

*(To be filled out in the EDPS' office)*  
**REGISTER NUMBER: 1237**

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**NOTIFICATION FOR PRIOR CHECKING**

**DATE OF SUBMISSION: 09/04/2014**

**CASE NUMBER: 2014-0488**

**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

Management of calls for proposals and award of grants relating to the implementation of EU funded programmes<sup>3</sup> for which the implementation is entrusted to the Agency.

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

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

<sup>3</sup> The Agency has been entrusted with the implementation of the TEN-T, CEF and Horizon 2020 programmes as well as with the legacy of the Marco Polo programme (from the contracting phase/signature of grant agreements only). The management and administration of grants relating to the Horizon 2020 programme are subject to a specific notification: a common text to be notified to the EDPS respectively by each body in charge of the Horizon 2020 programme is currently under preparation with the support of an ad hoc working group composed of representatives of these bodies.

#### 4/ PURPOSE OR PURPOSES OF THE PROCESSING

The purpose of the processing is to enable INEA to ensure the management and administration of grant procedures relating to the programmes which fall under its competence.

#### 5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

**It should be noted that proposals submitted by natural persons are not eligible.**

Application must be submitted by one or more Member States, and/or by international organisations, joint undertakings, or public or private undertakings. Proposals for the CEF programme may be submitted by entities, which do not have the legal personality provided that their representatives have the capacity to assume legal obligations on their behalf.

Hence the personal data handled under this processing concern mainly the data relating to the natural persons who are the legal representatives or the contact persons of the entities involved in the grant award procedure (applicants, selected beneficiaries, coordinating applicant, affiliated entities, implementing bodies, etc...) whose name appears in the documents relating to the award procedure of the grants (application form, grant decision/agreement, relating correspondence, project reports, TENtec database, etc).

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

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

- Names and function of the representatives/contact persons of the entities involved in the application for a grant,
- Their contact details (e-mail address, business telephone/GSM numbers fax number, business postal address, company and department, country of business, internet address),
- Expertise & technical skills may be included in the proposals as regards the staff involved in the project (e.g.: languages, educational background, professional experience, etc.).

The following data is requested to the entity as such (& not to a natural person but the document may be signed by a natural person representing the entity):

- Legal entity form of the entity, except for Member States (LEF form of the Commission: see [http://ec.europa.eu/budget/execution/legal\\_entities\\_en.htm](http://ec.europa.eu/budget/execution/legal_entities_en.htm) ),
- Bank account of the entity (IBAN & BIC codes) via the BAF form of the Commission: see [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) ),
- A declaration on honour that the applicants/beneficiaries as entity are not in one of the exclusion situation referred to in Articles 106 and 107 of the Financial Regulation,
- Financial information to prove the financial capacity of the entities (only applicable to private undertakings or bodies): balance sheet, profit and loss for the most recent year... .

No data relating to health or extract of judicial records of natural persons are requested by the Agency.

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

Information relating to data protection (see annexes to this notification) is provided to applicants in the

- Calls for proposals, which include the model clause of the Commission for data protection;
- Model grant decision;
- The specific privacy statement in the field of grants, which is available on the website of the Agency.

#### 8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS (Rights of access, to rectify, to block, to erase, to object)

Applicants are informed about their rights via the data protection clauses provided in the model grant decision and the calls for proposals as well as via the specific privacy statement, which is available on the website of the Agency, where all the relevant documents relating to the calls are published.

#### 9/ AUTOMATED / MANUAL PROCESSING OPERATION

The original application form, 4 copies of the application (unless the proposal is not in English, then only one copy is enough) and a CD-ROM or DVD-R disk (non-rewritable) are sent to the Agency by post or hand delivery. Part of the application is also entered into the TENtec system by the applicant (electronic submission). The applications are stored in a locked room and access is allowed to a limited number of persons during evaluation, on a need to know basis in order to ensure confidentiality and equal treatment of applicants. External experts having access to these data for the evaluation purposes sign a confidentiality declaration and have access to the application forms in the Agency premises. An electronic version of the application forms is kept on a specific drive of the Agency with limited access on a need to know basis. If a translation of the application is required, a copy of the application in the original language is sent to the Translation Service of the Commission via email.

