

RECORD

Of processing personal data during procurement and grant procedures, according to Article 31 Regulation 2018/1725¹

NAME of data processing: Evaluation of the eligibility of economic operators to participate in the procurement/grant procedures in accordance with exclusion and selection criteria, and/or evaluation of the content of tenders/proposals against the award criteria.

Last update: May 2020.

1) Controller(s) of data processing operation (Article 31.1(a))
<ul style="list-style-type: none"> Controller: Organizational entity of Fusion for Energy (F4E) Unit / Department responsible for the processing activity: Commercial Department. Contact: Commercial Department Data Controller Commercial-Department-Controller@f4e.europa.eu Data Protection Officer (DPO): DataProtectionOfficer@f4e.europa.eu

2) Who is actually conducting the processing? (Article 31.1(a))
The data is processed by F4E (responsible unit) itself <input checked="" type="checkbox"/>
The data is processed by a third party (e.g. contractor) (Art. 29 – Processor): <input checked="" type="checkbox"/> Contact point at external third party (e.g. Privacy/Data Protection Officer): <ul style="list-style-type: none"> DPO EU-Supply: dataprotectionofficer@eu-supply.com EU-Supply is used for the submission of tenders/applications. EU Supply Privacy Notice . <ul style="list-style-type: none"> In order to prepare and execute budgetary and legal commitments, (personal) data is further processed through the Acrual Based Accounting System (ABAC) which is a system ran by DG Budget (budg-data-protection-coordinator@ec.europa.eu). The responsibilities of both F4E and DG Budget regarding Personal Data Protection

¹ Regulation 2018/1725 of 23 October 2018 "on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data". O.J 21.11.2018, L295/39.

within ABAC are described in the [Service Level Agreement F4E-2019-SLA-71](#) and are partly laid out in section 3B below.

3) Purpose and Description of the processing (Article 31.1(b))

Why is the personal data being processed? Specify the underlying reason for the processing and what you intend to achieve. Describe, summarise the substance of the processing.

When you (later on) intend to further process the data for another purpose, please inform the Data Subject in advance.

This record covers the processing of personal data during procurement and grant procedures. The processing of personal data as part of Procurement Contract/Grant implementation (excluding claims) is covered by a separate record ([F4E D 2GBTAX](#)). Some processing may also be necessary in preparation of the assessment of Contract claims/disputes, in order to prepare F4E's position with respect to the potential claim/dispute. Two separate records ([F4E D 29RKA4](#) and [F4E D 29XJDL](#)) cover data processing during these claim/dispute processes.

3A) Purpose of the processing

The personal 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.

3B) Description of the processing

The personal data are collected from the tender/application or supporting documents submitted in view of participating in procurement/grant procedures. These documents may contain personal data of Contractor's employees and/or of employees of third party organizations (such as sub-contractors, services companies, or suppliers). The data are transmitted to F4E through the EU-Supply application called "CTM", or, in some cases, via e-mail or other electronic means, or on paper. Data processing covered by this record ends with the signature of the contract/grant agreement.

In order to prepare and execute budgetary and legal commitments prior to Contract signature, (personal) data are processed through the Acrual Based Accounting System (ABAC), which is a system, ran by DG Budget.

For the provision of accounting and treasury services, DG Budget acts as the processor and F4E as the controller. For the processing of personal data with the purpose of registering in the Commission Financial System ABAC the necessary [Legal Entities and Bank Account Files](#), DG Budget and F4E act as joint controllers.

Requests made by Data Subjects should first be directed to, and dealt with by F4E. The responsibilities of both F4E and DG Budget regarding Personal Data Protection within ABAC are further described in the [Service Level Agreement F4E-2019-SLA-71](#).

The Data Protection Record and Privacy Notice held by DG Budget can be found [here](#).

