

REGISTER NUMBER: 791

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 23/11/2011

Case number: 2011-1083

Institution: Education Audiovisual and Culture Executive Agency

Legal basis: article 27-5 of the regulation CE 45/2001⁽¹⁾

(1) OJ L 8, 12.01.2001

INFORMATION TO BE GIVEN⁽²⁾

(2) Please attach all necessary backup documents

1/ Name and address of the controller

Education Audiovisual and Culture Executive Agency, Avenue du Bourget 1, BOUR, BE-1140 Brussels

2/ Organisational parts of the institution or body entrusted with the processing of personal data

EACEA Management - The Director of EACEA
BOU2 3/6

3/ Name of the processing

EACEA Grant award and management Procedure

4/ Purpose or purposes of the processing

Management and administration of the grant award procedures, including in particular

- the evaluation of the technical and professional capacity of applicants, their staff and subcontractors where applicable;
- award funding;
- financial follow-up and monitoring of the grant agreements.

5/ Description of the category or categories of data subjects

- Applicants and staff of applicant organisations (and subcontractors) involved in submitted proposals.
- Persons in charge of engaging legally the organisation in the relevant grant agreement and grant decision (legal representatives).

The data subjects may be established in the European Union or in third countries which participate in the different programmes.

6/ Description of the data or categories of data (including, if applicable, special categories of data (article 10) and/or origin of data)

Data concerning health.

Some health data concerning Erasmus Mundus scholarship holders and/or their family members are necessary in order for EACEA to assess a request for additional funding due to special needs. In order to ascertain these needs and to determine the amount of the additional grant, candidates provide medical proof of the health condition that justifies the special needs to the university in their home country. These Universities transfer the data to EACEA. This information is provided in paper and/or electronically and kept in the project file (on paper and electronically if applicable).

Students may also spontaneously submit medical certificates to EACEA as part of a specific request (for example justifying the need of a break in studies). These data are stored in the project file and the email with the request is deleted.

Data relating to the evaluation of personal aspects of the data subject

Information for the evaluation of selection criteria: financial and economic capacity (bank statement, professional risk indemnity insurance, balance sheet, statement of turnover), expertise (main works published or projects carried out), technical and language skills, education background, professional experience including details on current and past employment, proof of self employment etc

Personal data of applicants, their staff and subcontractors which may include in particular:

Name, function, contact details (company and department, postal address, country of residence, business telephone number, mobile telephone number, fax number, e-mail address, internet address);

Certificates for social security contributions and taxes paid, extract from judicial records

Bank account reference (account number, name of the account holder, address of the bank, IBAN and BIC codes)

Legal entity file (DG BUDG): Company registration number (legal persons) or Passport/ID number (natural persons), VAT number, membership in a trade or professional organisation

A declaration of honour that applicants are not in one of the exclusion situation referred to in Articles 93 and 94 of the Financial Regulation.

Since the information is often provided on CVs, 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 (such as gender, age, nationality, credentials)

7/ Information to be given to data subjects

1. The model call for proposals, programme guide or permanent guidelines (depending on the programme) contain a standard clause on data protection (model in annex).
2. The model grant agreement contains a specific provision on data protection (model in annex).
3. A specific Privacy Statement is published on EACEA's website.

8/ Procedures to grant rights of data subjects (*rights of access, to rectify, to block, to erase, to object*)

Applicants have a right to access their data and to update or rectify their personal data at any time during the grant award procedure. They can exercise their rights upon simple request via e-mail to the mail-box of the relevant program specified in the call for proposals.

Considering the competitive nature of the selection process the right to rectify information can only apply to the factual data processed within the concerned grant award procedure. The right to rectify these data can only be exercised up to the closing date for submission of applications. However, inaccurate identification factual data may be rectified at any time during and after the grant award procedure.

9/ Automated / Manual processing operation

Activity in the frame of which the processing is carried out

In the framework of the education, culture and industry policies, numerous measures have been taken to promote education, vocational training, audiovisual, culture, youth and active citizenship in the European Union. These measures include a variety of programmes.