Data is entered directly by the applicants to the TENtec system. The Agency has access to personal data stored in TENtec (access restricted to the relevant staff member on a need to know basis), but processing in the system is done by the owner of the database, which is DG MOVE.

#### 10/ STORAGE MEDIA OF DATA

Electronic documents are in a specific folder with access on a need to know basis (management, evaluation team & operational units in charge of the projects to be evaluated, legal team and financial officers). Paper documents (e.g. original applications, evaluation forms,...) are kept in locked room or 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;
- 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 Agency's evaluation team, operational and financial units and the legal team participating in the evaluation of the proposals and the following management of grant decisions or agreements after the award;
- Bodies in charge of a monitoring or an inspection task in application of the Union law (e.g. internal audit, IAS, Court of Auditors);
- External Experts in charge of the evaluation of the proposals (see specific notification for more details);
- Staff of the relevant unit(s) of the Parent DG(s) (e.g.: DG MOVE, etc.);
- The Translation Service of the Commission if the application is not provided in English by the applicant;

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

In accordance with the 2012 Retention List of the Commission:

- Files relating to the grant award procedure (evaluation of applications for grants and selection of projects for financing) are to be retained in the service in charge of the procedure (Evaluation Team) until the evaluation is finalised and in the Agency's archives for a period of 10 years following the award decision (this is three years more as the maximum period suggested by the EDPS guidelines).
- Files relating to unsuccessful application are kept only for three years following the award decision

(this is 2 years less as the maximum period suggested by the EDPS guidelines).

- Files relating to the management of grant agreements and decisions are kept by for a period of 10 years following the closure of the file (after final payment, de-commitment, etc.: this is three years more as the maximum period suggested by the EDPS guidelines).

This enables the Agency to ensure all relevant contractual obligations as well as possible internal control, audits and appeals.

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,)

The evaluation procedure may imply the evaluation of some of the personal aspects of the legal representatives of the applicants. Their conduct may be assessed according to the exclusion criteria laid down in the calls for proposals in compliance with the Financial Regulation (Art. 106 (1) b & e and 108).

It should be noted, however, that it is more the efficiency and technical capacity of the entity as such (and not of the natural person acting as legal representative), which is checked against the selection criteria. However, since Article 9 of the CEF Regulation (EU) N° 1316/2013 of 11 December 2013 gives the possibility of having proposals submitted by entities, which do not have the legal personality provided that their representatives have the capacity to assume the relevant legal obligations on their behalf, the assessment of the capacity of those representatives is to be considered.

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

The following annexes are enclosed to this notification:

- Specific Privacy Statement;
- Standard data protection clause provided in calls for proposals;
- Data protection clause provided in the model decision;
- Declaration of absence of conflict of interest and confidentiality.

The following standard documents can be downloaded from [http://inea.ec.europa.eu/en/tent/apply\\_for\\_funding/follow\\_the\\_funding\\_process/2013\\_annual\\_programme\\_call.htm](http://inea.ec.europa.eu/en/tent/apply_for_funding/follow_the_funding_process/2013_annual_programme_call.htm)

- Guide for Applicants;
- Application Form Part B1: Administrative Information;
- Application Form Part B2: Technical and Financial Information;
- Application Form Part A: Submission form.

It should be noted that this processing of data is currently being implemented for the TEN-T programme and that a similar processing is likely to be implemented for future calls for proposals to be launched under the CEF Programme.

PLACE AND DATE: 09/04/2014

DEPUTY DATA PROTECTION OFFICER: CAROLINE MAION

INSTITUTION OR BODY: INEA INNOVATION AND NETWORKS EXECUTIVE AGENCY