

REGISTER NUMBER: 665

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 03/02/2011

Case number: 2011-0147

Institution: EACEA

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

Unit or service: EACEA

Function: Director

Administrative address: BOUR 04/60

Postal address: 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

Full name: GASCARD Gilbert

Unit or service: EACEA

Function: Director

3/ Name of the processing

Call for expression of interest for selection of experts - Selection and management of experts:

4/ Purpose or purposes of the processing

The purpose of the processing is the management and administration of the selection procedure for external experts on a basis of calls for expression of interest in line with Article 179a of the Financial Regulation, read together with Article 265a of its Implementing Rules, for tasks involving assistance in evaluating proposals and grant applications or tenders for procurement procedures, and for providing technical assistance in the follow-up, as well as the final evaluation of projects financed by the budget.

5/ Description of the category or categories of data subjects

Applicants for an assignment as external experts, potential experts contained in EACEA's expert's database, selected experts.

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

-Personal data :

- First Name
- Family Name
- Date of Birth
- Gender
- Place of Birth
- Country of Birth
- First Nationality
- Second Nationality
- Passport n°
- Street Name & n°
- Town/City
- Country
- Postal Code
- PO Box
- Phone number
- Fax
- Email
- Types of Expert
- Skills (Linguistic / Numerical / IT / Project Management)
- Employment History
- Current Organisation
- Job Title
- Organisation Name
- Street & n°
- Town/City
- Postal Code
- Organisation Type
- Organisation Size
- Department
- Employment Records (limited to the last ten years of professional experience)
-

Languages (mother tongue + other)

Based on a self assessment details and information on: Accounting skills, Financial Analysis Skills, experience with distant online working or teleworking, ability to process spreadsheets, experience in word-processing

Name, first name and the Community programme(s) for which the Contractor has worked, year of engagement (in accordance with the provisions of Art 20 Commission

7/ Information to be given to data subjects

In the database, before filling in their data, applicants have to click on a button which brings them to the screen with the Privacy Statement. They have to confirm that they read and accept the Privacy Statement.

In addition, applicants are informed about the possibility to withdraw their application by the "Application instructions" published on EACEA's website.

A Privacy Statement is included in the contract with the expert.

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

The data subjects may exercise their rights as described in the above mentioned privacy statement (under heading 7).

9/ Automated / Manual processing operation

• **Activity in the frame of which the processing is carried out**

This notification concerns EACEA's call for expression of interest for the selection and management of experts, covering the execution of contract and additional purposes such as statistic, reporting and auditing. The experts cover the full range of programmes delegated by the Commission to the Agency in the fields of education, audiovisual, culture, youth and citizenship.

The appointment of experts follows the publication of a call for expression of interest which is published in the Official Journal for the establishment of a list of experts to assist the EACEA in the framework of the management of the European programmes in the fields of education, audiovisual, culture, youth and citizenship.

The expert database is managed with the help of an informatics database tool. This database contains professional data of external scientific experts who may be called upon to carry out advisory work for EACEA.

The experts' professional data are recorded in the database to enable EACEA and in certain cases the parent DG's of the Agency to select external scientific experts for specific tasks. Candidates apply on-line to be included in the database. EACEA then screens the applications to ensure that only those applicants are included in the database who meet the eligibility criteria.

The expert database tool is used for the management of experts who assist the Education, Audiovisual and Culture Executive Agency in the performance of the following tasks:

- (a) Evaluating proposals received in response to calls for proposals.
- (b) evaluating and monitoring projects (evaluating project reports, evaluating project products and results, project monitoring and site visits, any other tasks relating to the analysis and/or monitoring of programmes and projects)
- (c) specific studies and analyses relating to fields of activity.

The expert tool is an application that is performing two functions: the recruitment and the management of experts on the one hand and the recruitment of Agency staff on the other. To this end a contract was concluded with an external service provider following an open call for tenders. Regarding the use of the tool in the recruitment procedures, this has been notified in a separate notification to the DPO and the EPDS (see notification "Temporary Agents selection procedure"). However, staff members within the operational units only have access to the information concerning experts but not to information concerning applicants to the Agency as a Temporary Agent.

