



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR EDUCATION AND CULTURE

Modernisation of Education I: Europe 2020, country analysis, Erasmus+ coordination
Erasmus+ Programme coordination and National Agencies management

Brussels,
EAC A3/CVK/AN/GGM/MR Ares(2016)

Patrick Harte
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*By registered letter with acknowledgment
of receipt*

*Advance copy by email: ask+request-3016-
48bd309b@asktheeu.org*

**Subject: Your application for access to documents – Ref GestDem 2016/3232.
Contract document signed between Ecorys and the European
Commission with the obligations of the UK National Agency in
relation administration to UK Erasmus+ projects. Reply granting
partial access to documents.**

Dear Mr Patrick Harte,

My services refer to your e-mail dated 09/06/2016 in which you make a request for access to documents, registered on 10/06/2016 under the above mentioned reference number.

You request access to a copy of the contract signed between Ecorys (the UK National Agency for Erasmus+) and the European Commission detailing the obligations of the UK National Agency in relation to administration, assessment and selection of Erasmus+ projects in the UK, namely, the 2015 Delegation Agreement between the United Kingdom's Erasmus+ National Agency and the European Commission.

Your application concerns the following documents:

1. Delegation Agreement UK NA+EC -EAC-2015-0118- (ref. Ares(2015)2384876)
 - 1.1 Amendment № EAC-2015-0118/001 (ref. Ares(2015)6008021)
 - 1.2 Amendment № EAC-2015-0118/002 (ref. Ares(2016)2024637)
2. Annex I: Calendar for the use of 2015 funds for grant support
3. Annex II: 2015 Guide for National Agencies
 - a. Annex I: Model documents for NA
 - b. Annex II-A Agreements between NAs and beneficiaries
 - c. Annex II-B Accreditation-Charters

- d. Annex II-C Agreements between beneficiaries and participants
- e. Annex III Qualitative guidelines and technical instructions:
 - i. III.1 – Guide for experts on quality assessment (public document)
 - ii. III.2 – Guidelines for NAs on quality assessment
 - iii. III.3 – Guidelines for NAs on the selection of KA1 mobility projects in the field of higher education between Programme and Partner Countries
 - iv. III.4 – Guidelines for NAs on the selection of KA2 Strategic Partnerships in the field of School Education
 - v. III.5 – Guidelines for NAs on financial capacity assessment
 - vi. III.6 – Guidelines for NAs on double funding and submission check (use of BO report)
 - vii. III.7 – Online Linguistic Support (OLS): guidelines and roadmap for NAs
 - viii. III.8 – European Language Label (ELL): guidelines for NAs
 - ix. III.9 – Selection of Good Practice examples: guidelines for NAs
 - x. III.10 – Check of grant beneficiaries: technical instructions for NAs
 - xi. III.11 – Management of changes in KA2 Strategic Partnerships: technical instructions for NAs
 - xii. III.12 – E+ Guide to long-term study mobility of pupils in Strategic Partnerships (KA2)
 - xiii. III.13 – E+ Technical guidelines for completing application eforms: guidelines for applicants
 - xiv. III.14 – EVS training and evaluation cycle guidelines and minimum quality standards

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- 4. Annex III: 2015 National Agency Work programme dated 24/04/2014-(Ref. Ares(2015)1790921)
 - 5. Annex IV: 2015 Yearly NA Report Model
 - 6. Annex V: Rules on the application of financial corrections

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I have come to the conclusion that they may be partially disclosed. Some parts of the documents have been blanked out as their disclosure is prevented by exceptions to the right of access laid down in Article 4 of this Regulation.

Since the document "*4. Annex III: 2015 National Agency Work programme dated 24/04/2014* Ref. Ares(2015)1790921" originates from a **third party**, the authors of the document have been consulted and they have objected to disclosing their document motivating their position as follows:

The document contains commercially sensitive information related to staffing levels and business methodologies.

I agree with the third-party objections based on the use of the exception under Article 4(2), first indent, of Regulation (EC) No 1049/2001 on the grounds of protecting

commercial interests. Disclosure of this annex would allow the general public to gather important information of business relevance, which would be harmful for the companies that have been selected following a competitive tender procedure.

For the following documents, the use of the exception under Article 4(2), third indent, of Regulation (EC) No 1049/2001 on the grounds of protecting the **purpose of inspections, investigations and audits** is justified:

- III.5-Guidelines for NAs on financial capacity assessment
- III.6.-Guidelines for NAs on double funding and submission check (use of BO report)
- III.10-Checks of grant beneficiaries-technical instructions for NAs

These documents describe in detail a range of potential risks and concrete guidelines linked to the checks to be performed by the National Agency with regard to applicants and beneficiaries. Disclosing these will seriously undermine the efficiency and effectiveness of the approach taken by the National Agency, as disclosure will give indications to beneficiaries and potential beneficiaries as regards the scope and focus of future checks thus enabling them to circumvent these checks and controls. Disclosure while the Erasmus+ Regulation is still being implemented would therefore seriously undermine the purpose of those investigations and checks, which is to assess the degree of compliance with the applicable principles, rules and procedures to ultimately ensure correct use of EU Funds.

According to Regulation 1049/2001, the exceptions laid down in Article 4(2) apply unless there is an overriding public interest in disclosure of the documents. My services have therefore analysed if there exists such an overriding public interest in your case.

For the exceptions above under Article 4(2), first indent, on the grounds of protecting commercial interests, my services have examined whether there could be an **overriding public interest** in disclosure, but they have not been able to identify such an interest. Consequently, I consider that the prevailing interest in this case is the protection of the commercial interest of the author of the document; and that the public interest in disclosure is properly served by disclosing all other documents requested.

For the exceptions under Article 4(2), third indent, on the grounds of protecting the purpose of inspections, investigations and audits, my services consider that the public interest is better served by ensuring that the National Agency can properly perform its checks, controls, inspections and audits of applicants and beneficiaries in order to ensure that EU funds are protected against misuse. Consequently, I consider that the prevailing interest in this case is the public interest to protect the purpose of the checks, controls, inspections and audits.

Finally, some of the documents to which you have requested access contain **personal data** in particular:

- 1.Delegation Agreement UK NA EAC-2015-0118 (ref. Ares(2015)2384876).
 - 1.1 Amendment № EAC-2015-0118/001 (ref. Ares(2015)6008021)
 - 1.2 Amendment № EAC-2015-0118/002 (ref. Ares(2016)2024637)

Pursuant to Article 4(1) (b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data.

According to Article 8(b) of this Regulation, personal data shall only be disclosed if the persons requesting disclosure establish the necessity of receiving the data and if there is no reason to assume that the legitimate rights of the persons whose data are disclosed might be prejudiced.

My services consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and/or that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing the documents requested expunged from this personal data.

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position. Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

European Commission
Secretary-General
Transparency unit SG-B-4
BERL 5/282
B-1049 Bruxelles

or by email to: sg-acc-doc@ec.europa.eu

Yours sincerely,


P.o. Martine REICHERTS
Director-General

Enclosures: Annex 1 – 2015 Delegation Agreement with National Agency UK,
Annex 2 – Amendment 1 to 2015 Delegation Agreement,
Annex 3 – Amendment 2 to 2015 Delegation Agreement,
Annex 4 – 2015 Guide for National Agencies,
Annex 5 – Technical Guidelines on application e-forms,
Annex 6 – Guide for experts on Quality Assessment,
Annex 7 – Guide to long-term study mobility of pupils in strategic
partnerships