall be entitled to a flat rate subsistence/accommodation allowance and reimbursement of travel expenses according to Fusion for Energy's Rules on the reimbursement of expenses incurred by people from outside Fusion for Energy invited to attend meetings in an expert capacity.

The detailed contractual information together with the model contract and Fusion for Energy's travel and subsistence rules will be made available to the given expert when chosen to be appointed by Fusion for Energy.

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<sup>3</sup> The Expert may decline to receive a *per diem* payment, especially if that were to be inconsistent with his contractual or other legal obligations.

## 5. Eligibility Criteria

In order to be eligible, experts should provide a complete application form.

Experts shall not be included in the list and be appointed if they are in any of the situations listed below:

- a) they are bankrupt, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) they have been convicted of an offence concerning their professional conduct by a judgment which has the force of *res judicata*;
- c) they have been guilty of grave professional misconduct proven by any means which the Joint Undertaking can justify;
- d) they have 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 they are established or with those of the country of the Joint Undertaking or those of the country where the contract is to be performed;
- e) they have been the subject of a judgment which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Joint Undertaking's or the Communities financial interests;
- f) they are currently subject to an administrative penalty imposed by the Community institutions as referred to in the general Financial Regulation of the European Communities.

Interested candidates will be required to sign a declaration indicating that they are not in any of the exclusion situations referred to above.

## **6. How to Apply**

Please check the following address for detailed instructions on how to apply and to complete the application form:

[http://www.fusionforenergy.europa.eu/careers/workingasexpert.aspx#registration\\_for\\_adjudicators](http://www.fusionforenergy.europa.eu/careers/workingasexpert.aspx#registration_for_adjudicators)

Applications delivered by mail, courier service or non-designated e-mail addresses will not be accepted.

The list is drawn up for a 5 year period from the date of publication of this call. Applications may be submitted at any time, up until the last 3 months of validity of the list.

## **7. Data Protection**

Any personal data provided by the expert shall be processed by Fusion for Energy pursuant to Regulation (EU) No 45/2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movements of such data. It shall be processed solely for the purposes of managing the application in view of the selection by Fusion for Energy, without prejudice to possible transmission to its internal audit services, to the European Court of Auditors, to the Financial Irregularities Panel and/or to the European Anti-Fraud Office (OLAF) for the purposes of safeguarding the financial interests of the European Union. The expert shall have the right of access to his personal data and the right to rectify any such data that is inaccurate or incomplete. Should the expert have any queries concerning the processing of his personal data, he shall address them to the Fusion for Energy controller responsible for processing the personal data. The expert shall have right of recourse at any time to the European Data Protection Supervisor.