The database is accessible within the Agency to three categories of users: within the operational units: "Recruiters" and "Coordinators" and within the Unit dealing with IT (Unit R3): "Superusers". The Recruiters' role is to evaluate applications and to record their outcome. The Coordinators' role is to be overall responsible for the recruitment of experts for a specific programme/action. The role of the Superusers is to provide technical support to experts, but also to Agency staff members. Apart from Unit R3 (ICT), one Superuser is working within an operational unit and e.g. responsible for the management of user groups. .

Recruiters and Coordinators are located within the 10 operational units of the Agency who call upon the services of experts for the tasks described above. Within each operational unit only designated persons have access to the tool. These persons can e.g. send E-mails to experts and ask them for their availability during a specific period in order to perform one of the tasks mentioned in the call for expression of interest. Recruiters and Coordinators have the same access rights in the IT Tool, in which they have a role as "User". They have normally access to the expert's data who have expressed their interest for the programmes/actions managed by the recruiter's unit. However, a recruiter/coordinator can also have access to the information concerning other experts (this can be used e.g. in order to check whether an expert was already engaged by another unit during the same period). The Superusers however perform their function not only for the expert part of the database but also for the part of the database dealing with staff recruitment.

The Commission services can ask the Agency whether there are any experts with special expertise available in the database. In that case the Agency performs a search for the Commission. If the research leads to a positive result and the expert has accepted during registration to work for the Commission, the Agency forwards the CV and contact details of the expert to the Commission. The Commission services do not have direct access to the database.

• **Working procedure followed within the framework of this activity**

The general procedure for the recruitment and management of experts is the following:

Step 1: Applications of experts by online application

Experts apply by encoding their data in the online system. The document "Applications instructions" published on the Agency's website informs the data subjects on the technical side of how to complete and submit an expert application.

The candidate experts select the programme/action for which they want to work as an expert and then complete and submit their applications. Candidates can apply for any programme/action for which they have the required expertise but they may only apply once for each programme/action.

Before registering, the candidates need to accept explicitly the Privacy statement according to Art 11 of Regulation (EC) n° 45/2001 by confirming "I have read and I accept the Privacy Statement." YES or No. In the case the applicant chooses "No" he is informed that his application can not be accepted and that he can not proceed to the registration process.

For their first application experts are directed through an automated registration process (creation of an on-line account) before they can begin their application. This account is used for storing and updating candidates' personal data, communicating with them and keeping track of their applications.

The online application is divided into five sections:

- Personal Information;
- Education and Training;
- Employment History;
- Personal Skills and Competencies;
- Additional Documents: Motivation letter; list of publications.

Data concerned

- Personal information allowing the identification of the candidate: title, surname, first name, date of birth.
- Information provided by the candidate to contact the candidate: street, postcode, place, country, telephone and fax number, email address.
- Information provided by the candidate to allow the verification of the eligibility and selection criteria as laid down in the vacancy notice: nationality, education and training (diploma awarded), professional experience (job title, length, company name, company type and web address of company, main tasks and responsibilities), personal skills and competencies (following the Europass CV, ex social skills and competences).
- Motivation letter
- List of publications

When all sections have been completed, a submission link appears on the Summary page; by clicking on the "Submit" button, candidates submit their application and receive an acknowledgement of receipt by email.

As outlined in the "Application instructions" available on the Internet site, if candidates want to withdraw their application, they can do that by clicking the "withdraw" button, up until the deadline for application expires. After the deadline, they can contact the EACEA helpdesk and ask to be withdrawn by the procedure. When candidates make a second or subsequent application, the system retrieves the information they entered in the first (or most recent) application. Candidates can at any time access and modify the information contained in their profile when a call for application is open by accessing their online profile. Once the Call is closed they can contact the Controller in order to modify the information. If candidates want to delete their profile, they can send their request by e-mail to the Controller, as specified in the "Applicants instructions".

If an application files remains incomplete, the concerned applicant receives an e-mail reminder after 3 months. If the concerned expert does not update the information and the application continues to be incomplete, the application is set on status "withdrawn" after another 3 months.

