

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

**REGISTER NUMBER: 1236**

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

**NOTIFICATION FOR PRIOR CHECKING**

**DATE OF SUBMISSION: 27/03/2014**

**CASE NUMBER: 2014-0487**

**INSTITUTION: INEA INNOVATION AND NETWORKS EXECUTIVE AGENCY**

**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

The Head of Unit of the Programme Support, Coordination & Communication Unit R01  
Address: Innovation and Networks Executive Agency (INEA), Chaussée de Wavre 910, B-1049  
Brussels

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

Programme Support, Coordination & Communication Unit R01

3/ NAME OF THE PROCESSING

Selection of external experts including observers to assist INEA in the evaluation activities relating to the implementation of the TEN-T and CEF programmes

4/ PURPOSE OR PURPOSES OF THE PROCESSING

The purpose of the processing is to enable INEA to identify and select the best external experts (including observers) in the relevant fields necessary for the evaluation of project proposals requesting financial aid under the TEN-T (Trans-European Transport Network) and CEF (Connecting Europe Facilities) Programmes.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

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

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

Any natural persons (data subjects), who is experts in the TEN-T or CEF field and whose profiles are admitted to the EMI database following their candidature to a call for expressions of interest published by DG RTD. Data subjects are selected from this database by INEA with a view to participate in and assist as external experts or independent observers to the evaluation of project proposals relating to the TEN-T and CEF programmes of which the implementation has been entrusted to the Agency.

#### 6/ DESCRIPTION OF THE DATA OR CATEGORIES OF DATA

*(including, if applicable, special categories of data (Article 10) and/or origin of data)*

- names,
  - nationality,
  - function,
  - contact details (place of residence, e-mail, telephone/GSM numbers and if applicable company and department),
  - passport/ID number,
  - legal entity form and bank account (IBAN & BIC codes): only requested (via the usual BAF & LEF forms for individuals of the Commission) if the expert is selected: see [http://ec.europa.eu/budget/execution/legal\\_entities\\_en.htm](http://ec.europa.eu/budget/execution/legal_entities_en.htm)  
[http://ec.europa.eu/budget/contracts\\_grants/info\\_contracts/financial\\_id/financial\\_id\\_en.cfm](http://ec.europa.eu/budget/contracts_grants/info_contracts/financial_id/financial_id_en.cfm) ,
  - expertise, technical skills, languages, educational background & professional experience (current & past employment),
  - fee per day of service, daily allowance, reimbursement of travel expenses and the lump sum for accommodation,
  - Since the information is often provided on CV, experts may supply additional information on a voluntary basis, which is not necessary for their selection (e.g. age etc..).
- No data relating to health or offences and criminal convictions are requested by the Agency.

#### 7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

Experts receive a copy of the privacy statement (see Annex II of this notification) with the relevant information required by Articles 11 and 12 of Regulation No 45/2001 together with the contract. This privacy statement is also available on the website in the relevant section dedicated to Experts. The model contract (see Annex III of this notification) contains data protection clauses: similar clauses as the ones described in the EDPS guidelines are inserted in Article VIII of the specific conditions and Article 6 of the general conditions of the model contract as regards processors.

Annex

I of the model contract contains a declaration of confidentiality, which is to be signed by the Expert. In Annex II of the model contract, there is a code of conduct with relevant clauses protecting against unnecessary and non-proportionate disclosure of personal data (e.g.: strict confidentiality, nondisclosure of the names of other experts, etc).

#### 8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS

*(Rights of access, to rectify, to block, to erase, to object)*

Experts are informed about their rights via the privacy statement and Article VIII of the specific

conditions and Article 6 of the general conditions (right to access to data, right to rectify it... as provided for by Section 5 of Regulation No 45/2001).

#### 9/ AUTOMATED / MANUAL PROCESSING OPERATION

The CV's of the experts are extracted via key words and downloaded from the EMI database by the relevant staff member of the Agency's Evaluation Team. An email is sent by this staff member to the Unit competent for the projects to be evaluated with a link to a folder where the CVs of the experts and a summary table (names, nationality, key words ... provided automatically by the system) are stored in order to be selected.

Once selected, the experts are informed and if they are available for the evaluation exercise, an electronic version of the contract with the relevant annexes is sent to them by e-mail. A print copy (2 originals) is also provided to the experts for signature on site (one signed original is given to the expert and the other original is kept by the Agency).

The main processing is thus done electronically, except for the signature of the contract, which is processed manually.

Data are only extracted from the EMI database and the processing of the EMI database is done by the owner of the database, which is DG RTD.

#### 10/ STORAGE MEDIA OF DATA

The CVs and the summary table are saved electronically in a specific folder for the selection exercise with access on a need to know basis (management, evaluation team & operational units in charge of the projects to be evaluated) from the extract phase to the end of the evaluation (3 months).

The CVs of unselected experts are also kept in this folder during this period of 3 months since it can occur that an expert is no longer available for the evaluation and needs to be replaced. After the end of the evaluation period, all the CVs and the summary table are deleted from this folder.

