



SPECIFIC PRIVACY NOTICE ON PERSONAL DATA PROTECTION REGARDING PROCUREMENTS AND GRANTS PROCEDURES

In the following staff is informed about the processing and data protection safeguards put in place by F4E to make sure any processing of their personal data is in line with Regulation (EC) 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 movement of such data*.

Identity of the Controller

Mr Hans Jahreiss
Head of Administration Department
Fusion for Energy
C/ Josep Pla, nº 2,
Torres Diagonal Litoral, B3
08019 Barcelona, Spain

1. Purpose of the processing operation

The data are collected and processed with the purpose to evaluate the eligibility of economic operators to participate in the procurement/grant procedure in accordance with exclusion and selection criteria, and/or to evaluate the content of tenders/proposals submitted during the procurement/grant procedure against the award criteria with the view to award the contract/grant agreement. Some processing may also be necessary during implementation of procurement contracts/grant agreements.

2. Legal Basis

Commission Delegated Regulation (EC, Euratom) No 1268/2012 of 9 October 2012 on the rules of application of Regulation (EC, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and in particular Articles 146-148, 201-202 and 287;

Council Decision of 27 March 2007 "establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it" - 2007/198/Euratom, as last amended by Council Decision of 10th February 2015 (2015/224 Euratom), O.J. L 37, 13.2.2015, p.8, in particular Article 1 thereof;

Statutes annexed to the Council Decision (Euratom) No 198/2007 "establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it", as last amended on 10th February 2015, in particular Article 2 thereof;

Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the Framework Financial Regulation for bodies referred to in Article 208 of the general Financial Regulation applicable to the general budget of the Union.

Governing Board Decision of 22 October 2007 adopting the Financial Regulation of the European Joint Undertaking for ITER and the Development of Fusion Energy (last amended in 2011) and its Implementing Rules (last amended in 2012), in particular Titles V, VI and VII. These documents can be found on F4E website: <http://www.fusionforenergy.europa.eu/>

Regulation (EC, Euratom) No 966/2012 of European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002.

3. Lawfulness of the processing

In accordance with Article 5 (a) of Regulation (EC) 45/2001, the processing of the personal is necessary for the performance of F4E tasks carried out in the public interest on the basis of the F4E founding instrument and in the legitimate exercise of official authority vested in F4E and in a third party to whom the data are disclosed.

4. Data Subject(s) concerned

The data of natural persons associated with the candidates/tenderer/applicant entities (including their staff and subcontractors), whose details are submitted in tender/proposal and related documents in view of participating in procurement/grant procedures, and, if applicable, during the implementation of procurement contracts/grant agreements.

The data are collected from the tender/application or supporting documents submitted in the view of participating in procurement/grant procedure as well as during the implementation of procurement contract/grant agreement.

5. Categories of data

The following data categories may be processed within procurement/grant award procedures and during implementation of procurement contracts/grant agreements at F4E:

- Name, date of birth, gender, nationality, function, contact details (company and department, postal address, country of residence, business telephone number, mobile telephone number, fax number, e-mail address and internet address) and signature;
- Certificates for social security contributions and taxes paid;
- Extract from judicial records;
- Bank account references (account number, name of the account holder, address of the bank, IBAN and BIC codes);
- Passport/ID number; VAT number; membership in a trade or professional organisation;
- Professional and education information: CV's – work experience/employment history, education, training and academic background, personal skills and competences (language, technical skills).
- Declaration of honour that the tenderer/applicant is not in one of the exclusion situation referred to in Articles 83 and 94 of the Financial Regulation;
- Other personal data contained in the tender/application (credentials).

Thus, only relevant and necessary data for the implementation of the F4E Financial Regulation and its Implementing Rules may be collected and further processed during a procurement / grant procedure and implementation of the procurement contract/grant agreement.

Since the information is not provided on standard forms, the candidates/tenderers/applicants, their staff and subcontractors, may supply information which might not be necessary for the purpose of selection or the award of grant or contract, for instance gender, age and nationality.