An application is always related to one of the programmes/actions. Experts have to fill in a separate application for each programme/action they wish to apply for. The expert tool distinguishes between the following programmes/actions:

- LLP Comenius,
- LLP Erasmus
- LLP Grundtvig
- LLP Jean Monnet
- LLP Leonardo da Vinci
- LLP Key activity 1: Policy cooperation and innovation
- LLP Key Activity 2: Languages
- LLP Key Activity 3: ICT
- LLP Key Activity 4: Dissemination and exploitation of results

- Erasmus Mundus
- Erasmus Mundus External Cooperation Window
- ICI actions (USA, Canada, Japan, Australia, New-Zealand, South Korea)
- Culture Programme
- Youth in Action Programme
- Europe for Citizens Programme
- Media Programme
- Tempus Programme
- EURYDICE

In addition, whilst registering experts can accept the additional opportunity to work with the parent DGs of the Agency within the Commission.

Step 2: Screening and Eligibility check

Designated staff in EACEA's operational units carry out an eligibility check, on the basis of the published eligibility criteria like nationality, the fact that the applicant is a natural person and the number of years of required relevant working experience.

Apart from those detailed in Section 1 above, no other information is collected on the on-line application forms or during the procedure which leads to the inclusion in the database. For example, the applicants are not required to attach to their applications their photographs, their curriculum vitae, references, diplomas, criminal records, copies of publications or any other documents. Nor does EACEA use any database for background check or carry out any background research on its own on the candidates. Thus, EACEA's decision on eligibility of a candidate is based entirely on the text of the application, as submitted by the applicant. EACEA does not check the accuracy or veracity of the information submitted by the applicant.

Step 3: Establishment of a list of eligible experts

On the basis of the eligibility check the operational units establish two lists for each programme/action: a list with experts (accepted) and a rejected list. The lists are submitted to the Agency Director for decision. The list submitted to the Director contains the following information:

- Name of the programme/action
- Name of the evaluators and a declaration of absence of conflict of interest signed by them
- The number of applications received between two dates
- The eligibility criteria
- The number of accepted applicants (list in annex)
- The number of rejected applicants and the reasons for their rejection (list in annex)
- A consolidated table concerning the selection of experts which also includes the names of experts per programme who were accepted previously

Step 3 takes place at least once a year by each unit for the experts who appear as "new" in the expert tool.

Rejected experts who did not meet the eligibility criteria are informed about their rejection and that they may update their profile with work experience acquired after the closing of the Call. If the expert informs the relevant Unit of this additional work experience required to fulfil the eligibility criteria, the Unit gives the expert the possibility to update his profile. The updated information will be re-evaluated and, if the eligibility criteria are met by the expert, the expert will be included as "new" in the database.

Step 4: Selection of experts for a specific appointment.

Each time an operational Unit wishes to make use of experts for one of the purposes defined in the call for expression of interest for experts, it will select among the accepted experts on the basis of the expert profiles in the database. The manual informs the EACEA staff about the limited nature of the validity check that the EACEA was carrying out against the eligibility criteria of the Call for expression of interest.

Furthermore, end-users are informed that they are bound by confidentiality and that they may not use the personal data contained in the database for other purposes than the experts' selection; management and follow up.

For this purpose the manual for the selection and contractualisation of experts provides that in first instance a larger group of experts will be contacted and asked for their availability during the foreseen period during which expertise. The pre-selected experts are normally contacted by E-mail.

The final selection of experts among the experts who indicated their availability is carried out by an expert's selection committee and is validated by the responsible Head of Unit.

The staff members who are part of these committees are a matter of the unit. This selection committee can also include staff members of mirror units within the European Commission. In this respect, the staff members involved in the selection committee do not have access to the experts database.

About 30 per cent of experts should be renewed from one year's to next year's exercise and that about 10 per cent of experts should be completely new experts in the programme/action concerned (they can have worked for other programmes/actions however). In addition, the same expert can only be recruited for a maximum of 3 consecutive selection rounds for the same action.

