

DPO-3398.3 - RTD : External audit and control

General information

Creation : 13/04/2011

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Registration : 30/11/2011

Status : Archived

Deleted : No

DG.Unit : RTD.M

Controller : BISCONTIN Franco

Delegate :

DPC : BOURGEOIS Thierry, PENEVA Pavlina

Keywords :

Corporate : No

Language : English

Model : No Model

EDPS opinion (prior check) : No

Target Population : Auxiliary agents, Beneficiaries, Contractors, Contractual agents, Detached officials, Local agents, National detached experts, Officials, Officials on probation, Retired officials and agents, Special advisers, Temporary agents, Trainees

DPC Notes :

Processing

1 . Name of the processing

External audit and control

2 . Description

The processing operations are described in the procedure guide of ex-post control which is the result of a sampling methodology of financial transactions.

http://www.cc.cec/budg/dgb/interdg/_doc/epc/lib/legalframework/doc_080926_expostdefinitionandfaq_fr.pdf

http://www.cc.cec/budg/dgb/interdg/epc/library_en.html

Specific IT tools used in the context of performing an external financial audit are described below:

- A specific tool allowing the exchange of lists of projects (for an auditee) between DGs, supporting life-cycle management of individual audit and extrapolation cases and containing a summary of the audit conclusions. No personal data are processed except contact information of Commission staff and auditees.
- A specific tool to facilitate searching and visualisation of information about participants in grants and contracts. This is used by auditors in the selection, preparation and performance of audits. The tool uses information on participants in grants and contracts, taken from IT tools for programme management notified to the DPO under n° DPO-978 (front-end) and DPO-2382 (back-office),. This information includes details of organisation names, registration numbers, address, audit results, EWS status, phone, fax, email, names of authorised signatories and contact persons, project reference, acronym, funding, budget.

This processing has been submitted to the EDPS who concluded that Article 27 is not applicable.

3 . Processors

External auditors of DG RTD.

List of attachments

- [BUDG clause-data-protection-en.doc](#)

4 . Automated / Manual operations

Beneficiary/contractor undertakes to provide any detailed information, including information in electronic format, requested by the Commission or by any other outside body authorised by the Commission in order to check that the action and the provisions of the agreement/service contract are being properly implemented.

5 . Storage

Data are stored in computer systems and/or physical archives accessible only to duly authorized staff (management of IT and physical access rights with respect to the need to know principle).

6 . Comments

N. A.

Purpose & legal basis

7 . Purposes

Checks and financial controls of grant agreements or service contracts aim at verifying beneficiary's or contractor's or subcontractors' or third parties' compliance with all contractual provisions (including financial provisions), in view of checking that the action and the provisions of the grant agreement or contract are being properly implemented and in view of assessing the legality and regularity of the transaction underlying the implementation of the Community budget.

8 . Legal basis and Lawfulness

The possibility for the EC to carry out checks and financial controls is foreseen in the model grant agreement or contract signed between the EC and the beneficiary/contractor as required by the Financial Regulation ("FR") applicable to the General Budget of the European Communities (art. 170, 60.4), and its Implementing Rules ("IR") (art. 47.4):

- Art. 170 FR: Each financing agreement or grant agreement or grant decision must expressly provide for the Commission and the Court of Auditors to have the power of audit, on the basis of documents and on the spot, over all contractors and subcontractors who have received Community funds.
- Art. 60.4 FR: The authorizing officer by delegation shall put in place, in compliance with the minimum standards adopted by each institution and having due regard to the risks associated with the management environment and the nature of the actions financed, the organizational structure and the internal management and control procedures suited to the performance of his/her duties, including where appropriate ex post verifications. Before an operation is authorized, the operational and financial aspects shall be verified by members of staff other than the one who initiated the operation. The initiation and the ex ante and ex post verification of an operation shall be separate functions.
- Art. 47.4 IR: The ex post verifications on documents and, where appropriate, on the spot shall check that operations financed by the budget are correctly implemented and in particular that the criteria referred to in paragraph 3 are complied with. These verifications may be organized on a sample basis using risk analysis.

