



FUSION FOR ENERGY

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

THE GOVERNING BOARD

DECISION OF THE GOVERNING BOARD OF THE EUROPEAN JOINT UNDERTAKING FOR ITER AND THE DEVELOPMENT OF FUSION ENERGY ADOPTING AMENDMENTS TO THE IMPLEMENTING RULES OF THE FINANCIAL REGULATION

THE GOVERNING BOARD,

HAVING REGARD to the Council Decision (Euratom) No 198/2007¹ of 27/03/2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy (hereinafter "Fusion for Energy") as last amended by Council Decision 2015/224/Euratom of 10 February 2015²;

Having regard to the Financial Regulation of Fusion for Energy, as last amended by Decision of the Governing Board on 24-25 November 2011 (hereinafter "the Financial Regulation");

HAVING REGARD to the Decision of the Governing Board of 8 September 2008³ adopting the Implementing Rules of the Financial Regulation of Fusion for Energy (hereinafter "the Implementing Rules") last amended on 11 December 2013⁴;

WHEREAS Council Decision 2015/224/Euratom amending Decision 2007/198/Euratom replaces the Executive Committee by a Procurement and Contracts Committee providing the Director with recommendations on the strategies in relation to procurement and grant activities and the award and follow-up of contracts and other related matters,

HAS ADOPTED THIS DECISION:

Article 1

Articles 75(4) and 143(1) of the Implementing Rules are replaced by the following:

4. "Procurement and Contracts Committee" means the body providing the Director with recommendations on the strategies in relation to procurement and grant activities and the award and follow-up of contracts and other related matters in accordance with Article 8b of the Statutes of the Joint Undertaking as amended.

Article 2

Article 81(2) of the Implementing Rules is replaced by the following:

The participation in procurement procedures may also be open to other economic operators than referred to in Paragraph 1, if so decided by the Director having regard to the opinion of the Procurement and Contracts Committee and with due regard to the objectives set out in the Industrial Policy of the Joint Undertaking.

Article 3

Article 83(2) of the Implementing Rules is replaced by the following:

Where the share pertaining to or managed by the other contracting authority in the total estimated value of the contract is equal to or above 50%, or in other duly justified cases, the Director having regard to the opinion of the Procurement and Contracts Committee may decide that the procurement procedures applicable to the other contracting authority shall apply, provided that they can be considered as equivalent to those of the Joint Undertaking.

¹ OJ L90, 30.03.2007, p. 58.

² OJ L37, 13.02.2015, p. 8

³ F4E(08)-GB06-06a of 08/09/2008

⁴ F4E(13)-GB28-14.2 of 11/12/2013

Article 4

The wording of Articles 87, 92, 99 and 104 of the Implementing Rules is replaced by the following:

The awarding and the signature of the contract is the phase where the contract shall be awarded by the Director on the basis of the results of the evaluation and, where required, having regard to the recommendation of the Procurements and Contracts Committee (Article 124).

Article 5

Article 110(4) of the Implementing Rules is replaced by the following:

The lists of selected candidates shall be open and valid up to 24 months from the date when the contract notice was published. The Director, having regard to the opinion of the Procurement and Contracts Committee, may extend the period of validity of these lists.

Article 6

Article 124(2) of the Implementing Rules is replaced by the following:

Before taking the contract award decision referred to in paragraph 1, the authorising officer responsible shall submit the contract adjudication file referred to in Article 123 to the Procurement and Contracts Committee when:

- (a) the value of the contract or the framework contract(s) is greater than EUR 10 million; or*
- (b) deemed appropriate by the Director on the basis of a risk assessment.*

The Procurement and Contracts Committee shall provide a recommendation to the Director on the award of the contract(s) or the framework contract(s).

The authorising officer responsible shall report ex post to the Procurement and Contracts Committee the details of all awarded contracts with a value between EUR 250 000 and EUR 10 million within three months after the award.

Article 7

Article 147(5) of the Implementing Rules is replaced by the following:

Before awarding the grant, the authorising officer responsible shall submit the necessary information to the Procurements and Contracts Committee when:

- (a) the maximum financial contribution of the Joint Undertaking is greater than EUR 4 million; or*
- (b) as deemed appropriate by the Director on the basis of a risk assessment.*

The Procurement and Contracts Committee shall provide a recommendation to the Director on the award of the grant.

The authorising officer responsible shall report ex post to the Procurement and Contracts Committee the details of all awarded grants with a value between EUR 150 000 and EUR 4 million within three months.

Article 8

This Decision shall immediately enter into force.

Done at Barcelona, 19 March 2015

For the Governing Board

A handwritten signature in black ink, appearing to read 'Stuart Ward', with a horizontal line underneath.

Stuart Ward

Chair of the Governing Board

For the Secretariat

Raymond Monk

Secretary of the Governing Board