As selection criteria the manual foresees that the list of selected experts should be balanced as far as the profiles and competences of the experts are concerned. Also the ability to work in a particular language, the ability to work on remote, geographical balance and gender can play a role. The operational units have to explain in the selection note that is attached to the file the tasks to be effected, the period and duration of those tasks, the number of experts to be invited and to be put on the reserve list (e.g. if more proposals than expected are received, or if a selected expert has to cancel his participation), the applied selection criteria. The note has to be signed by all members of the selection committee. In this note the responsible Head of Unit has to explain the reasons if the renewal criteria cannot be respected. The Director or the Head of Department approves the final selection decision.

Step 5: Invitation, contractualisation and payment of experts.

Contracting takes place through a system of "Bons de commande", with an indication of the name, address and bank account of the expert, in addition to the task description, the programme concerned, the dates of execution, the daily fee and the maximum total fees. All contacts take normally place via E-mail. The experts on the reserve list are also contacted.

Units of the Agency that use the system described above: all operational units.

Step 6: Case of underperformance of an expert

If the performance of the work of an expert is considered to be of a significant low quality, the expert will be informed in writing by the responsible Head of Unit (evaluation criteria are contained in the manual). This letter is stored in the database. All users of the database have access to this information. The manual indicates that the letter has to inform the expert as well of his/her access rights, his right to rectify his personal data and his right to lodge observations on the assessment made.

Step 7: Obligation of publication

The lists of experts (containing limited information, in particular: name, first name, the Community programme(s) for which the Contractor has worked, year of engagement) who participated in evaluations and other activities such as assessment of reports, monitoring visits and preparing and drafting reports, are published in any form and medium, including via EACEA's website, in accordance with the provisions of Article 20 of Commission Regulation (EC) No 1653/2004 and in line with the Judgment of the Court of 9 November 2011 in joined Cases C-92/09 and C-93/09.

10/ Storage media of data

• Medium/media used for the processing operation

The whole processing operation is performed in a computer environment managed by Stepstone as an external contractor. The process is online. No paper copies are kept. The tool is also used by Unit R1 for the recruitment of staff. However, R1 staff members do not have access to the personal data contained in the expert tool, nor have operational units access to personal data related to the staff recruitment procedures.

The contract was concluded following a call for tender (EACEA/2007/01):

http://eacea.ec.europa.eu/about/documents/procurem/cdc_en%20final.pdf

11/ Legal basis and lawfulness of the processing operation

Legal basis

Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities, as last amended by Council Regulation (EC, Euratom) No 1995/2006 of 13 December 2006: Article 179a.

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, as amended: Article 265a.

Commission Regulation (EC) No 1653/2004 of 21 September 2004 on a standard financial regulation for the executive agencies, as amended by Commission Regulation (EC) No 651/2008 of 9 July 2008: Article 20.

Commission Decision C (2009) 3355 final of 6 May 2009 (delegating powers to EACEA): Article 4.

Grounds for lawfulness

Regulation (EC) No 45/2001, Article 5, point (a) read together with its recital 27: The processing is necessary for the performance of a task carried out in the public interest. The selection, management and evaluation of external experts assisting the Agency in the performance of certain tasks for which specific and independent expertise is necessary for the performance of EACEA's mandate.

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

Administrator of the database.

Service provider Stepstone for technical assistance.

internal end-users: designated EACEA staff on an a need to basis with access to the search environment of the expert database.

Head of Units.

Head of Department; Director.

Selection Committee members.

European Commission in the case that the expert has accepted during registration the additional opportunity to work with the Commission (opt-in option). However, only an indirect access is given to the Commission (see above under point 4 of this notification).

Public. The information is published on the Agency's website

13/ retention policy of (categories of) personal data

For experts included in the Database: 5 years following the end of the respective program for files relating to the selection of external experts

For rejected experts: 2 years after the closing of the Call for expression of interest

The two following years of the engagement (n+2).

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: the Controller has to assess as soon as possible whether to block the data or not within 15 working days after reception of the request. If the request is accepted, the Controller has another 30 working days to implement the technical blocking of the personal data.

Erasure:

Max. 15 working days.

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,

N.A.

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

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

PLACE AND DATE: Brussels, 3 February 2011

DATA PROTECTION OFFICER: Hubert MONET

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