

Data Protection Notice

Financial Management

(December 2018)

This Data Protection Notice is provided to you in order to explain the policy of the Agency for the Cooperation of Energy Regulators ("the **Agency**") regarding your privacy, as well as how your personal information is handled in the context of the Agency's financial management, including in connection with the use of the Agency's Financial Tool and the European Commission's Accrual-Based Accounting System ("**ABAC**").

Who is responsible for my personal information?

The Agency is the data controller regarding all personal data processing carried out in the context of its financial management.

To get in touch with the Agency's Data Protection Officer, please contact: dpo@acer.europa.eu.

What personal information of mine is being collected?

When you enter into a financial relationship with the Agency (e.g., as a staff member, contractor or a supplier), the Agency may collect and process information related to you (as an individual), which, either by itself or together with other information to which the Agency has access, allows you to be identified.

This information may be classified as "**Personal Data**".

Personal Data which may be processed by the Agency in the context of the Agency's financial management are as follows:

(a) **Financial Tool Data**

Certain types of transactions which the Agency may enter into – i.e., new commitments, de-commitments, commitment top-ups, budget transfers, recovery orders and payments (invoices and direct payments) – are logged into the Agency's Financial Tool as a preparatory step, prior to their initiation in ABAC.

Information logged includes the names and contact details of the entities which enter into the relevant financial relationships with the Agency, as well as details on the transaction itself (e.g., expenses to be reimbursed, salaries to be paid, invoices to be paid) and relevant bank details for payments to be made, all of which, when related to individuals, amount to Personal Data.

(b) **ABAC Data**

As mentioned above, ABAC is the EU Commission's financial and accounting application, which is leveraged also by several Union agencies (including the Agency).

For more information on how your Personal Data may be processed by the EU Commission in connection with ABAC, please refer to the [relevant entry in the EU Commission DPO's Register](#) (which includes also links to the EU Commission's Privacy Statement on ABAC).

ABAC User Data

All Agency staff members which are granted access rights to one or more modules of ABAC (as financial initiators, financial verifiers or operational verifiers) are identified by a unique UserID – this is linked to the staff members' name, as well as to the fact that that staff member is affiliated to the Agency (via business address and information on the organisation which the ABAC user belongs to).

These UserIDs are used to monitor all activities within ABAC – any actions performed under a User ID (e.g., creation, modification or validation of documents) are logged.

Legal Entity Files

All entities (companies, organisations or individuals) which enter into a financial relationship with the Agency are assigned a unique number, by means of a Legal Entity File ("LEF") created in ABAC.

Each LEF contains information on the individual in question, or the individual(s) representing the company / organisation in question, including, e.g., their name, date, place and country of birth, national ID number (and issuing country) and contact details (postal address, phone number, e-mail address).

Bank Account Files

In order to correctly execute payments, the Agency must collect banking details on entities which enter into financial relationships with the Agency, by means of Bank Account Files ("BAF"), which are filled in with information provided by those entities in a financial identification form.

Where these entities are individuals, Personal Data contained in a BAF include, e.g., the account holder's name and address, IBAN and BIC codes.

(c) Personal Data relating to offences and criminal convictions

Whenever the Agency enters into a financial relationship with an entity, it must screen that entity against the European Commission's Early Detection and Exclusion System ("EDES")¹, in order to reinforce the protection of the Agency and the Union's financial interests. Additionally, whenever the Agency detects that an entity has a financial relationship which meets criteria for exclusion from access to Union funds, or has had financial penalties imposed upon it, the Agency must enter this information into the EDES, after contacting the appropriate EU authorities.

¹ For more information on how your Personal Data is processed by the EU Commission in connection with EDES, please refer to the [relevant entry in the EU Commission DPO's Register](#) (including EU Commission's Privacy Statement on EDES).

Entities may be excluded from access to EU funds under the terms set out in Article 136(1) of Regulation (EU, EURATOM) no. 1046/2018 of the European Parliament and of the Council, of 18 July 2018 ("**Financial Regulation**"). This may be the case, e.g., where an entity has been established, by a final judgment, as guilty of crimes such as fraud, corruption, participation in a criminal organisation, money laundering, terrorist financing or child labour. As such, access to and updating of the EDES may involve the Agency's access to Personal Data relating to offences and criminal convictions (where the assessed entity is an individual).