The CVs of the selected experts with their respective contracts are kept electronically in a folder with restricted access (management, evaluation team, legal team and financial team) in order to allow the processing of the contractual obligations (including possible audits). CVs of unselected experts are also kept with restricted access (management, evaluation team & legal team) in case of possible complaints (for retention period see below section 13 of this notification).

One original of each contract is kept in locked cupboard.

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

##### Legal basis:

- Council Regulation 58/2003 of 19 December 2002, laying down the Statute for executive agencies to be entrusted with certain tasks in the management of EU programmes;
- Regulation (EC) n° 1653/2004 of 21 September 2004 on a standard Financial Regulation for the executive agencies pursuant to Council Regulation (EC) n° 58/2003 of 19 December 2002 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programme;
- Commission Decision 2013/801/EU of 23 December 2013 establishing the Innovation and Networks Executive Agency and repealing Decision 2007/60/EC establishing the Trans-European Transport Network Executive Agency as amended by Decision 2008/593/EC;

4

- Commission Decision C (2013) 9235 of 23 December 2013 delegating powers to the Innovation and Networks Executive Agency with a view to the performance of tasks linked to the

implementation of Union programmes in the field of transport, energy and telecommunications infrastructure and in the field of transport and energy research and innovation comprising, in particular, implementation of appropriations entered in the general budget of the Union;

- Regulation (EC, Euratom) N° 966/2012 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;
- Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation No 966/2012.

Lawfulness:

Regulation (EC) No 45/2001:

- Article 5(a) in conjunction with Recital 27: the processing is necessary for the legitimate exercise of official authority vested in the Community institution or body.

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

All recipients are on a "need to know" basis:

- Staff of the evaluation, operational and financial units and legal team of the Agency participating in the management of the selection of experts and related contractual aspects (payment of fees, travel expenses, etc.) ;
- Bodies in charge of a monitoring or an inspection task in application of Union law (e.g. internal audit, IAS, Court of Auditors);
- Members of the public in accordance with the Agency's legal obligation to publish on its website information on contracts concluded with external experts (see Article VIII of the model contract referring to Articles 20 and 50b of the Commission Regulation No 1653/2004 on a standard financial regulation for the executive agencies) This information provided on a yearly basis in a table format concerns the first name and surname of the experts. General information is also provided on the fee/day of service, daily allowance, reimbursement of travel expenses and the lump sum for accommodation applicable to all the experts;
- Security services of the building in order to ensure access of the selected experts to the Agency's premises for the evaluation exercise (limited data such names and nationalities );
- The relevant unit of the Parent DG (e.g.: MOVE, etc.) may have access to the data in line with Regulation (EC) 45/2001;

In case of proceedings:

- OLAF;
- The European Court of Justice, as well as the lawyers and the agents of the parties in case of a legal procedure;
- The European Ombudsman;
- The European Data Protection Supervisor.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

The CVs and the summary table extracted from the EMI database are saved electronically in a specific folder for the selection exercise with access to the relevant Staff (management, evaluation team & operational units in charge of the projects to be evaluated) from the extract phase to the end of the evaluation (3 months). After the end of the evaluation period, all the CVs and the summary table are deleted from this folder.

5

The data relating to non-selected experts is kept for a period of 1 year following the end of the

evaluation in folder with a restricted access (need to know basis) by the relevant staff of the Evaluation Team of the Agency to allow for a possible appeal.

Names and nationalities of selected experts invited to the evaluation are collected and transmitted to the Security Services of the Agency's building where the evaluation takes place in order to ensure access to the experts to the relevant premises. The data is erased 30 days after the end of the evaluation.

In accordance with the Commission Common Retention List (point XXX., " ), the administrative retention period applied by the Agency for the selected experts is 5 /10 years?? to be checked on Wed 26/03 with MV after the end of the selection procedure. This enables the Agency to ensure all relevant contractual obligations as well as possible internal control and audits

13 A/ TIME LIMIT TO BLOCK/ERASE ON JUSTIFIED LEGITIMATE REQUEST FROM THE DATA SUBJECTS  
(Please, specify the time limits for every category, if applicable)

30 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

N/A

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,)

Professional and technical capacity (know-how, experience ..) of the experts based on their CVs extracted from the EMI database via key words is evaluated to see if their profile is suitable for the evaluation of project proposals to be funded under the TEN-T or CEF programme. The selection of experts, for assisting the Agency, in evaluating proposals and grant applications is provided for by Commission Regulation No 1653/2004 on a standard financial regulation for the executive agencies, which refers to Article 287 of the Financial Regulation N° 966/2012.

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

N/A

PLACE AND DATE: BRUSSELS, 27/03/2014

DATA PROTECTION OFFICER: MS CAROLINE MAION

INSTITUTION OR BODY: INEA, INNOVATION AND NETWORKS EXECUTIVE AGENCY