Furthermore, in the context of the contract award, and in line with [F4E's Financial Regulation](#) (art. 31) information on recipients of funds financed from the budget of F4E shall be published having due regard for the requirements of confidentiality and security, in particular the protection of personal data: the name of the recipient; the locality of the recipient; the amount legally committed and the nature and purpose of the measure. The name of the recipient can be Personal Data in the case of legal persons whose name identifies one or more natural persons. Depending on the instrument and the thresholds from Directive 2014/24/EU, as referred to in the General Financial Regulation, the aforementioned data will be published in the Official Journal of the European Union and/or on F4E's publicly accessible Industry Portal. Where personal data are published, this personal data shall be removed two years after the end of the financial year in which the funds were awarded.

4) Lawfulness of the processing (Article 5(a)–(d)):

Mention the legal bases which justifies the processing

Processing necessary for:

- (a) performance of tasks in the public interest attributed by EU legislation (including management and functioning of F4E)
- Council Decision No 2007/198 (Euratom) of 27 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it, as last amended by Council Decision 22 February 2021 (2021/281 Euratom), O.J. L 62, 23.02.2021, p.8, in particular Article 6 thereof;
 - Fusion for Energy Statutes annexed to the Council Decision No 198/2007 (Euratom) of 27 March 2007 establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it, as last amended on 22 February 2021, in particular Article 10 thereof;

- Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council;

- Financial Regulation of Fusion for Energy, adopted by the Fusion for Energy Governing Board on 10 December 2019;

- Regulation (EU, Euratom) No 2018/1046 of European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012, in particular Articles 167, 196 and 237 thereof;

(b) compliance with a *specific* legal obligation for F4E to process personal data²

(c) necessary for the performance of a contract with the data subject or to prepare such a contract

(d) Data subject has given consent (ex ante, freely given, specific, informed and unambiguous consent)

5) Description of the data subjects (Article 31.1(c))

Whose personal data is being processed?

Data subjects are natural persons associated with the candidate/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.

6) Categories of personal data processed (Article 31.1(c))

Please give details in relation to (a) and (b). In case data categories differ between different categories of data subjects, please explain as well.

(a) **General personal data:**

Personal data shall mean any information relating to an identified (directly or indirectly) or identifiable natural person. The following data categories may be processed within procurement/grant award procedures:

² The distinction between points (a) and (b) is that in point (a) F4E is given a task which requires the processing of personal data to fulfil it (e.g. staff appraisal), while in point (b), the legal basis directly requires F4E to process the personal data, without margin of implementation.

- 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 and internet address, and signature);
- Certificates for social security contributions and taxes paid;
- Extracts from judicial records;
- [LEF](#) and [BAF](#);
- Passport/ID number; VAT number; membership in a trade or professional organization;
- 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 the Financial Regulation (in relation with F4E's Implementing Rules);
- Other personal data contained in the tender/application (credentials).

Only data relevant and necessary for the procurement/grant procedure are collected and further processed. The Personal Data listed above that are also further processed in ABAC can be found in the [Data Protection Record](#) held by DG Budget.

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. Non-relevant data shall not be requested by F4E nor further processed.

The Personal Data listed above that are also further processed in ABAC can be found in the [Data Protection Record](#) held by DG Budget.

(b) Sensitive personal data (Article 10)

No sensitive personal data is processed.

7) Recipient(s) of the data (Article 31.1 (d))

Recipients are all people to whom the personal data is disclosed ("need to know principle"). Not necessary to mention entities that may have access in the course of a particular investigation (e.g. OLAF, EO, EDPS).

