

Specific Privacy Notice
on personal data protection in procurements and grants procedures

Fusion for Energy processes the personal data in accordance with the Regulation (EC) 45/2001 of the European Parliament and of the Council of 18th December 2000 concerning 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 (the Regulation (EC) 45/2001).

Identity of the Data Controller:

Mr Hans Jahreiss - Head of Administration Department of Fusion for Energy (F4E).

Purposes 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.

Legal basis:

- 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 and in particular Articles 110, 131 and 204;
- 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, in particular Article 1 thereof;
- The Statutes annexed to the 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, 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 VI and VII. These documents can be found on F4E website: <http://www.fusionforenergy.europa.eu/>

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.

Data 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.

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.

Recipients of the data processed:

- 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.).

Date when processing starts:

Date of receipt of application and/or supporting documents submitted in the view of participating in procurement/grant procedure; receipt of requests for replacement of personnel during the implementation of the procurement contract/grant agreement.

Time limits for retention:

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.

Right of access and rectification:

Right of access: according to Article 13 of Regulation 45/2001, the data subjects have the right of access to their data being processed by contacting the Fusion for Energy Data Controller.

In order to protect the rights and freedoms of data subjects and others, in line with Article 20 of Regulation 45/2001 (mentioned above), the access to the aggregated evaluation results or to opinions of individual members of the evaluation committee may be restricted.

Right of rectification: according to Article 14 of Regulation 45/2001, the data subjects have also a right to rectify their data that are inaccurate or incomplete by contacting the Data Controller at any time during the procurement/grant procedure.

In order to ensure equal treatment and transparency, the right to rectify information already provided can only apply to the factual data processed within the concerned procurement/grant procedure. The right to rectify can only be exercised up to the closing date for submission of tenders/applications. However, inaccurate identification data may be rectified at any time during and after the procurement/grant procedure.

Right of blocking: according to Article 15 of Regulation 45/2001, the data subjects have also the right to obtain from Data Controller blocking of their 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.

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: according to Article 16 of Regulation 45/2001, 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: according to Article 18 of Regulation 45/2001 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 their particular situation;
- Before their personal data are disclosed to third parties.

Limitations:

Article 20(1) of Regulation 45/2001 states that the data controller may restrict 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 or the Union;
- (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 cases referred to in (a) and (b).

Common steps for the exercise of any of the above mentioned rights: any request from a data subject concerning the rights above described should be addressed to F4E Personal Data Controller through the following contact e-mail addresses: Resources-Controller@f4e.europa.eu.

The Controller shall provide an answer to the data subject concerning his/her request on the exercise of his/her rights, as defined above, within 10 working days. Any contestation by the data subject to the Controller's reply shall be submitted within 10 working days of the response received and the Controller shall have another 10 working days to provide a replica revising his previous decision or confirming it.

All data subjects have also right of recourse at any time to the European Data Protection Supervisor: EDPS@edps.europa.eu. The EDPS receives complaints from EU staff members as well as from other persons who feel that their personal data have been mishandled by a European institution or body. If a complaint is admissible, the EDPS usually carries out an inquiry. The findings are communicated to the complainant, and necessary measures are adopted.