(d) Other persons' Personal Data

Regardless of whether a person has access to ABAC, other ABAC users may make a reference to him/her, without that person being notified of this. This may even be required by ABAC, in particular to ensure that all staff intervening in the validation process of a document are registered in ABAC, or to assign a responsible person to a document.

Additionally, free text fields exist within ABAC, wherein ABAC users may (inadvertently or not) include Personal Data related to other persons.

In any situation where you decide to share Personal Data related to other persons, you will be considered as an independent data controller regarding that Personal Data – meaning you will be held responsible for that decision. In turn, this means, among other things, that you may be held liable for any complaints, claims or demands for compensation which are brought against the Agency, due to the fact that you decided to share Personal data related to other persons with the Agency.

As such, you must make sure that you are legally entitled to provide the Agency with this information (e.g., because you have the consent of the person(s) to whom this information relates, because a legal obligation to inform the Agency exists, because this information is provided in the performance of a task in the public interest, etc.).

Why is the Agency using these Personal Data?

The Agency uses the Personal Data mentioned above for one or more of the following purposes:

(a) Financial Tool Use

To facilitate the preparatory process of managing certain Agency's financial relationships via the ABAC system, by means of the Agency's Financial Tool;

- Any entities (whether companies, organisations or individuals) which wish to enter into a financial relationship with the Agency must provide their Personal Data (or Personal Data on their contact persons / representatives) for this purpose, without which the Agency will not be able to complete any financial transactions with those entities.

(b) **ABAC Use**

To manage the Agency's financial relationships with companies, organisations and individuals, by means of the ABAC system;

- Any entities (whether companies, organisations or individuals) which wish to enter into a financial relationship with the Agency must provide their Personal Data (or Personal Data on their contact persons / representatives) for this purpose, without which the Agency will not be able to complete any financial transactions with those entities.
- Additionally, any Agency staff members who are to be granted access to ABAC must provide their Personal Data for this purpose, without which access cannot be given.

(c) **Ex-Post Monitoring**

To carry out relevant and systematic controls on the legality and regularity of payments executed by the Agency;

(d) **Budget Monitoring and Planning**

To allow the monitoring and execution of the Agency's budget, and to allow the preparation of budget forecasts;

(e) **EDES Screening**

To safeguard the financial interests of the Agency and the Union, by identifying economic operators that represent risks which may threaten those interests, which are excluded from access to funds from Union institutions or bodies or upon which financial penalties may have been imposed, via the EDES, and to update the EDES where relevant;

- Any entities (whether companies, organisations or individuals) which wish to enter into a financial relationship with the Agency must provide their Personal Data (or Personal Data on their contact persons / representatives) for this purpose, without which the Agency will not be able to complete any financial transactions with those entities.

(f) **Compliance**

For compliance with laws which impose upon the Agency the collection and/or further processing of certain kinds of Personal Data.

- When you provide any Personal Data to the Agency, the Agency must process it in accordance with the applicable law, which may include retaining and reporting your Personal Data to official authorities for compliance with its legal obligations.

All Personal Data processed by the Agency may be included in periodic backups carried out to ensure the availability of information stored on the Agency's IT systems, and may further be processed to ensure the appropriate handling of security incidents

related to those systems, as well as the Agency's compliance with its legal obligations regarding the processing of Personal Data (e.g., related to management of personal data breaches).

Why can the Agency use these Personal Data?

The legal basis which the Agency relies on to process this Personal Data, according to the purposes identified above, is the need to perform the tasks mandated to it by the Financial Regulation – i.e., to comply with the rules on the establishment and implementation of the general budget for the Union, the presentation and auditing of accounts and the protection of the Union's financial interests.

Furthermore, the processing described in this Data Protection Notice is necessary to ensure the Agency's sound financial management, as well as the protection of its own financial interests. As such, this processing is also necessary for the management and functioning of the Agency and, as such, is necessary to carry out a task in the public interest.

