

*(To be filled out in the EDPS' office)*

**REGISTER NUMBER: 1165**

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**NOTIFICATION FOR PRIOR CHECKING**

**DATE OF SUBMISSION: 20/10/2013**

**CASE NUMBER: 2013-1038**

**INSTITUTION: REA**

**LEGAL BASIS: ARTICLE 27-5 OF THE REGULATION CE N° 45/2001<sup>(1)</sup>**

**INFORMATION TO BE GIVEN<sup>2</sup>**

1/ NAME AND ADDRESS OF THE CONTROLLER

**Data Controller: Research Executive Agency (REA)**

For organisational reasons, the role of the data controller is exercised by the Ms Rita BULTYNCK, Head of Unit REA.A.2 (Finance).

Rita BULTYNCK  
Research Executive Agency (REA)  
Unit REA.A.2 (finance)  
COV2 15/132  
B - 1049 Brussels

2/ ORGANISATIONAL PARTS OF THE INSTITUTION OR BODY ENTRUSTED WITH THE PROCESSING OF PERSONAL DATA

REA.A.2 (Finance)

3/ NAME OF THE PROCESSING

External cases of potential fraud and/or other financial irregularities.

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<sup>1</sup> OJ L 8, 12.01.2001.

<sup>2</sup> **Please attach all necessary backup documents**

4/ PURPOSE OR PURPOSES OF THE PROCESSING

The processing operation in the context of "External cases of potential fraud and/or other financial irregularities" is necessary to prevent fraud, as well as other financial irregularities or conflict of interest committed/incurred at the level of the beneficiaries of EU funds, and ensure sound financial management of the EU funds which are managed by the Agency on the basis of the Article 14(2) of the REA Delegation Act.

In particular, it is also necessary to analyse information relating to potential fraud or other financial irregularities and decide on whether it should be transferred to the European Anti-Fraud Office (OLAF) or not.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

- Natural persons such as staff members (or representatives) of beneficiaries of grant agreements and contractors whose details are referenced in public contracts (under public procurement) concluded with the Agency, if the suspicion of potential fraud and/or other financial irregularities concerns them;
- Whistle-blowers, informants, witnesses related to the case analysed and/or sent to OLAF for investigation.

Note: The processing operation involving personal data in the context of whistleblowing about alleged wrongdoing by staff in the Agency and/or other EU bodies is covered by a separate notification (REA-DPN-2013-13).

6/ DESCRIPTION OF THE DATA OR CATEGORIES OF DATA (*including, if applicable, special categories of data (Article 10) and/or origin of data*).

The categories of personal data that may be collected and/or processed depending on the context of the case and on a case-by-case analysis are the following:

- Identification data: Last name, first name, address, e-mail, phone number (s), etc.;
- Data relating to the data subject's professional details: curriculum vitae (CV), position within the entity, function, unit, etc.;
- Data relating to the conduct of the person giving rise to possible irregularities: description of the serious wrongdoing/irregularity, source of information, causes of the presumed irregularity, impact on EU interests, amount involved, actions to mitigate the irregularity (taken/planned), etc.
- Data relating to financial aspects: pre-financing, recovery orders, timesheets in order to provide evidence of payments made to beneficiaries (who are suspected of fraudulent or illegal activity);
- Data contained in reports (interim, final) in case of natural persons (staff members / representatives / members of scientific team) in organisations (beneficiaries of grant agreements).

The categories of data listed above shall be collected and/or processed on a case-by-case basis. Their presence is neither systematic nor necessary and it depends on the content of a particular case.

## Special categories of data

- Data relating to suspected offences, offences, criminal convictions and or security measures.

The persons in charge of the above-mentioned processing operation in the REA are reminded not to collect and further process excessive data in relation to what is necessary and proportionate in order to process the files relating to potential fraud and/or other financial irregularities.

## 7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

The REA will inform the data subject concerned if measures are taken due to suspicion (or confirmation) of financial irregularities.

However, the REA may decide that restrictions and exceptions apply as laid down in Article 20(1) of Regulation (EC) No 45/2001 concerning procedures related to criminal offences following OLAF investigations, important economic and financial interest of Member States or European Union, national security, public security or national defence interest.

## 8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

Data subjects may send their requests to the following email address: REA-FINANCE@ec.europa.eu.

Requests for accessing, blocking, rectifying or erasing (where applicable) of the different categories of data will be evaluated on a case-by-case basis.

In that respect, the REA may decide that restrictions in blocking/rectification/erasure of data are applicable, as laid down in Article 20(1) a), (b) or (e) ( prevention, investigation, detection and prosecution of criminal offences, an important economic or financial interest, etc.) of Regulation (EC) No 45/2001.

In this case, the data subject shall be informed of the principal reasons on which the application of the restriction is based on and of his/her right to have recourse to the European Data Protection Supervisor.

## 9/ AUTOMATED / MANUAL PROCESSING OPERATION

Personal data in the above-mentioned processing operation are processed manually and by automated means.

In the framework of management of grants and contracts (under public procurement procedures), the REA may encounter cases of potential fraud and/or possible financial irregularities such as

plagiarism, request of double founding or claims of non-existent/inflated costs. The Agency, on its own initiative and on the basis of Article 14(2) of the REA Delegation Act, shall without delay inform the Commission, the Directors-General of the parent Directorates-General and OLAF, in accordance with the specific rules applicable to any potential fraud or irregularity which comes to its attention and of any situation which may give rise to such cases.