The following recipients have access to the personal data processed:

- F4E Staff from the operational, procurement, financial and/or legal groups participating in the management of the selection of candidates/contractors/beneficiaries;
- External experts (including when appropriate IO staff) and contractors participating in the evaluation of tenders/applications when external expertise is required;

- The relevant Authorizing Officer;
- The members of the F4E Internal Review Panel (established by Decision of the Director, 1 June 2018 [F4E D 29YYAJ](#)) to review the correctness of contracts and grants procedural aspects above a certain threshold);
- The members and chair of the F4E Procurement and Contract Committee (PCC), approving the award of contracts and grants above certain thresholds;
- Members and chair of the Governing Board, consisting of representatives from all the members of F4E who are responsible for supervising its activities, including in selected cases reviewing the award of the contracts and grants;
- F4E IT staff, only when requested to provide technical support.
- For Personal Data further processed through ABAC:
 - All F4E staff on the financial circuit have access to the data on ABAC. The extent of this access depends on the access rights, which are set on a strict need to know basis. A list of specific access rights can be obtained by contacting F4E Local Authorization Manager (LAM) by addressing Commercial-Department-Controller@f4e.europa.eu;
 - On the side of DG Budget the relevant recipients are described in [DG Budget's Privacy Notice](#).

Also, if appropriate and necessary for monitoring or inspection tasks, access may be given to: e.g. F4E Director, Head of Admin., DPO and Anti-Fraud & Ethics Officer, Head or responsible officer of LSU, IAC, IDOC.

8) Transfers to third countries or International Organizations (Article 31.1 (e))

If the personal data is transferred outside the EU, this needs to be specifically mentioned, since it increases the risks of the processing operation (Article 47 ff.).

Data is transferred to third countries or International Organizations recipients:

Yes

No

If yes, specify to which country/IO:

F4E is the Euratom's Domestic Agency for ITER and therefore operates within the scope of the international treaty regulating the ITER Project. Staff of the ITER International Organization (IO) may be involved in F4E's procurement and grant process. Namely, data may be transferred to ITER

IO staff during the evaluation process of tenders/applications.

Adequacy Decision (from the Commission)

Memorandum of Understanding between public authorities/bodies

Standard Data Protection Clauses (from the EDPS/Commission)

Corporate Rules

Others, e.g. contractual/agreements (subject to authorization by the EDPS)

Reference: F4E-ITER IO Agreement on Data Protection

9) Technical and organizational security measures (Articles 31.1(g) and 33)

Please specify where the data is stored (paper wise and/or electronically) during and after the processing. Specify how it is protected ensuring “confidentiality, integrity and availability”. State in particular the “level of security ensured, appropriate to the risk”.

Security measures are implemented to ensure integrity, confidentiality and availability of information. The default provisions include backups, centralized logging, software updates and continuous vulnerability assessment and follow-up. Specific provisions resulting from the characteristics of the information system may lead into the implementation of encryption, two factor authentication among others found relevant following a risk analysis.

10) Retention time (Article 4(e))

How long is it necessary to retain the data and what is the justification for this retention period? If appropriate, differentiate between the categories of personal data. If the retention period is unknown, please indicate the criteria for determining it.

Documents related to the procurement and grant processes which may contain personal data of Contractor's and third party organization's employees shall be stored for no more than 7 (seven) years after payment of the final instalment of the Contract. Personal Data provided as part of tenders that are subsequently rejected shall be stored for no more than 5 (five) years after the tender has been rejected.

In accordance with the record held by DG Budget, Personal Data further processed through ABAC might be retained by DG Budget for up to ten (10) years after the last transaction.

Where personal data are published in the Official Journal of the European Union and/or on F4E's publicly accessible Industry Portal as described in section 3B, this personal data shall be removed two years after the end of the financial year in which the funds were awarded.

Documents may be retained until the end of a possible audit or Court Proceeding if one started before the end of the above period.

11) Information/Transparency (Article 14-15)

Information shall be given in a concise, transparent and easily accessible form, using clear and plain language.

Information to data subjects is provided at different stages of the life cycle of each F4E contract, in the respective contractual provisions on data protection contained in the F4E contract.

A Privacy Notice ([F4E_D_2ANX4Q](#)) is published on F4E Net, F4E external website and the Industry Portal to document how F4E processes personal data during the procurement and grant processes.