The inclusion of all Personal Data stored by the Agency in its IT systems in periodic backups, as well as all processing carried out to ensure the appropriate handling of security incidents related to those systems, is deemed necessary in order to ensure the proper management and functioning of the Agency and, as such, necessary to carry out a task in the public interest.

The processing of Personal Data for the purpose of **Compliance** is necessary for the Agency to comply with its legal obligations.

Who can see your Personal Data, and who will they be shared with?

Your Personal Data may be shared with the following list of persons / entities ("**Recipients**"):

- Companies, entities or professional firms engaged by the Agency, including other Union institutions or bodies, in order to provide services related to the Agency's financial management (e.g., ABAC record creation and processing), as well as technical maintenance / assistance and operational security of systems used to store, transmit or otherwise process Personal Data in connection with the purposes described in this Notice, which typically act as data processors on behalf of the Agency, and have access to Personal Data only to the extent strictly required for them to provide those services;
- Other authorised users of the ABAC system, affiliated with other Union institutions or bodies which use this system;
- Persons authorised by the Agency to process Personal Data needed to carry out activities strictly related to the purposes described above, who have undertaken an obligation of confidentiality or are subject to an appropriate legal obligation of confidentiality (e.g., staff members of the Agency);
- Public entities, bodies or authorities, including other Union institutions or bodies, to which your Personal Data may be disclosed, in accordance with Union

or Member State law, or with binding orders from those entities, bodies or authorities.

The Agency will not transfer your Personal Data outside of the EU.

For more information on transfers of Personal Data carried out by the Agency for these purposes, please contact the Agency's Data Protection Officer, at: dpo@acer.europa.eu.

How long do we keep your data?

Personal Data processed for **Financial Tool Use, Ex-Post Monitoring and Budget Monitoring and Planning** purposes, as well as Personal Data referring to ABAC system users, are kept for the standard retention period for financial documents – 7 years.

Personal Data referring to financial relationships logged on ABAC (including via LEF and BAF), as well as for **EDES Screening**, are kept for a period of 5 years after discharge of any given payment.

Personal Data processed for **Compliance** are kept by the Agency for the period required by the specific legal obligation or by the applicable Union or Member State law.

Please note that, in any case, the Agency may continue to store Personal Data for a longer period, as may be necessary for internal auditing and security purposes (including within periodic backups carried out) and, in general, to protect the Agency's interests related to potential liability in relation to this processing.

For more information on the applicable retention periods, please contact the Agency's Data Protection Officer, at: dpo@acer.europa.eu.

What are my rights? How can I exercise them?

As a data subject, you are entitled, in general, to exercise the following rights before the Agency:

- Access your Personal Data being processed by the Agency (and/or obtain a copy of those Personal Data), as well as information on the processing of your Personal Data;
- Correct or update your Personal Data being processed by the Agency, where it may be inaccurate or incomplete;
- Request the erasure of your Personal Data being processed by the Agency, where you feel that the processing is unnecessary or otherwise unlawful;
- Request the blocking of your Personal Data, where you feel that the Personal Data processed is inaccurate, unnecessary or unlawfully processed, or where you have objected to its processing.

You may also have a right to **object to the processing of your Personal Data**, based on relevant grounds related to your particular situation, which you believe must prevent the Agency from processing your Personal Data for a given purpose. This right

may apply whenever the Agency relies on the need to perform a task in the public interest as the legal basis for a given processing purpose, e.g., **ABAC Use**, **EDES Screening** and others (see above – [Why can the Agency use these Personal Data?](#)).

To exercise any of the abovementioned rights, you may send a written request to the Agency, at the following addresses:

- financialcell@acer.europa.eu
- dpo@acer.europa.eu

Please note that the above rights may not apply, or may not apply in full, as there may be applicable legal exemptions or restrictions to those rights. This will be assessed by the Agency on a case-by-case basis; if such an exemption or restriction is found to be applicable, you will be informed of the Agency's main reasoning for this.

In any case, please note that, as a data subject, you are entitled to file a complaint with the European Data Protection Supervisor, if you believe that the processing of your Personal Data carried out by the Agency is unlawful. You will suffer no prejudice on account of any such complaints lodged.