6. Recipients of the data processed

The general rule is: only need to know principle, thus if it is necessary the following people have access:

- F4E Staff of the operational, procurement, financial and/or legal groups participating in the management of the selection of

candidates/contractors/beneficiaries; and following up the implementation of procurement contracts/grant agreements; staff from the units entrusted with a monitoring or inspection task in application of European Union law (e.g. internal audit);

- External experts and contractors participating in the evaluation of tenders/applications when external expertise is required;
- The members of the F4E Internal Review Panel (established by Decision of the Director, 15 July 2011 F4E_D_243Y8N, amended 28 May 2013, F4E_26CQ2NV) to review the correctness of contracts and grants procedural aspects within a set threshold), namely: Head of Admin Department, Head of Contracts and Procurement Unit, Head of Budget and Finance Unit, Head of Legal Unit, Head of Project Office.
- Members of the Governing Board, consisting of representatives from all the members of F4E is responsible for taking a number of important decisions and supervising its activities, including approval of the award of the contracts and grants above to certain threshold;
- Members of Executive Committee consisting of 13 external experts involved, among other tasks, for approval of the award of the contracts and grants up to certain threshold.
- F4E IT staff, providing technical support;
- European Union bodies tasked with control and monitoring of the application of Union law (e.g. respective services of the European Commission, incl. Internal Audit Service and OLAF, Court of Auditors, EU Courts etc.).

Also, if appropriate, for monitoring or inspection tasks, access may be given to:

- Director of F4E
- Head of Admin / PTM / HoU responsible
- Head of the Legal Service Unit, and/or responsible Legal Officer
- F4E OLAF and Ethics Officer
- Internal Auditor (IAC/IAS) and the European Court of Auditors (for audit purposes)
- The European Anti-Fraud Office (OLAF)
- EU Court of Justice
- European Ombudsman

7. Retention period of data

For procurement and grant procedures the following applies:

- Files of successful tenderers relating to procurement procedures including personal data are to be retained in the CPU until respective procedure is completed, and in the archives for a period of 7 years following the signature of the contract/cancellation of

the procedure. Exception is made for extracts from the judicial records that can be kept only for 2 years after accomplishment of the particular procedure.

- Tenders from unsuccessful tenderers shall only be kept for a period of 5 years following the signature of the contract in question after the end of the particular procedure;
- Files might be retained until the end of a possible audit if one started before the end of the above periods.

8. Rights of the data subject

(Rights of access, to rectify, to block, to erase, to object, according to Article 13-20 of Regulation 45/2001)

Right of access:

The data subjects have the right of access to the personal data that are being processed specifically (regarding):

- confirmation if data related to him or her are being processed;
- information on the purposes of the processing operation;
- categories of data concerned;
- recipients or categories of recipients to whom the data are disclosed;
- communication in an intelligible form of the data undergoing processing and their source;
- the logic involved in any automated decision process concerning him/her.

Data subjects shall always have their right of access granted to control if the data reflect the facts and perceptions that they wanted to transmit and if their statements are as complete and accurate as possible.

Right of rectification:

The data subjects have the right to obtain from the data Controller the rectification of any inaccurate or incomplete personal data, without delay.

Right of blocking:

The data subjects have also the right to obtain the blocking of their personal data when:

- they contest the accuracy of the data;
- the controller no longer needs them but they need to be maintained for purposes of proof;
- the processing is unlawful and the data subject requests blocking instead of erasure.

In case the data subject contests the accuracy of his/her data, the relevant data are blocked for a period necessary for verifying the accuracy and completeness of the data.

Personal data blocked shall only be processed for the purpose of proof (with the consent of the data

subject) or for the protection of the rights of a third party.

Right of erasure

The data subjects can request the cancellation of their personal data if they consider that they are subject to an unlawful processing.

Right to object:

The data subjects can object the processing of their personal data, unless the processing is needed for the purposes of Article 5b) and d) of Regulation 45/2001:

- on legitimate grounds relating to his/her particular situation;
- before their personal data are disclosed to third parties.

Limitations:

The data Controller may restrict, according to Article 20(1) of Regulation 45/2001, access to the information/documents to safeguard:

- a) the prevention, investigation, detection and prosecution of criminal offences;
- b) any important financial or economic interest of the Member States;
- c) the protection of the data subject or the rights of freedoms of others;
- d) the national security, public security or defence of the Member States;
- e) the monitoring, inspection or regulatory task connected with the exercise of official authority in ceases referred to in a) and b).

In that case, the data subject will be informed of the principal reasons for applying such restrictions.

Common steps for the exercise of the above mentioned rights:

Any request from a data subject concerning the rights above described should be addressed to the Controller through the following contact e-mail address: Resources-Controller@f4e.europa.eu.

The Controller shall provide information on action taken on a request (mentioned above) to the data subject without undue delay and in any event within one month of receipt of the request. That period may be extended by two further months where necessary. In such a case, the Controller shall inform the data subject of any such extension within one month of receipt of the request, together with the reasons of the delay.

Where the data subject makes the request by electronic means, the information shall be provided by electronic means where possible, unless otherwise requested by the data subject.

Every data subject has the right at any time to lodge a complaint with the European Data Protection Supervisor: EDPS@edps.europa.eu, if the data subject considers that the processing of his/her personal data infringes the applicable Data Protection Regulation.

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