

DPO-3398.4 - RTD : External audit and control

General information

Creation : 13/04/2011

Last updated : 17/05/2013

Registration : 13/06/2013

Status : Register

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 Commission's FP7 Audit Strategy:

http://cordis.europa.eu/audit-certification/home_en.html

3 . Processors

Any in-house external auditor of DG RTD is a processor.

In addition, any processing operations performed on behalf of the DG (the Controller) by a contractor (a Processor), acting as outsourced external auditor, are pursuant to Regulation (EC)45/2001. The subsequent obligations of the Processor are made mandatory via a dedicated contractual clause (enclosed).

[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.

In addition to generic office automation tools used by the Commission or by any outside body authorised by the Commission to perform external financial audits, specific IT tools are used by the Commission in the context of performing an external financial audit including:

- 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, on experts, taken from IT tools for programme management notified to the DPO under n° DPO-978. 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.

- Documents related to grants and contracts may be checked using tools designed to identify text similarities, in order to detect possible plagiarised texts. Such documents may contain information about the authors of the documents and the persons and entities involved in the grants and contracts under analysis. Contractors (Processors) might use other IT tools, developed in-house or of the shelf, in compliance with Regulation (EC)45/2001. Their related obligations as processors are part of their contract (cf. section 3).

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

Financial audits and 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 Commission to carry out financial audits and controls is foreseen in the grant agreement or contract signed between the Commission and the beneficiary/contractor as required by the Financial Regulation ("FR") (Regulation (EU, EURATOM) n°966/2012 of the European Parliament and of the Council of 25 October 2012) (Article 137.2) and its Rules of Application (RAP) (Commission delegated Regulation (EU) n°1268/2012 of 29 October 2012) (Article 180.1.f) applicable to the General Budget of the Union:

- Art. 137.2 FR: Each grant decision or agreement shall provide expressly for the Commission and the Court of Auditors to exercise their powers of control, concerning documents, premises and information, including that stored on electronic media, over all third parties who have received Union funds.

- Art 180.1 (f) RAP: The grant agreement shall at least lay down the following: (...) (f) the general terms and conditions applicable to all grant agreements of this type, such as the acceptance by the beneficiary of checks and audits by the Commission, OLAF and Court of Auditors.

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

- Art. 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;

- Art. 5 (b): processing is necessary for compliance with a legal obligation to which the controller is subject;

- Art. 20.1: 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.

As in the context of previous audits and ex-post controls the EDPS already concluded that Art. 27 was not applicable, this processing does not require a prior checking.

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 expertise;
- CV;
- Professional address;
- Timesheets;
- Salary;
- Employment contracts;
- Accounts;
- Bank 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 Art. 10.

Rights of Data Subject

11 . Mandatory Information

The Service Specific Privacy Statement (SSPS) attached is published on CORDIS, and the link to it is provided with the Commission's letter initiating the control process (ftp://ftp.cordis.europa.eu/pub/fp7/docs/privacy-rtd_en.pdf).

List of attachments

- [Ex-post audits RTD SSPS V0.8.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 auditor 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 of 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 Auditors, 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 audits 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 staff (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 audits and desk controls information on the participation of beneficiaries is retrieved from IT systems such as those notified under DPO-978 or the tools described under point 4) above. This information is used as one input to the assessments made by the management of the External Audit Unit 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 comments 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 serious irregularities or fraud are transferred to OLAF following the respective procedure of the DG. The auditor, supported by the Audit Steering Committee, is responsible for recommending whether on the basis of the audit results, the audited organisation should be flagged in the Early Warning System, 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.

The note sent by the Controller to his processors of DG RTD has been attached, and the framework contracts with the firms which handle external audits on behalf of DG RTD have been amended to include the provisions agreed with DG BUDG with that respect.

[List of attachments](#)

- [EWS Procedure RTD.pdf](#)
- [Note from Controller to Processors.pdf](#)
- [FP7 00 Audit Process Handbook - Main text.pdf](#)