The Education, Audiovisual and Culture Executive Agency (EACEA), operating under the European Commission's supervision, is responsible for managing certain strands of these programmes e.g. "Lifelong learning", "Culture", "Youth in Action", "Europe for Citizens", "MEDIA", "Erasmus Mundus" and "Tempus". In this respect, it implements the aid of the Union, except for programme evaluation, strategic studies and any other task which requires discretionary powers in translating political choices.

While the European Commission is responsible for policy setting and overall programme management, the implementation of many programme strands has been partly or fully delegated to EACEA, created by the Decision 2009/336/EC of the European Commission adopted on 20 April 2009.

Working procedure followed within the framework of this activity

This processing operations concerns the management, coordination and organisation of calls for proposals, including in particular:

- reception of proposals,
- proposal opening, copying, distributing, evaluation, ranking, filing, archiving and destruction,
- evaluation report,
- selecting projects, award decision and the grant agreement or grant decision,
- correspondence with applicants,
- financial management, contract execution and termination,
- monitoring of projects (intermediate and final reports, controls),
- transferring financial transactions to and from the Commission's accounting system for further validation and processing,
- publication of the results of the relevant procedure in the EACEA's website (which contains no personal data except for the particular case of Jean Monnet),
- statistics, reporting and information relating to management and monitoring of programmes and initiatives (includes project information storage for statistics and auditing purposes).

Submission of data:

Personal data is provided by the applicants for a grant themselves in submitting an application for a grant. Applications are submitted on paper or via an electronic e-form via the Agency's website. Data may be processed manually or electronically for the purpose of management of the grant award procedure.

10/ Storage media of data

Storage media of data

In case of electronic submission of applications, these are kept in an Agency's internal password protected database to which only Agency staff has access through their personal computer account. Access rights are managed in such a way that only staff members managing a selection have access to the applications submitted for that selection.

Paper-submitted applications are kept by the appointed members of the evaluation committees and stored in cupboards in their offices during the evaluation process. After completion of the grant award procedure, original applications are stored in the locked archives of the Agency.

11/ Legal basis and lawfulness of the processing operation

Legal basis

THE TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION, and in particular Articles 165 - 167.

COUNCIL REGULATION (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 248, 16.9.2002, p. 1), as subsequently amended ('Financial Regulation'):

in particular Article 109 and Articles 114-116 on the award procedure for grants.

COMMISSION REGULATION (EC, EURATOM) No 2342/2002 of 23 December 2002 laying down detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ L 357, 31.12.2002, p. 1), as subsequently amended ('Implementing Rules'):

in particular Articles 173-178.

COUNCIL REGULATION (EC) No 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes: Article 6.

COMMISSION DECISION C (2009) 3355 final of 6 May 2009 setting up the Education, Audiovisual and Culture Executive Agency for the management of Community action in the fields of education, audiovisual and culture in application of Council Regulation (EC) No 58/2003: Article 4.

Grounds for lawfulness

Regulation (EC) No 45/2001, Article 5, point a): The processing is necessary for the performance of a task carried out in the public interest on the basis of a legal instrument adopted on the basis of the Treaties establishing the European Communities [Commission decision (2009/336/EC) of 20 April 2009 setting up the Education, Audiovisual and Culture Executive Agency].

In case of award of a grant, Article 5 c) of the Regulation applies insofar as the "processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract".

12/ The recipients or categories of recipient to whom the data might be disclosed

The recipients (Intra- and interinstitutional recipients) will be reminded of the purpose limitation of the transfer in question and the obligation of confidentiality according to Articles 7 (3) and 23 (2) read together with Article 21 of Regulation (EC) 45/2001. A reminder is included in the Declaration of Confidentiality (for experts and evaluating committee members), a contractual clause in the contract with the experts and the "EACEA grants manual of procedure" reminds internal staff, inter alia, of the purpose limitation.

Designated EACEA staff members: staff (including interim staff) in charge of operational, financial and/or legal tasks participating in the management of the selection of beneficiaries

Evaluation Committee members: the evaluation committee is composed by EACEA and European Commission staff members. Under some programs, the Committee includes also members from extra-European institutions, like the African Union and the Intra-ACP secretariat. In addition, there may be other members of the evaluation committees such as external experts for MEDIA or academic experts for Erasmus Mundus. Members are designated by the Director of the Agency or the Head of Department and sign a declaration of confidentiality (model in annex).

