



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR RESEARCH & INNOVATION  
The Director-General

Brussels, 06 DEC 2013  
Gestdem reference No: 2013/5010

**Mr Kostas VITSOS**  
*per email only: 'ask+request-871-a3193336@asktheeu.org'*

**Subject: Your Application for Access to Documents - Gestdem Ref. No. 2013/5010**

Dear Mr Vitsos,

We refer to your email dated 06/10/2013 in which you make a request for access to documents, registered on 09/10/2013 under the above mentioned reference number.

We would like to extend our apologies for the delay in processing your application and assure you that we did our utmost in order to provide you with our reply as soon as possible. However, large files had to be examined and several services consulted. Moreover, due to the nature of the requested documents, their analysis with a view to grant you the widest possible access has taken some time.

**I. SCOPE OF APPLICATION**

Your application concerns the following documents, which correspond to the partially released FP7 Audit Manual, as provided for in a previous response to your request for access to documents (Gestdem 2013/3349).

In relation to page 2 of the corresponding Audit Manual:

1. *A copy of the most relevant document (the identification of the document is left to the discretion of the Commission services) establishing the entity found in the expunged entry of sixth row of the table. For instance, if that were the case of the European Commission a reference to the Treaty of the European Union would be sufficient;*
2. *A copy of the most relevant document (the identification is left to the discretion of the Commission services) establishing the entity found in the expunged entry of seventh row of the table;*

3. *A copy of the most relevant document (the identification is left to the discretion of the Commission services) establishing the entity found in the expunged entry of the eight row of the table;*

In relation to page 5 of the corresponding Audit Manual:

4. *Page 5 has the title 'INTRODUCTION'. There is table consisting of 11 rows listing a number of documents that are relevant to the FP7 audits. A copy is requested of the document(s) referred to in the expunged fourth row (third bullet) of the table.*
5. *A copy of the document(s) referred to in the expunged tenth row (ninth bullet) of the table.*
6. *A copy of the document(s) referred to in the expunged eleventh row (tenth bullet) of the table. Commission Decision 2008/597/EC, including documents dispatched to the European Data Protection Supervisor (EDPS).*

In relation to page 29 of the corresponding Audit Manual:

7. *A copy of the HTML (i.e. web) page, or equivalent, indicated by the expunged link.*
8. *A copy of every single document pointed to, or expressly referred to, by contents of the expunged link.*

## **II. IDENTIFICATION OF THE RELEVANT DOCUMENTS**

- I. As a preliminary observation, we would like to point out that the document required under point 4 corresponds, in fact, to the requested document under point 1. Having examined the document requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents, we have come to the conclusion that the document corresponding to points 1 and 4 cannot be disclosed as it falls under the exception of Article 4 of the said Regulation.

Following careful review of the FP7 Audit Process Handbook, we decided, nevertheless, to grant you partial access to this document in accordance with Article 4(6) Regulation (EC) No 1049/2001. This provision expressly states that "[I]f only parts of the requested document are covered by any of the exceptions, the remaining parts of the document shall be released".

The FP7 Audit Process Handbook contains general standards and procedures as well as detailing specific problems encountered and how they might be managed. They have only been expunged of the parts which refer to the following matters:

- internal forms and check lists;
- audit and reporting templates;
- audit selection and preparation;
- audit methods and reporting;
- internal organisation; and

- management and decision-making aspects.

The redacted parts are shown in black marking in the document provided. They fall within the scope of the above mentioned exceptions provided by Article 4 of Regulation (EC) No 1049/2001.

- II. As far as points 2, 3, 7 and 8 of your request are concerned, we are pleased to provide you with the full versions, respectively, of the templates for the FP7 Letters of announcement for in-house audits and audits performed by the External Audit Firms, the Letter of Conclusion template for FP7 audits and the relevant document, "*Eligibility of taxes and charges related to personnel under FP6 and FP7*". We would like to bring to your attention the fact that the document requested under point 8 is in fact the same document as requested under point 7.
- III. In respect to points 5 and 6 of your request, we have identified the following relevant documents:
- a) the CAR Decision *on the materiality threshold for insignificant errors at the audit reporting stage*.
  - b) the CAR Decision *on netting off on systematic errors*.

Having examined both of the above mentioned documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, we regret to inform you that they cannot be disclosed under Article 4 of the said Regulation. These documents are expressly protected under the exceptions provided by Article 4(1) a) fourth indent and Article 4(2) third indent. These provisions aim at protecting the financial, monetary or economic policy of the Community and the purpose of inspections, investigations and audits.

The concerned documents provide more detailed information on the approaches and methodologies for the auditors regarding the calculation and reporting of audit findings than a standardized practice audit process handbook. A financial or fiscal public administration and particularly an audit service cannot reveal the concrete details of its audit mechanisms. Any leakage of information in this field would have a serious negative financial impact on the Union's budget. The financial policy of the Community can be understood as relating to the proper management of the funds of the Community. It is a policy that the finances of the Commission should be protected by way of audits of beneficiaries of grants and other contractors.

Public disclosure of these internal documents would thus seriously undermine protection of the financial, monetary or economic policy of the Community and the efficiency and effectiveness of the audits within the meaning of Article 4(1) a). This is an absolute exception which is not balanced against an overriding public interest.

We also consider that disclosure of the concerned documents is prevented under Article 4(2) third indent, especially in light of the fact that the FP7 audit campaign is still on-going.

Pursuant to Article 4(6), we have considered whether partial access could be granted to the two documents concerned. However, we regret to inform you that, as far as the above mentioned documents are concerned, such a partial release was not possible.

Having analysed your request, we have not found any sufficient elements that could justify the existence of an overriding public interest in the sense of the Regulation which would outweigh the exceptions stipulated in the above mentioned Article 4(2) third indent of Regulation (EC) No 1049/2001. The disclosure of the documents in question would reveal information on the way in which audit activities are carried out in specific cases. This would, in turn, reduce the effectiveness of the audit capacity of the Commission. In this context, the arguments which you put forward in your application cannot be deemed as an overriding public interest in the sense of the regulation that would compensate the negative impact on the EU Budget and on the audit capacity for this type of expenditure resulting from full public access to the two concerned documents.

### III. MEANS OF REDRESS

In conclusion, you were given full access to five documents. Partial access has been granted to one document. However, you were refused access to two requested documents.

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-5  
BERL 5/327  
B-1049 Bruxelles

or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

We thank you very much in advance for your kind understanding.

Yours sincerely,

For the Director General absent  
W. BURTSCHER  
Deputy Director General

Robert-Jan Smits

CC: M. Bellens; S. Gruener (RTD M.1); S. Bojinova; C. Moal-Nuyts; H. Kerr (RTD R.5).