For the purpose of internal monitoring and regularly information to the parent DGs and (via the parent DGs) to the Commissioner, the REA maintains an inventory of (potential) fraud cases under scrutiny (with a log file of assessment made and actions undertaken and/or planned), using standard office automation tools with files stored on a protected area of the REA servers and transmitted through secure channels (see section 14 below).

Where appropriate, the Agency also signals (alleged) fraud cases and financial irregularities in the Commission's Early Warning System in compliance with Commission Decision of 16 December 2008 on the Early Warning System for the use of authorising officers of the Commission and executive agencies as amended by Commission Decision of 17 June 2011 and in the Central Exclusion Database in compliance with Commission Regulation (EC, Euratom) No 1302/2008 of 17 December 2008.

Note: The processing operation involving personal data in the context of the early warning system and the central exclusion database is covered by a separate notification (REA-DPN-2012-27).

According to Article 22a of the Staff Regulations, all REA staff if they become aware of facts which give rise to a presumption of the existence of possible illegal activity, including fraud or corruption, detrimental to the interests of the EU, shall without delay inform their immediate superior or the Agency Director or, if they consider it useful, the Secretary-General of the Commission, or the persons in equivalent positions, or OLAF directly.

After examining all the relevant information to a possible financial irregularity, the REA may decide to forward the case to OLAF for further examination.

Note: The processing operation involving personal data in the context of whistleblowing about alleged wrongdoing by staff in the Agency and/or other EU bodies is covered by a separate notification (REA-DPN-2013-13).

#### 10/ STORAGE MEDIA OF DATA

Data in electronic format is stored on the REA servers (limited access) and only metadata is stored on the servers (ARES) of the European Commission.

Data/reports in paper format are stored in locked/secure cupboards.

#### 11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

- Article 14 of Commission Decision (C(2008)3980) of 31 July 2008 delegating powers to the Research Executive Agency with a view to performance of tasks linked to implementation of the

specific Community programmes People, Capacities and Cooperation in the field of research comprising, in particular, implementation of appropriations entered in the Community budget;

- Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF);
- Council Regulation (Euratom, EC) No 2185/1996 of 11 November 1996 concerning on-the-spots checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities;
- 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;
- REA procedure on whistle-blowing-ICS 2 Ethical and Organisational Values of 9 April 2010;
- Article 5 (a) (Lawfulness of processing), of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the institutions and bodies of the Community and on the free movement of such data;
- Commission Decision of 16 December 2008 on the Early Warning System for the use of authorising officers of the Commission and the executive agencies (2008/969/EC, Euratom);
- Commission Decision of 17 June 2011 amending the Commission Decision of 16 December 2008 on the Early warning System for the use of authorising officers of the Commission and the executive agencies (2011/C/180/06);
- Commission Regulation (EC, Euratom) No 1302/2008 of 17 December 2008 on the central exclusion database.

## 12/ THE RECIPIENTS OR CATEGORIES OF RECIPIENT TO WHOM THE DATA MIGHT BE DISCLOSED

Data may be disclosed to the following recipients:

### REA

- The Director of the Agency;
- Authorised members of the REA staff;
- The OLAF correspondents within the REA and the OLAF correspondents within the parent DGs (DG EAC, DG RTD, DG ENTR);
- Members of the REA Steering Committee.

### Other potential recipients

- Internal Audit Service (DG IAS) of the European Commission;
- The Court of Justice of the European Union (Court of Justice, the General Court and the Civil Service Tribunal);
- European Court of Auditors (ECA);
- Financial Irregularities Panel (FIP);
- European Ombudsman;
- European Data Protection Supervisor (EDPS);
- European Anti-Fraud Office (OLAF).

This transmission will be restricted to the information necessary for the competent entity to carry out its task. The recipients will be reminded not to process the data received for any purpose other than

the one for which they were transmitted to them, as required under Article 7(3) of Regulation (EC) No 45/2001.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

The data collected and/or processed in the frame of the above-mentioned processing is kept under the relevant project or contract (under public procurement) file and is subject to the overall retention policy for that grant management/contract (under public procurement) file.

According to the Common Commission-level Retention List (point 12.6.1 of Annex 1 of SEC(2007) 970) applied by analogy in the REA Retention Plan, the retention period is 10 years after the end of the project or contract (under public procurement).

13 A/ TIME LIMIT TO BLOCK/ERASE ON JUSTIFIED LEGITIMATE REQUEST FROM THE DATA SUBJECTS

Requests for accessing, blocking, rectifying or erasing (where applicable) of the different categories of data will be evaluated on a case-by-case basis.

In that respect, the REA may decide that restrictions in blocking/rectification/erasure of data are applicable, as laid down in Article 20(1) a), (b) or (e) ( prevention, investigation, detection and prosecution of criminal offences, an important economic or financial interest, etc.) of Regulation (EC) No 45/2001.

Time limit to rule on a request: 15 working days (beginning from the reception of the request).

14/ HISTORICAL, STATISTICAL OR SCIENTIFIC PURPOSES

Not applicable.

15/ PROPOSED TRANSFERS OF DATA TO THIRD COUNTRIES OR INTERNATIONAL ORGANISATIONS

Not applicable.

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,*

1 Article 27.2.(b)  
*Processing operations intended to evaluate personal aspects relating to the data subject,*

1 Other (general concept in Article 27.1)

17/ COMMENTS

Not applicable.

PLACE AND DATE: 19 SEPTEMBER 2013

DATA PROTECTION OFFICER: EVANGELOS TSAVALOPOULOS

INSTITUTION OR BODY: RESEARCH EXECUTIVE AGENCY (REA)