External experts on the basis of Article 179a of the Financial Regulation: external experts are used to assess the quality of applications submitted and in some cases also the quality of progress and final reports of selected projects. External experts are designated and sign a confidentiality declaration (model in annex) before they are given a copy of the application or the report, which includes personal data. In addition, the order form contains a specific confidentiality clause (model in annex). Assessment of the applications and project reports takes place either at the EACEA premises in Brussels or at the domicile of the expert or both. Experts may be recruited from EU member states or from outside the EU. In case of electronic submission, the expert is provided with a user name and access password in order to access the applications assigned to him/her in the 'Expert Assessment Tool'. If submission of proposals is paper-based, copies of the applications are either provided to the expert at EACEA premises or sent to his/her domicile. If the latter is the case, the expert is instructed in the general conditions attached to the purchase order to destroy all documentation received to perform his task three months after his commitment with EACEA has expired.

Other members of the European Commission :

a) DG BUDG: data relating to a natural person contained in the legal identity form (company registration number, VAT, etc) or in the bank account form (account number, name of the account holder, address of the bank, IBAN and BIC codes); they are submitted to other Commission services (DG BUDG) for central validation and processing.

b) EU Delegations for some programs: they receive copies of the applications for eligibility check and assessment of the relevance

Programme committee and EP: whether commitment or information procedure is applied to a selection, the members of the programme committee (representatives of the member states) receive information on selected proposals that may contain limited personal data (name of the coordinator, phone and fax number, email and address). In addition, Commission staff prepares and participates in the meetings. Information on selected proposals is provided in parallel to the European Parliament.

National Contact Points: under some programs National Contact Points (national offices/national agencies) receive copies of the proposals from their countries.

Members of the public: At the end of each selection a description of selected projects (so-called 'compendia') is published in the Agency's website. The project description may contain the name of the coordinator, phone and fax number, email and address. In addition, project data are also made available to the public through the EVE database (EVE is an electronic platform for the dissemination and exploitation of results of projects and results of programmes implemented by the Directorate General for Education and Culture).

The following data may be transferred to the recipients:

Data concerning health.

EACEA, Evaluation Committee

Data relating to the evaluation of personal aspects of the data subject

Evaluation Committee members, experts, EACEA staff members

Personal data of applicants, their staff and subcontractors

For selected applicants: Public, Members of the programme Committee, European Parliament

For all applicants: Evaluation Committee members, Agency staff, experts, for some programs also EU staff in Delegations and/or national structures etc

Certificates for social security contributions and taxes paid, extract from judicial records

Evaluation Committee members, Agency staff, Commission staff (DG BUDG),

Bank account reference

Evaluation Committee members, Agency staff, Commission staff (DG BUDG)

Company registration number (legal persons) or Passport/ID number (natural persons), VAT number, membership in a trade or professional organisation

Evaluation Committee members, Agency staff, Commission staff (DG BUDG), University consortia for the specific case of Erasmus Mundus Scholarships

Information for the evaluation of selection criteria

Evaluation Committee members, Agency staff, Commission staff (DG BUDG), experts, for some programs also EU staff in Delegations and/or national structures etc

A declaration of honour

Evaluation Committee members, Agency staff, Commission staff (DG BUDG) , for some programs also EU staff in Delegations and/or national structures etc

information which might not be necessary for the purpose of selection or the award of grant or contract

Evaluation Committee members, Agency staff, Commission staff (DG BUDG), for some programs also EU staff in Delegations and/or national structures etc

13/ retention policy of (categories of) personal data

Data concerning health

Common Conservation List (CCL), SEC (2007) 970 adopted by the Commission on 04/07/2007, Annex 1, p.11, point 7.1.2, 7.1.3 and p. 23, point 12.6.1: up to 10 years after the closure of the grant agreement.