The processing operations on personal data carried out in the context of ex post controls are necessary and lawful under three articles of the Regulation (EC) 45/2001:

- article 5 (a): processing is necessary for the performance of a task carried out in the public interest on the basis of the Treaties establishing the European Communities or other legal instruments adopted on the basis thereof...
- article 5 (b): processing is necessary for compliance with a legal obligation to which the controller is subject
- article 20.1.b): necessary measure to safeguard:
 - (a) the prevention, investigation, detection and prosecution of criminal offences;
 - (b) an important economic or financial interest of a Member State or of the European Communities, including monetary, budgetary and taxation matters;
 - (c) the protection of the data subject or of the rights and freedoms of others;

This processing has been submitted to the EDPS who concluded that Article 27 is not applicable.

Data subjects and Data Fields

9 . Data subjects

- * Contractors and sub-contractors;
- * Beneficiaries of grants;
- * Staff;
- * Experts.

10 . Data fields / Category

All necessary data to efficiently conduct a control such as:

- Name,
- Function,
- Grade,
- Activities and expertises,
- Professional address,
- Timesheets,
- Salary,
- Accounts,
- Cost accounting,
- Missions,
- Information coming from local IT system used to declare costs as eligible,
- Supporting documents linked to travel costs,
- Minutes from mission and other similar data depending of the nature of the action.

No data which fall under article 10.

Rights of Data Subject

11 . Mandatory Information

The Privacy Statement attached is available with the Commission's letter initiating the control process.

[List of attachments](#)

- [Ex-post audits notification v1.7.doc](#)

12 . Procedure to grant rights

Functional mailbox to get information and mailbox of the EDPS to lodge a complaint (see Privacy Statement):

RTD-AUDITS-DATA-PROTECTION@ec.europa.eu

13 . Retention

Each ex post controller is responsible of archiving the documents related to controls. Data are stored until 10 years after the final payment on condition that no contentious issues occurred; in this case, data will be kept until the end the last possible legal procedure.

14 . Time limit

The Commission services will respond within 15 working days to any request and if this is considered justified the relevant correction or deletion will be performed within one calendar month.

15 . Historical purposes

N. A.

Recipients

16 . Recipients

Collected personal data could be submitted to Commission services in charge of ex post controls, without prejudice to a possible transmission to the bodies in charge of a monitoring or inspection task in accordance with Community law (OLAF, Court of Auditor, Ombudsman, EDPS, IDOC, Internal Audit Service of the Commission).

17 . Transfer out of UE/EEA

N. A.

Security measures

18 . Technical and organizational measures

Access to personal information stored in IT systems or physical archives used in the context of external audit and controls is limited to Commission staff who are mandated in the unit.

Files are stored in locked cupboard. Data communicated to OLAF or IDOC are in a safe under the authority of the Head of unit.

IT data are stored on a common repository with restricted accesses, given only to duly authorized staffs (who need to know).

Only internal communication.

19 . Complementary information

The attached Audit Process Handbook is a procedural manual describing how ex-post controls are to be carried out. At each stage of the audit process the assessments are made by auditors or management. IT tools are used to support this process but no automated decision making is used. During the selection, preparation and performance of audit and desk controls information on the participation of beneficiaries is retrieved from IT systems such as those notified under DPO-978 (front-end) and DPO-2382 (back-office) or the tools described in point 7 above. This information is used as one input to the assessments made by the management of the External Audit Service and by the auditor as to whether the beneficiary should be audited and the risks related to the audit. The performance of an audit includes the collection of further information directly from the beneficiary at his premises, and meetings with the beneficiary to discuss the findings and ensure that the information has been correctly interpreted. This is followed by a contradictory procedure in which the beneficiary is able to submit his comment on the draft version of the audit report. These comments are considered by the auditor in producing the final audit report.

Audit cases which lead to indication or suspicion of fraudulent behaviour are treated as 'Sensitive Cases' and are referred to an Audit Steering Committee. The Audit Steering Committee and the head of the External Audit Service decide if the file should be transferred to OLAF following the respective procedure of the DG.

The auditor, supported by the Audit Steering Committee, is responsible for indicating and communicating with the results of an audit whether the audited organisation should be flagged in the Early Warning System based on the results of an audit, following the respective procedure of the DG.

The DG RTD specific guidance note on grant applicants/beneficiaries flagged in the Early Warning System is attached.

List of attachments

- [Audit Process Handbook RTD.pdf](#)
- [EWS Procedure RTD.pdf](#)
- [Note from Controller to Processors.pdf](#)