



European Commission Data Protection Officer

DPO-3420.1 DG MOVE and DG ENER External Audit and Control

Directorate-General: Mobility and Transport

Controller: MERCIOL Jean-Claude

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Processing

1. Name of the processing

DG MOVE and DG ENER External Audit and Control

2. Description

The processing operations performed by most DGs 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.pdfhttp://www.cc.cec/budg/dgb/interdg/epc/library_en.html

Research family DGs are using specific IT tools in the context of performing an external financial audit which 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 (front-office notified to the DPO under n° DPO-978 and back-office 1. 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. Sub-Contractors

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4. Automated / Manual operations

n/a

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 / 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 / fields

9. Data subjects

Contractors and sub-contractors
Beneficiaries of grants
Staff
Experts

10. Data fields

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.

See point 17)

Rights of D.S.

11. Information

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

attachments:
- *EXTERNAL AUDIT PRIVACY STATEMENT.doc*

12. Procedure to grant rights

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

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).

See point 20)

17. Transfer

n/a