Data relating to the evaluation of personal aspects of the data subject

Common Conservation List (CCL), SEC (2007) 970 adopted by the Commission on 04/07/2007, Annex 1, p.11, point 7.1.2, 7.1.3 and p. 23, point 12.6.1: for rejected projects, by 31 December of the 3rd year following adoption of the award decision. For accepted projects, 10 years after the closure of the grant agreement.

Personal data of applicants, their staff and subcontractors

Common Conservation List (CCL), SEC (2007) 970 adopted by the Commission on 04/07/2007, Annex 1, p.11, point 7.1.2, 7.1.3 and p. 23, point 12.6.1: for rejected projects, by 31 December of the 3rd year following adoption of the award decision. For accepted projects, 10 years after the closure of the grant agreement

13 a/ time limits for blocking and erasure of the different categories of data

(on justified legitimate request from the data subject)

(Please, specify the time limits for every category, if applicable)

BLOCKING

According to Article 13, paragraph 3, of EACEA's Implementing rules of Regulation 45/2001.

When the data subject contests the accuracy of his/her data, the data should be blocked "for a period enabling the controller to verify

the accuracy, including the completeness of the data." Thus, when receiving a request for blocking on this ground, the EACEA should

immediately block the data for the period necessary for verifying the accuracy and completeness of the data.

(2) When the data subject requires the blocking of his/her data because the processing is unlawful, or when data must be blocked

for purpose of proof, the EACEA will need some time to make this assessment before deciding to block the data. In such cases, even though the request for blocking may not take place immediately, it should however been dealt with promptly in order to preserve

the data subject's rights. The decision as to whether to block the data is taken by the EACEA as soon as possible and at the latest

14/ Historical, statistical or scientific purposes

If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification,

Statistical

Personal data are kept for historical or statistical purposes (e.g. for the production of reports, studies or other types of publications) even after the end of the project/agreement and not longer than the established retention period

15/ Proposed transfers of data to third countries or international organisations

1. In the context of the Intra-ACP Academic Mobility Scheme :

RECIPIENT(S)

- The African Union Commission;
- The Intra-ACP Secretariat;
- The South African Ministry of Education

CATEGORIES OF DATA

Personal data of applicants, their staff and subcontractors; information for the evaluation of selection criteria: financial and economic capacity; expertise (main works published or projects carried out), technical and language skills, education background, professional experience; declaration of honour that they are not in one of the exclusion situation referred to in Articles 93 and 94 of the Financial Regulation

PURPOSE

Selection of proposals and further monitoring of projects

MODALITY

Copy of the grant applications are provided directly to these organisations

2. In the context of the TEMPUS programme:

RECIPIENT(S)

National Tempus Offices (NTO) in the Tempus partner countries (Albania, Bosnia and Herzegovina, Croatia, The former Yugoslav Republic of Macedonia, Montenegro, Serbia, Kosovo under UNSC Resolution 1244/99, Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Syria, Palestinian Authority, Tunisia, Armenia, Azerbaijan, Belarus, Georgia, Moldova, Russia, Ukraine, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan).

CATEGORIES OF DATA

Information on the proposal partners (name, address, tel, fax, e-mail, website) together with the proposal content and/or design/methodology and budget.

PURPOSE

NTOs are invited to express opinion on the proposal and to check some aspect / data related to the proposal.

MODALITY

Electronic transfer (e-mail) or CD. Under the TEMPUS program, covering 27 partner countries outside the EU, personal data are transferred from EACEA to the national Tempus Offices under a data protection clause which is contained in the grant agreement. This clause will be modified in the light of the EDPS comments on the attached model clauses.

16/ The processing operation presents specific risk which justifies prior checking (*please describe*):

AS FORESEEN IN:

Article 27.2.(a)

Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,

Article 27.2.(b)

Processing operations intended to evaluate personal aspects relating to the data subject,

Article 27.2.(c)

Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,

Article 27.2.(d)

Processing operations for the purpose of excluding individuals from a right, benefit or contract,

Other (general concept in Article 27.1)

17/ Comments

Please see EACEA's attached Cover letter.

PLACE AND DATE: Brussels, 22 November 2011

DATA PROTECTION OFFICER: Hubert Monet

INSTITUTION OR BODY: Education, Culture and Audiovisual Executive Agency (EACEA)